

Complaint

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IN THE MATTER OF
ROBERT ROSOFF

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSECTION (C) OF SECTION 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 5370. Complaint, Aug. 22, 1945—Decision, Oct. 30, 1946

Where an individual engaged in New York City in the purchase of furs and fur garments from manufacturers and sellers in New York and other states, (1) as agent and representative of a New Jersey family enterprise; (2) for several other business establishments located in various States, in which he owned substantial interest; and (3) as purchasing agent and representative for several classes of purchasers in whose respective businesses he had no financial interest, including retail furriers and chain and department stores, for which he filled orders to purchase a stated quantity according to specifications on the most favorable terms and conditions obtainable and, usually, for direct shipment to purchaser—

Received and accepted from the sellers brokerage fees or commissions in substantial amounts on such purchases, whether for his own account or for other purchasers:

Held, That the receipt and acceptance by said individual of brokerage fees or commissions from sellers, under the circumstances set forth, violated subsection (c) of section 2 of the Clayton Act as amended.

Mr. Edward S. Ragsdale for the Commission.

Mr. Abraham Aaron, of Brooklyn, N. Y., for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of subsection (c) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C., title 15, sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Robert Rosoff is an individual, trading as Robert Rosoff, with his principal office and place of business located at 370 Seventh Avenue, New York, N. Y. The respondent, since June 19, 1936, has engaged and is now engaged in the business of buying furs and fur garments for himself and for others for resale.

PAR. 2. The respondent Robert Rosoff is the sole owner of the registered trade name "Rochelle Fur Company" and the business of buying and selling furs and fur garments which is conducted under such name. The respondent maintains the principal office and place of

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business of said company at 370 Seventh Avenue, New York, N. Y., in the same offices he occupies in connection with his various other business activities hereinafter more particularly described.

The respondent since June 19, 1936, has purchased and is now purchasing furs and fur garments in the name of Rochelle Fur Co. for his own account for resale.

PAR. 3. The respondent Robert Rosoff is secretary and treasurer of State Furriers, Inc., a New Jersey corporation, with its principal office and place of business located at 2 North Broad Street, Trenton, N. J., which corporation is engaged in the business of purchasing and selling furs and fur garments. The respondent's wife, Betty Rosoff, is vice-president, and the respondent's father, Joseph Rosoff, is president of State Furriers, Inc. The respondent Robert Rosoff, the respondent's wife, Betty Rosoff, and the respondent's father, Joseph Rosoff, together own all the capital stock of said corporation.

The respondent Robert Rosoff, since June 19, 1936, has purchased, and is now purchasing, furs and fur garments in the name of and for the account of State Furriers, Inc., for resale.

PAR. 4. The respondent Robert Rosoff, since June 19, 1936, has owned a substantial financial interest in several other business establishments which are engaged in the purchase and sale of furs and fur garments. Some such firms are located in various cities of the several States of the United States. The respondent, since June 19, 1936, has purchased, and is now purchasing, furs and fur garments for resale in the name of, and for the account of, such respective business establishments.

PAR. 5. The respondent, since June 19, 1936, has also engaged in the business of buying furs and fur garments for several other distinct classes of purchasers in whose respective businesses he has no financial interest. These dealers may be classified as retail furriers who deal exclusively in furs and fur garments, department stores which have a fur department, and chain stores which also have a department engaged in the buying and selling of furs and fur garments.

The respondent Robert Rosoff as a buyer of furs and fur garments acts as buying agent for and in behalf of such outlets. In such capacity the respondent's manner of operation is that of receiving from such purchasers, for whom he acts as agent, requests, orders or requisitions to purchase a stated quantity of furs or fur garments upon such purchasers' specifications as to the quantity, size, color, type of garment and price. When the respondent receives such an order for such merchandise, he contacts various manufacturers of such merchandise and places the respective purchaser's order with that source

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of supply which offers the specified requirements on terms and conditions most favorable from the standpoint of the purchaser. When such orders are filled, the merchandise is shipped by the manufacturer direct to the purchaser, although in some instances delivery is arrested to permit inspection of the garment by the respondent at the respondent's place of business. The respondent gives personal attention to the detail of selecting and purchasing furs and fur garments, securing for his client buyers the best possible prices and terms by calling on competing manufacturers and only placing orders where he can receive the most favorable prices and terms.

PAR. 6. In the course and conduct of his business, since June 19, 1936, respondent has placed orders for such furs and fur garments with manufacturers and jobbers thereof located in the State of New York and elsewhere on behalf of dealers and others located in other States of the United States, pursuant to which orders, such merchandise has been shipped and transported by the sellers thereof from the State of New York across State lines to the respective dealers or other purchasers.

Representative of a few of many of the manufacturers and jobbers with whom the respondent has placed orders for furs and fur garments are:

Biltwell Furs, Inc., 210 West Thirtieth Street, New York, N. Y.

Alexander & Perry, 350 Seventh Avenue, New York, N. Y.

Weiss & Burnstein, Inc., 307 Seventh Avenue, New York, N. Y.

Antis, Goldberg & Tsomos, 236 West Twenty-seventh Street, New York, N. Y.

Julius Green Fur Co., Inc., 330 Seventh Avenue, New York, N. Y.

Normandie Fur Trading Corporation, 210 West Thirtieth Street, New York, N. Y.

Getsos & Dranow, 312 Seventh Avenue, New York, N. Y.

Rothman Fur Company, 251 West Thirtieth Street, New York, N. Y.

Jacob's Furs, 350 Seventh Avenue, New York, N. Y.

Feirstein & Feirstein, 330 Seventh Avenue, New York, N. Y.

PAR. 7. In the course of the purchasing transactions in interstate commerce as set forth herein, respondent, since June 19, 1936, while acting as purchasing agent for and in his own behalf and for and in behalf of other purchasers of such furs and fur garments, in the manner hereinabove described, has received and accepted, and is receiving and accepting from the sellers thereof brokerage fees or commissions in substantial amounts.

PAR. 8. The foregoing acts and practices of the respondent in receiving and accepting commissions or brokerage fees from sellers on purchases made from such sellers by respondent for his own account, and

on purchases made by respondent while acting in fact for and in behalf of other buyers, in the manner and under the circumstances as hereinabove set forth, is in violation of subsection (c) of section 2 of the act described in the preamble hereof.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by the Robinson-Patman Act, approved June 19, 1936 (15 U. S. C. sec. 13), the Federal Trade Commission on August 22, 1945, issued and thereafter served its complaint in this proceeding upon the respondent, Robert Rosoff, charging him with the violation of subsection (c) of section 2 of said Clayton Act as amended. Subsequently, respondent filed an answer admitting all of the material allegations of fact set forth in the complaint, but denying that the acts and practices described in the complaint constituted a violation of said Act as amended. In his answer respondent waived all intervening procedure, including hearings as to the facts, the filing of briefs, the trial examiner's report, and oral argument. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint and answer, and the Commission, having duly considered the matter and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Robert Rosoff, is an individual trading under his own name and also under the name "Rochelle Fur Co.," with his principal office and place of business located at 370 Seventh Avenue, New York, N. Y. Respondent is engaged in the purchase and sale of furs and fur garments.

PAR. 2. Respondent is also secretary and treasurer of State Furriers, Inc., a corporation organized under the laws of the State of New Jersey and having its principal office and place of business at 2 North Broad Street, Trenton, N. J. This corporation is engaged in the purchase and sale of furs and fur garments. Respondent and certain members of his family own all of the capital stock of the corporation. He acts as the agent and representative of the corporation in the purchase of the products sold by it.

PAR. 3. Respondent also owns a substantial financial interest in several other business establishments which are engaged in the purchase and sale of furs and fur garments. These establishments are located in various States of the United States. Respondent acts as the agent

and representative of such establishments in the purchase of the products sold by them.

PAR. 4. Respondent also acts as purchasing agent and representative for several classes of purchasers in whose respective businesses he has no financial interest. These purchasers include retail furriers who deal exclusively in furs and fur garments, and department stores and chain stores which have departments engaged in the sale of such products. From time to time respondent receives from such purchasers requests or orders to purchase a stated quantity of fur products according to certain specifications supplied by the purchaser as to size, color, type of garment, price, etc. Upon receiving such orders respondent contacts various manufacturers of fur products and places the order with that source of supply which offers the goods on terms and conditions most favorable to the buyer. When the orders are filled the merchandise is shipped by the manufacturer or seller directly to the purchaser, although in some instances delivery is arrested to permit inspection of the merchandise by respondent at his place of business. Respondent gives personal attention to the selecting and purchasing of the merchandise, undertaking to obtain for his principal, the buyer, the best possible prices and terms.

PAR. 5. Some of the manufacturers and sellers with whom respondent places such orders are located in the State of New York and some in other States of the United States, and the purchasers for whom respondent acts are also located in various States of the United States. Pursuant to the orders placed by respondent the merchandise is shipped and transported across State lines to the respective purchasers.

PAR. 6. In connection with the purchase in interstate commerce of furs and fur garments for his own account and for other purchasers as herein set forth respondent, since June 19, 1936, has received and accepted from the sellers of such merchandise brokerage fees or commissions in substantial amounts on such purchases.

CONCLUSION

The receipt and acceptance by respondent of brokerage fees or commissions from sellers under the circumstances herein found is violative of subsection (c) of section 2 of the aforesaid Clayton Act as amended.

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 the respondent, in which answer respondent admits all of the material allegations of fact set forth in the complaint and waives all intervening procedure, and the Commission having made its findings as to the

facts and its conclusion that the respondent has violated the provisions of subsection (c) of section 2 of the act of Congress entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (the Clayton Act), as amended by the Robinson-Patman Act, approved June 19, 1936 (15 U. S. C., sec. 13) :

It is ordered, That the respondent, Robert Rosoff, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the purchase of furs and fur garments in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from :

Receiving or accepting, directly or indirectly, from any seller anything of value as a commission or brokerage, or any compensation, allowance or discount in lieu thereof upon purchases made for respondent's own account or for the account of any purchaser for whom respondent is acting as agent or representative.

It is further ordered, That the 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 manner and form in which he has complied with this order.

IN THE MATTER OF
THE PERFECT MANUFACTURING COMPANY, TRADING
AND DOING BUSINESS AS THE SO-LO WORKS

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

Docket 4856. Complaint, Oct. 16, 1942—Decision, Nov. 6, 1946

Where a corporation engaged in the manufacture and interstate sale and distribution of a product designated "So-Luminum," sold for repairing aluminum and other kitchen-ware, to jobbers, retailers, and other purchasers; through advertisements in newspapers and trade journals, and in advertising folders, pamphlets, circular letters, and other advertising media—

- (a) Falsely represented that it was the largest manufacturer of menders in the world;
- (b) Falsely represented that its product would withstand heat of a direct flame of 2,000° F.; and
- (c) Falsely represented that an article repaired with its said So-Luminum was equivalent to a new or unused article; and

Where said corporation, to procure the services of salesmen and distributors to sell its said product; through advertisements in newspapers, periodicals, and other publications and in circulars, letters, pamphlets, and other advertising literature, directly and by implication—

- (d) Falsely represented that its product was to be heavily advertised in local newspapers;
- (e) Falsely represented that prospective salesmen, distributors, dealers and other representatives, might, without qualification, expect to make certain specified profits or earnings, through such statements as "Did you earn \$7 or \$14 today—or any day since you received my letter? * * * But I do know that you can make such an income by supplying the demand for So-Luminum in your territory;"

When in fact such salesmen, etc., could not, without qualification, expect to make said profits or earnings;

- (f) Falsely represented that its wholesale price list was confidential, special, or restricted to a number or class of purchasers; and
- (g) Falsely represented that with the purchase of a certain amount of its product an additional amount thereof would be given free;

When in fact the cost of its product offered as "free" was included in the purchase price of other merchandise purchased, and the so-called "free offer" was nothing more nor less than a combination offer:

With tendency and capacity to mislead and deceive members of the purchasing public into the mistaken belief that such statements and representations were true, whereby they were induced to purchase substantial quantities of its said So-Luminum:

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.

In a proceeding in which respondent was charged with falsely and misleadingly misrepresenting, among other things, in connection with the offer and sale of its So-Luminum product for repairing aluminum and other kitchenware,