

Complaint

IN THE MATTER OF

STEVENS CLOTHING MANUFACTURING COMPANY, INC.

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

Docket 5240. Complaint, Oct. 20, 1944—Decision, Mar. 20, 1946

Where a corporation engaged in the interstate sale and distribution of men's clothing under a corporate name which included the words "Clothing Manufacturing Company"—

- (a) Represented falsely that it was the manufacturer of said clothing by its corporate name, by signs on the building in which its business was located, by its stationery, by the labels attached to its merchandise, by large pictures in the showroom of its place of business purporting to show various work-rooms in its factory, and by representations in radio advertising, through such typical statements as "Stevens skilled tailors in their own factories," "Their factory controls the manufacturing costs," "The Stevens Clothing Manufacturing Company sell from their own factory direct to you," etc.; and
- (b) Falsely represented in its radio broadcasts that it had been given a manufacturer's registered identification number by an agency of the United States Government and stated that, that was proof that it was a clothing manufacturer; and
- (c) Falsely represented, through its road sign and radio advertising, that it sold at \$10 less than regular retail prices, through such statements as "Stevens * * * eliminate the middle man's profit * * * enjoy the savings of \$10.00 on every suit that you buy at Steven's.";

The facts being that the prices at which said clothing was sold were not whole-sale prices, its place of business was a retail store, and the photographs displayed in its said store were scenes made in various plants operated by others;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to its business status and its products, and thereby to cause the purchase of substantial quantities of 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. DeWitt T. Puckett and *Mr. G. M. Martin* for the Commission.

Mr. Joseph Greenberg, of Albany, N. Y., 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 Stevens Clothing Manufacturing Co., Inc., a corporation, hereinafter referred to as

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

PARAGRAPH. 1. Respondent, Stevens Clothing Manufacturing Co., Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its offices and principal place of business located at 100 Broadway, Menands, N. Y.

Respondent is now, and for several years last past has been, engaged in the sale and distribution of men's clothing to purchasers located at points in various States of the United States, and causes and has caused said men's clothing, when so sold, to be transported from its place of business in the city of Menands, State of New York, to purchasers thereof located in other States of the United States and in the District of Columbia.

Respondent now maintains and for more than three years last past has maintained a course of trade in said men's clothing in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its said clothing, respondent for more than three years last past has represented by its corporate name, by signs on the building in which its business is located, by its stationery, by the labels attached to its merchandise, by large pictures in the showroom of its place of business purporting to show various workrooms in the respondent's factory, and by means of representations made in its radio advertising that it is the manufacturer of the clothing it sells. Among and typical of the aforesaid representations are the following:

Stevens skilled tailors in their own factories.

Their factory controls the manufacturing cost.

The Stevens Clothing Manufacturing Company sell from their own factory direct to you.

At Stevens, too, you will find the very newest styles fashioned by their own skilled craftsmen.

Stevens manufactures their own clothes in their own factories.

The Stevens Clothing Manufacturing Company is the factory direct-to-you-store. * * *

Respondent has further stated in its radio broadcasts that it has been given a manufacturer's registered identification number by an agency of the United States Government and states that this is proof

that it is a clothing manufacturer. The following are extracts from the aforementioned broadcasts:

Friends, We've got your number. It's 4-2-1-2 * * * the officially registered manufacturer's number for Stevens clothes. * * * The proof that the Stevens Manufacturing Company makes the clothes it sells to you.

The next number we're concerned with is 4212. What's the connection, you say. Well, that's the official manufacturer's number given you by a Federal Government agency to the Stevens Clothing Manufacturing Company. That number is important to you, because it is the big reason Stevens can sell you a handsomely-tailored suit made from fine fabrics at ten dollars less than you'd expect * * * selling that suit direct from maker to wearer in a plain room without luxury fixtures cuts overhead to the bone.

Respondent has further stated through its road sign and radio advertising that it sells at \$10 less than regular retail prices. The following is an extract from one of the radio broadcasts:

Stevens can sell such fine clothes to you at these prices because by selling direct they eliminate the middle man's profit. Their overhead is low and their fixtures are simple. These are common sense reasons why you can enjoy the savings of \$10.00 on every suit that you buy at Stevens.

PAR. 3. Through the use of the statements and representations set forth in paragraph 2 hereof, and others similar thereto not specifically set out herein, respondent has represented and now represents that the clothing it sells is manufactured by said respondent; that said clothing is sold direct from respondent's factory to the purchaser, and that because respondent is a manufacturer and has been assigned a manufacturer's number by the agency of the United States Government authorized to assign such numbers to manufacturers of woolen products, purchasers of its clothing save \$10 on every suit purchased.

PAR. 4. The aforesaid representations made by respondent are false and misleading. In truth and in fact, respondent does not own, operate, or control a factory or factories wherein said clothing is made or manufactured, and said respondent has not been assigned a manufacturer's registered identification number by an agency of the United States Government authorized to assign such numbers to manufacturers of woolen products. Said clothing is not sold direct from factory to the purchaser-consumer without the addition of the middle man's profit. The prices at which said clothing is sold are not wholesale prices and respondent's place of business is not a factory showroom, but a retail store. The photographs displayed in respondent's said store are not of a factory operated by respondent but scenes made in various plants operated by others.

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PAR. 5. The use by respondent of the aforesaid false and misleading representations disseminated as aforesaid has the tendency and capacity to deceive and mislead, and has deceived and misled, a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations are true, and as a result of said deception the public is induced to purchase substantial quantities of such clothing from respondent.

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 or deceptive acts or 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 October 20, 1944, issued and subsequently served its complaint in this proceeding upon respondent, Stevens Clothing Manufacturing Co., Inc., a corporation, charging it 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 and the filing of respondent's answer thereto, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and substitute 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, Stevens Clothing Manufacturing Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 100 Broadway, Menands, N. Y.

Respondent is now, and for several years last past has been, engaged in the sale and distribution of men's clothing to purchasers located at points in various States of the United States, and causes and has caused said men's clothing, when so sold, to be transported from its place of

business in the city of Menands, State of New York, to purchasers thereof located in other States of the United States.

Respondent now maintains and for more than 3 years last past has maintained a course of trade in said men's clothing in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business and for the purpose of inducing the purchase of its said clothing, respondent for more than 3 years last past has represented by its corporate name, by signs on the building in which its business is located, by its stationery, by the labels attached to its merchandise, by large pictures in the showroom of its place of business purporting to show various workrooms in the respondent's factory, and by means of representations made in its radio advertising that it is the manufacturer of the clothing it sells. Among and typical of the aforesaid representations are the following:

Stevens skilled tailors in their own factories.

Their factory controls the manufacturing costs.

The Stevens Clothing Manufacturing Company sell from their own factory direct to you.

At Stevens, too, you will find the very newest styles fashioned by their own skilled craftsmen.

Stevens manufactures their own clothes in their own factories.

The Stevens Clothing Manufacturing Company is the factory direct-to-you-store * * *.

Respondent has further stated in its radio broadcasts that it has been given a manufacturer's registered identification number by an agency of the United States Government and states that this is proof that it is a clothing manufacturer. The following are extracts from the aforementioned broadcasts:

Friends. We've got your number. It's 4-2-1-2 * * * the officially registered manufacturer's number for Stevens Clothes—The proof that the Stevens Manufacturing Company makes the clothes it sells to you.

The next number we're concerned with is 4212. What's the connection, you say. Well, that's the official manufacturer's number given you by a Federal agency to the Stevens Clothing Manufacturing Company. That number is important to you, because it is the big reason Stevens can sell you a handsomely tailored suit made from fine fabrics at ten dollars less than you'd expect * * * selling that suit direct from maker to wearer in a plain room without luxury fixtures cuts overhead to the bone.

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Respondent has further stated through its road sign and radio advertising that it sells at \$10 less than regular retail prices. The following is an extract from one of the radio broadcasts:

Stevens can sell such fine clothes to you at these prices because by selling direct they eliminate the middle man's profit. Their overhead is low and their fixtures are simple. These are common sense reasons why you can enjoy the savings of \$10.00 on every suit that you buy at Stevens.

PAR. 3. Through the use of the aforesaid statements and representations, the respondent has represented that the clothing it sells is manufactured by said respondent; that said clothing is sold direct from respondent's factory to the purchaser, and that because respondent is a manufacturer and has been assigned a manufacturer's number by the agency of the United States Government authorized to assign such numbers to manufacturers of woolen products, purchasers of its clothing save \$10 on every suit purchased.

PAR. 4. In truth and in fact, respondent does not own, operate or control a factory or factories wherein said clothing is made or manufactured, and said respondent has not been assigned a manufacturer's registered identification number by an agency of the United States Government authorized to assign such numbers to manufacturers of woolen products. Said clothing is not sold direct from factory to the purchaser-consumer without the addition of the middle man's profit. The prices at which said clothing is sold are not wholesale prices and respondent's place of business is not a factory showroom, but a retail store. The photographs displayed in respondent's said store are not of a factory operated by respondent but scenes made in various plants operated by others.

PAR. 5. The Commission therefore finds that the representations made by respondent with respect to its business status, its manufacturer's identification number, the prices of its products, and the possible savings to purchasers are false and misleading.

PAR. 6. The Commission finds further that the use by respondent of these false and misleading representations has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondent's business status and with respect to the origin of respondent's said products, and with respect to the values or prices of said products, and has the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondent's products as a result of the erroneous and mistaken belief so engendered.

CONCLUSION

The acts and practices of the respondent as herein found 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 respondent, in which answer respondent admits all material allegations of fact set forth in said complaint and states that it waves 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 respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Stevens Clothing Manufacturing Co., Inc., a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of clothing in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Manufacturing" or any other word of similar import or meaning in respondent's corporate or trade name or representing in any other manner that respondent manufactures the clothing sold by it unless and until the respondent owns and operates or directly and absolutely controls the manufacturing plant or factory wherein said clothing is manufactured.
2. Representing directly or by implication that the respondent is a manufacturer of clothing when the activities of the respondent are confined to those of a sales organization engaged in the sale and distribution of clothing manufactured by persons or concerns other than the respondent.
3. Using the statement "from our factory direct to you" or any other statement of similar import or meaning in connection with the sale of clothing or other articles of merchandise not manufactured by the respondent.
4. Representing directly or by implication that respondent is selling its clothing at manufacturer's prices or at prices which save the purchaser the cost or profit of the retailer or middleman when in fact respondent is engaged in selling such clothing at retail and the prices

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charged by it constitute no saving from the prices usually and customarily charged for clothing of like grade and quality.

5. Representing that a manufacturer's registered identification number has been assigned to the respondent by an agency of the United States Government authorized to assign such numbers to manufacturers of woolen products when in fact respondent is not a manufacturer entitled to the use of such number and no such number has been assigned to it.

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.

Commissioner Ferguson not participating because of illness. Commissioner Freer not participating.

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IN THE MATTER OF

ALLEN PRODUCTS CO., INC.

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

Docket 5255. Complaint, Dec. 1, 1944—Decision, Mar. 21, 1946

Where a corporation engaged in the interstate sale and distribution of a preparation designated by it "Allen's Nijara"; through advertisements in newspapers, cards, folders, circulars and radio continuities, directly and by implication—

Falsely represented that said preparation, used as directed, was a cure or remedy and constituted a competent and effective treatment for rheumatism, arthritis, neuritis, sciatica, gout, lumbago, and sinus trouble and would provide relief from the pains accompanying such conditions; was rich in health-giving vitamins and minerals and was a vitamin-mineral concentrate;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such misleading representations were true, and of thereby inducing it to purchase substantial quantities thereof:

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.

Mr. B. G. Wilson for the Commission.

Mr. Octave Bigoness, of Washington, D. C., 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 Allen Products Co., Inc., a corporation, 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 public interest, hereby issues its complaint, stating its charges in that respect as follows.

PARAGRAPH 1. Respondent Allen Products Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business at 602 Fifth Street, N.W., Washington, D. C.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of a preparation designated "Allen's Nijara" in commerce between and among the various States of the United States and in the District of Columbia.

Respondent causes its said preparation, when sold, to be shipped from its aforesaid place of business in the city of Washington, D. C.,