

Complaint

41 F. T. C.

IN THE MATTER OF

BENJAMIN GOLDMAN, TRADING AS TIGER YARN
COMPANY, MINETTE YARN COMPANY, BENG
YARN SHOP AND GOLDMAN'S YARN SHOPCOMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5077. Complaint, Nov. 3, 1943—Decision, Aug. 20, 1945*

Where the words "Saxony" and "Scotch" had been long and favorably known to the purchasing public as descriptive of wool grown in the Province of Saxony, and in Scotland, respectively; and thereafter an individual engaged in the interstate sale and distribution of various grades and types of knitting yarn—

Falsely represented the constituent fiber and material of which his products were made and the source and origin thereof, as well as the nature of his business, through use in catalogues and sample books and on labels, letterheads and other printed and written material distributed by him, of the word "Saxony" as descriptive of yarns not composed entirely of wool and not composed of wool from sheep raised in the province of Saxony, and of the word "Scotch" for 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 public into the erroneous belief that said representations were true, whereby a number of such public purchased a substantial volume of his said products:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury 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 respondent.

COMPLAINT¹

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 Benjamin Goldman, individually, and trading as Tiger Yarn Company, Minette Yarn Company, Bengo Yarn Shop and Goldman's Yarn Shop, hereinafter referred to as the respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it

¹ Complaint published as amended by Stipulation and Agreement approved Aug. 9, 1945, 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 respondent Benjamin Goldman, that the Commission's complaint in this case filed on the

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

PARAGRAPH 1. The respondent, Benjamin Goldman, is an individual, trading as Tiger Yarn Company, Minnette Yarn Company, Bengo Yarn Shop and Goldman's Yarn Shop, with his principal place of business located at 1643 Bathgate Avenue, The Bronx, in the city of New York, State of New York.

PAR. 2. Respondent is now and for more than two years last past has been, engaged in the sale and distribution of various grades and types of knitting yarn. Respondent causes his said products, when sold, to be transported from his 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. Respondent maintains and at all times mentioned herein has maintained a course of trade in his said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. 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. 4. In the course and conduct of his aforesaid business in connection with the offering for sale, sale and distribution of his products in commerce, and for the purpose of inducing the purchase thereof by the public, respondent has made or caused to be made various statements and representations purportedly descriptive of his business and his products, and of the place of origin of, and the nature of the constituent fibers or materials of his products to be inserted in catalogs, sample books, labels and other printed and written material and on his letterheads, which he has 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 respondent's said yarns and of their constituent fibers and materials used by respondent are false and misleading. Among and typical of such false and

3rd 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 subparagraph 2 of paragraph 3 and from the indented subparagraph 2 in paragraph 4 thereof.

It is further agreed, By the respondent that the admission answer heretofore submitted by the respondent and dated April 18, 1944, may be received and accepted as the respondent's answer to the Commission's complaint as amended in paragraph 1 above.

Findings

41 F. T. C.

misleading designations, descriptions, statements and representations are the following:

"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. 5. The use by the respondent 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 respondent has truthfully represented the constituent fiber and material of which his products are made and the source and origin thereof, as well as the nature of his business. On account of these erroneous beliefs a number of the consuming and purchasing public have purchased a substantial volume of respondent's said products.

PAR. 6. The aforesaid acts and practices of the respondent, 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 3, 1943, issued and subsequently served its complaint in this proceeding upon Benjamin Goldman, an individual, trading as Tiger Yarn Company, Minnette Yarn Company, Bengo Yarn Shop, and Goldman's Yarn Shop, charging him 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 respondent filed his 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. Thereafter, a stipulation and agreement was entered into between Richard P. Whiteley, Assistant Chief Counsel for the Federal Trade Commission, and the attorney for the respondent whereby the complaint was amended in certain particulars and it was agreed that the admission answer previously filed by respondent might be received and accepted as his answer to the Commission's complaint as amended, which stipulation 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 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. Respondent, Benjamin Goldman, is an individual, trading as Tiger Yarn Company, Minnette Yarn Company, Bengo Yarn Shop, and Goldman's Yarn Shop, with his principal place of business located at 1643 Bathgate Avenue, New York, N. Y.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of various grades and types of knitting yarn. Respondent causes his said products, when sold, to be transported from his 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. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in his said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. 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, and it is descriptive of wool grown in the Province of Saxony. 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. 4. In the course and conduct of his aforesaid business in connection with the offering for sale, sale, and distribution of his products in commerce, and for the purpose of inducing the purchase thereof by the public, respondent has made, or caused to be made, various statements and representations purportedly descriptive of his business and of the place of origin of his products and the nature of the constituent fibers or materials from which his products are made. Respondent inserted such statements and representations in catalogs and sample books, on labels, letterheads, and other printed and written material which he has 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 his said yarns and their constituent fibers and materials used by respondent are false and misleading. Among and typical of such false and misleading designations, descriptions, statements, and representations are the following:

Order

41 F. T. C.

"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. 5. The use by the respondent 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 respondent has truthfully represented the constituent fiber and material of which his products are made and the source and origin thereof, as well as the nature of his business. On account of these erroneous beliefs, a number of the consuming and purchasing public have purchased a substantial volume of respondent's said products.

CONCLUSION

The acts and practices of 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 and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearings as to said facts, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Benjamin Goldman, an individual, trading as Tiger Yarn Company, Minnette Yarn Company, Bengo Yarn Shop, Goldman's Yarn Shop, or under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of knitting yarns or other wool products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. 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 other wool product not made of the wool of sheep grown 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.

2. Using the word "Scotch" to designate or describe any yarn or other wool product not made from the wool of sheep grown 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.

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

It is further ordered, That no provision of this order shall be construed as relieving respondent in any respect of the necessity of complying with the requirements of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder.

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

IN THE MATTER OF

JULIUS C. SCHWARZ, FRED A SCHWARZ, AND
RUBIN ROCKER, AND W. W. IN THE
WESTERN HEMISPHERE, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5108. Complaint, Dec. 29, 1943—Decision, Sept. 7, 1945*

Where, by reason of its reputation for accuracy, reliability, and selectivity built up over a period of more than forty years, "Who's Who in America" had become known and identified in the minds of the public generally as an authoritative compilation of biographical sketches of outstanding and notable individuals in both North and South America, and the words "Who's Who" had come to be generally associated with such publication by the public, which believed that the book of biographical reference containing the words "Who's Who" in the title had been edited and compiled by the publishers of "Who's Who in America," who published also a monthly supplement containing biographies of persons prominent in the various countries of the Western Hemisphere, bearing upon its cover a map of the entire Western Hemisphere, and were collaborating with Stanford University in the preparation of the third edition of a volume entitled "Who's Who in Latin America," sponsored by the United States Government through the Office of the Coordinator of Inter-American Affairs, in the interest of friendly relationships with the Latin American republics; and Thereafter a man, his wife and brother-in-law, engaged in the publication and interstate sale and distribution of biographical reference books including, among others, books entitled "Who's Who in the Clergy," "Who's Who in Law," and "Who's Who Among Physicians and Surgeons;"

Making use of a plan under which they solicited certain individuals whose names they secured through mailing lists, telephone directories, etc., to furnish biographical information for publication in the forthcoming work and returned such information to the individual in the form of a proof sheet for correction, together with a card providing for purchase, for cash, at prepublication prices or reservation of a book upon publication, which agreement, in most instances, insured the inclusion of the biography of the purchaser in the published work; and, following a practice of soliciting biographical sketches from many of the individuals listed in "Who's Who in America" and, in the case of those who failed to respond, of copying copyrighted biographical sketches from "Who's Who in America" into their own published work—

- (a) Falsely represented through the use of the term "Who's Who" in the titles of their publications, that such publications had been compiled and published by the publishers of "Who's Who in America;" that they themselves were connected with the publishers of "Who's Who in America;" and that said publications had been edited and compiled with the accuracy, reliability, and selectivity used in the compilation of "Who's Who in America;"

The facts being that their said books, including "Who's Who in the Clergy," "Who's Who in Law," and "Who's Who Among Physicians and Surgeons,"