

IN THE MATTER OF

HILLMAN PERIODICALS, INC., ALEX L. HILLMAN, PHIL KEENAN, AND MORRIS B. LEVINE, AND NOVEL SELECTIONS, INC.

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

Docket 5440. Complaint, May 29, 1946—Decision, Apr. 13, 1948

Where a corporation, three officers thereof, who controlled its advertising policies and business activities, and its wholly owned subsidiary, engaged in the interstate sale and distribution of magazines, books, and other publications, including reprints of published books from which, in the course of reprinting, they had deleted or caused to be deleted portions of the text, usually condensing the books from some 75,000 words to 55,000 words more or less, so that their said reprints were abridged editions—

- (a) Falsely, deceptively, and misleadingly made use of such typical statements as "complete and unabridged," "a full-length novel," on the front covers of said abridged editions, without indicating in any way in the publication that the books were not complete reprints of the original, and thereafter, while discontinuing the use of the former statement, continued the use of the latter, without giving adequate and sufficient notice to the purchasing public as to said reprints being abridgements, through the statement, in small and inconspicuous type on the reverse of the title page, of some such statement as " * * * has been cut to speed the story" or " * * * represents an abridgement of the original to speed the action";
- (b) Failed to disclose in advertising materials issued by them with reference to said reprints which they sold and distributed, that the publications so advertised were in fact abridged editions; and
- (c) Substituted new or altered titles which differed from the original titles in reprints of books published by them from time to time, without giving any adequate and sufficient notice of said fact to the purchasing public through use of some such statement in small and inconspicuous type on the reverse of the title page as " * * * was originally published under the title of," etc.; with tendency thereby to cause purchasers to buy said books, titles of which had been changed, as different publications;

Capacity and tendency of which false, misleading, and deceptive representations were to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that books and publications offered for sale by them were complete and unabridged editions of those published theretofore, and had not been previously published under any other title than that which appeared thereon:

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. Randolph Preston*, trial examiner.

Mr. John M. Russell for the Commission.

Mr. Henry E. Schultz and Mr. Joseph Schultz, of New York City, for respondents.

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 Hillman Periodicals, Inc., a corporation, Alex L. Hillman, Phil Keenan, and Morris B. Levine, individually and as officers of Hillman Periodicals, Inc., a corporation, and Novel Selections, Inc., a corporation, hereinafter referred to as respondents, have 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, Hillman Periodicals, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, and respondents, Alex L. Hillman, Phil Keenan, and Morris B. Levine, individuals, are president, vice president, and secretary, respectively, thereof. Respondent, Novel Selections, Inc., is a corporation organized and existing under the laws of the State of New York and is a wholly owned subsidiary of respondent, Hillman Periodicals, Inc. The individual respondents have dominant control of the advertising policies and business activities of the corporate respondents and all of the respondents have cooperated with each other and have acted in concert in doing the acts and things hereinafter alleged. Respondents' office and principal place of business is located at 1476 Broadway, New York, N. Y.

PAR. 2. Respondents are now and for more than 2 years last past have been engaged in the business of selling and distributing magazines and books. Respondents obtain from publishers or authors of certain books the right to sell reprints thereof, and in reprinting them or having them reprinted, delete or cause to be deleted portions of the text so that such reprints are abridged.

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 the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business in connection with the sale and distribution of their said books in commerce

and as an inducement for the purchase thereof by members of the purchasing public, respondents caused to be printed on the front covers of their books statements of which the following are typical:

COMPLETE AND UNABRIDGED
A FULL LENGTH NOVEL

and prior to about February 1943 failed to indicate in any way that they are not complete reprints of the original books from which they were copied; however, respondents have subsequently to said date caused to be printed on the reverse side of the copyright pages of their abridged books in small and inconspicuous type, statements of which the following is typical:

This detective novel has been cut to speed the story. * * *

Respondents have also disseminated advertising material concerning their said abridged books which contains no disclosure that they are abridged. Respondents in certain instances have substituted new or altered titles on their said books for the original titles of the books from which they were copied, and have failed to disclose said original titles other than by the use of a statement in small and inconspicuous type on the reverse side of the copyright pages of their books, of which the following concerning their book entitled "Death Wears A Bridal Veil," is typical:

This novel was published originally under the title "Seven Were Veiled."

PAR. 4. The disclosures on the reverse side of the copyright page of respondents' books, that they are abridged and of the titles of the original books from which they were copied, do not constitute adequate notice thereof, as they appear in small, inconspicuous type not noticeable to the average purchaser.

PAR. 5. Through said use of the expressions "complete and unabridged" and "full-length novel," and others similar thereto, and by their failure to disclose conspicuously and completely on the covers and title pages of their said books and in the advertising thereof, that they are abridged and the titles of the original books from which they were copied and that in certain instances new or altered titles have been substituted for the titles of said original books, respondents represent, directly and by implication, that their books are unabridged; that they are complete reprints of the original books from which they were copied; that they are books that have not been previously published.

PAR. 6. The statements and representations used and disseminated by the respondents in the manner above described are deceptive, false,

and misleading. Respondents' said books are not unabridged; they are not complete reprints of the original books from which they were copied; they are not books that have not been previously published.

In truth and in fact, the books respondents sell are usually condensed from about 75,000 words in the originals thereof to about 55,000 words, with a possible variation of 5,000 words, more or less.

PAR. 7. The use by the respondents of the foregoing false, misleading and deceptive statements and representations disseminated as aforesaid has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such representations are true, and induces a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' abridged books in said commerce.

PAR. 8. The aforesaid acts and practices of 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 May 29, 1946, issued and subsequently served its complaint in this proceeding upon the respondents, Hillman Periodicals, Inc., a corporation; Alex L. Hillman, Phil Keenan, and Morris B. Levine, individually and as officers of Hillman Periodicals, Inc.; and Novel Selections, Inc., a corporation, 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 and the filing of the answer of the respondents thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were taken before a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony, and other evidence, recommended decision of the trial examiner and exceptions filed thereto by the respondents, brief filed in support of the complaint, and oral argument of counsel; 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, Hillman Periodicals, 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 now located at 535 Fifth Avenue, New York, N. Y.

Respondents, Alex L. Hillman, Phil Keenan, and Morris B. Levine, are individuals and are president, vice president, and secretary, respectively, of respondent Hillman Periodicals, Inc.

Respondent, Novel Selections, Inc., is a corporation organized and existing under the laws of the State of New York and is a wholly owned subsidiary of respondent Hillman Periodicals, Inc.

The individual respondents have dominant control of the advertising policies and business activities of the corporate respondents, and all of the respondents have cooperated with each other and have acted in concert in doing the acts and things hereinafter described.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the business of selling and distributing magazines, books, and other publications. Among the publications sold and distributed by the respondents are reprints of published books from which the respondents, in reprinting or in having them reprinted, delete or cause to be deleted portions of the text so that such reprints are abridged editions.

Respondents cause said publications, when sold, to be transported from their place of business in the State of New York to the purchasers thereof located 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 publications in commerce among and between 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 sale and distribution of their said reprints or abridged editions of various books and as an inducement for the purchase thereof by members of the purchasing public, respondents, prior to 1943, caused to be printed on the front covers of said abridged editions statements, of which the following are typical:

Complete and Unabridged

A full-length novel

In the publication of said books, the respondents failed to indicate in any way that said books were not complete reprints of the original books from which they were copied.

Subsequent to February 1943 the respondents discontinued the use of the statement "Complete and unabridged" but continued to use the statement on the front cover of their publications "A full-length novel." On the reverse of the title page of said books the respondents place the following or some similar statement in small and inconspicuous type:

This Detective Novel Classic has been cut to speed the story or

This Mystery Novel Classic represents an abridgement of the original to speed the action.

The respondents from time to time have issued various advertising material with reference to the reprints of books sold and distributed by them which advertising contained no disclosure that the publications so advertised were in fact abridged editions.

PAR. 4. In addition to the above practices, the respondents have from time to time published reprints of books on which the respondents have substituted new or altered titles differing from the original titles of the books from which they were copied and have failed to disclose said original titles other than by use of a statement in small and inconspicuous type on the reverse of the title page, of which the following is an example:

This Thriller Novel Classic was originally published under the title of Too Many Doors.

PAR. 5. The Commission finds that the books sold and distributed by the respondents are not complete reprints of the original books from which they were copied. Instead, the books sold by the respondents are usually condensed from about 75,000 words to approximately 55,000 words, with possible variation of 5,000 words more or less. Respondents' books usually sell for 25 cents and usually contain from 125 to 128 pages.

The Commission further finds that the use of the term "Complete and unabridged" is false, deceptive, and misleading, as said publications are in fact abridged editions. In addition, the use of the term "A full-length novel" or words of similar import when designating or describing an abridged edition of a novel or other publication is false, deceptive, and misleading and constitutes a representation that such reprints have not been abridged and contain the full story as originally written. The practice of the respondents followed in some instances of substituting titles for their reprint editions is deceptive and misleading in that such practice has a tendency to cause purchasers to purchase such books upon which the titles have been changed under the mistaken belief that they are purchasing a separate and different publication.

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The Commission further finds that the practice of the respondents of disclosing in small print on the reverse of the title page that said books are in fact abridged or that the title has been changed does not constitute adequate and sufficient notice to the purchasing public.

PAR. 6. The use by the respondents of the foregoing false, misleading, and deceptive statements and representations disseminated as aforesaid has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the books and publications offered for sale by the respondents are complete and unabridged editions of previously published books and that said books have not been previously published under any other title than that appearing upon respondents' publications.

PAR. 7. The Commission has given consideration to the recommended decision of the trial examiner, the record herein, and to the remedy which might be applied to remove the deception engendered by the acts and practices of the respondents, as hereinabove described, and is of the opinion and so finds that such deception can only be removed by the discontinuance of the terms "unabridged," "full-length novel," and similar terms to designate or describe abridged editions and by a disclosure on the cover, title page, and first page of wrapper, when one is used, that the publication is an abridged edition.

CONCLUSION

The acts and practices of the respondents 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, answer of the respondents, testimony and other evidence in support of the complaint and in opposition thereto taken before a trial examiner of the Commission theretofore duly designated by it, recommended decision of the trial examiner and exceptions filed thereto by the respondents, brief filed in support of the complaint, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, Hillman Periodicals, Inc., a corporation, and Novel Selections, Inc., a corporation, and their respec-

tive officers, representatives, agents, and employees, and respondents, Alex L. Hillman, Phil Keenan, and Morris B. Levine, individually and as officers of Hillman Periodicals, Inc., and their respective representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of books or other publications in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, in advertising or in any other manner that any reprints from which substantial portions of the text have been deleted are unabridged or complete reprints of the original books.

2. Using the terms "unabridged" or "complete and unabridged" or any other term of similar import or meaning to designate or describe reprints of books or other publications from which substantial portions of the text have been deleted.

3. Using the term "full-length novel" or any other term of similar import or meaning to designate or describe any reprint of a novel or other publication from which substantial portions of the text have been deleted.

4. Offering for sale or selling any abridged copy of a book or publication unless the word "abridged" appears on the front cover and on the title page of the book in immediate connection with the title and in clear, conspicuous type. If the book has an additional wrapper or cover bearing the title thereof, then the front page of such wrapper shall, in like manner, bear the conspicuously displayed word "abridged."

5. Disseminating any advertisement pertaining to abridged copies of reprints of books unless such advertisement clearly and definitely indicates that such reprints are abridged and unless the title of each and every reprint so advertised be immediately accompanied in equally conspicuous type by the word "abridged."

6. Using or substituting a new title for, or in place of, the original title of a reprinted story unless, wherever used, whether on the cover of the publication, on the title page, at the beginning of the story, or elsewhere, such substitute title be immediately accompanied, in equally conspicuous type, by the title under which such story was originally published.

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

IN THE MATTER OF

SOL H. RUBEN AND FLORRINE B. RUBEN, TRADING AS
BROOKS CLOTHES

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND THE WOOL PRODUCTS LABELING ACT OF 1939

Docket 5518. Complaint, Nov. 21, 1947—Decision, Apr. 13, 1948

Where two partners engaged in selling to the general public from their store men's coats or wool products composed in whole or in part of "wool," "reprocessed wool," or "reused wool" as defined in the Wool Products Labeling Act, which they purchased from manufacturers in other States and also from manufacturers in their own State who made them for introduction into commerce—

- (a) Sold some of the aforesaid wool products which were misbranded in violation of the Wool Products Labeling Act and the rules and regulations promulgated thereunder in that there was not affixed to them the required stamp, tag, label or other means of identification showing the percentage of wool and nonwool fiber and aggregate, including filling or adulterating matter, and identification of the manufacturer or seller; and
- (b) With intent to violate said act and rules, etc., removed and mutilated and caused and participated in the removal and mutilation, after receipt of products and prior to their offer or sale, of such stamps, etc., which had been affixed to said wool products by the manufacturer or other authorized person and purported to contain the required information, and did not replace the same with substitute stamps, etc., containing the information required as above set out;

With the result that the products concerned when offered and sold by them to the general public did not have affixed thereto stamps, etc., containing the information required by law:

Held, That said acts, practices and methods, under the circumstances set forth, were in violation of said Wool Products Labeling Act and rules and regulations promulgated thereunder, and constituted unfair and deceptive acts and practices in commerce.

Mr. DeWitt T. Puckett for the Commission.

Kusworm & Kusworm, of Dayton, Ohio, for respondents.

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 Sol H. Ruben and Florraine B. Ruben, individually and as copartners trading as Brooks Clothes, hereinafter referred to as respondents, have violated the provisions of said Acts