

## Complaint

## IN THE MATTER OF

## CHURCHILL SPORTSWEAR CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 8379. Complaint, Apr. 26, 1961—Decision, Aug. 24, 1961*

Consent order requiring Boston manufacturers of ladies' garments to cease advertising and labeling their products falsely as "Indian Madras" and "Madras".

## 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 Churchill Sportswear Co., Inc., a corporation, and Hyman Greenblatt, individually and as an officer of said 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 Churchill Sportswear Co., Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located at 169 A Street, Boston, Massachusetts.

Respondent Hyman Greenblatt is an officer of said corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including those hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacturing, advertising, offering for sale, sale and distribution of ladies' garments to retailers throughout the Nation.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Massachusetts to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of misrepresenting the material of which their products are made or composed by advertising and labeling their garments as "Indian Madras" and as "Madras". In truth and in fact, said garments are not made of "Indian Madras" or "Madras".

By the use of such advertising and labels respondents represent that their color fast domestic fabrics are the same or similar to Madras cotton fabrics imported from India, which have a distinctive character and quality.

The word "Madras" has long been applied to a fabric produced in the Madras Province of India, which is made of fine hand-loomed cotton and, if in a color other than natural, is dyed with bleeding vegetable dyes. Such fabric has for a long time been well and favorably known to the purchasing public.

PAR. 5. By the aforesaid practices the respondents place in the hands of retailers the means and instrumentalities by and through which they may mislead the public as to the character and quality of their products.

PAR. 6. In the conduct of their business at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead members of the purchasing public into the erroneous and mistaken belief that such statements and representations were, and are, true and into the purchase of substantial quantities of respondents' products by reason of such erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 8. The aforesaid acts and practices of respondents as herein alleged were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

*Mr. Harry E. Middleton, Jr.*, supporting the complaint.

*Mr. Jay L. Fialkow*, Boston, Mass., for respondents.

## INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on April 26, 1961, issued its complaint in this proceeding against the above-named respondents, and a true copy was served on them. Thereafter respondents appeared by counsel and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated June 23, 1961, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on July 3, 1961, in accordance with § 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to the respondents and each and all of them and contains the form of a consent cease-and-desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the corporate respondent by its president, both individually and as an officer of said corporation, by the attorneys for both parties, and has been approved by the Assistant Director and the Acting Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement respondents admit all of the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the respondents waive: (a) any further procedural steps before the hearing examiner and the Commission; (b) the making of findings of fact or conclusions of law; and (c) all rights respondents may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Federal Trade Commission; that the order to cease and desist entered in this proceeding by the Commission may be entered without further notice to respondents, and when so entered such order will have the same force and effect as if entered after a full hearing. Said order may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

The parties have covenanted that the said agreement is for settlement purposes only and does not constitute an admission by the

## Findings

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respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement of June 23, 1961, containing consent order, and it appearing that the order which is approved in and by said agreement disposes of all the issues presented by the complaint as to all of the parties involved, said agreement is hereby accepted and approved as complying with §§ 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The undersigned hearing examiner, having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, makes the following findings and issues the following order:

## FINDINGS

1. The Federal Trade Commission has jurisdiction over the parties and the subject matter of this proceeding; and this proceeding is in the public interest;

2. Respondent Churchill Sportswear Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 169 A Street, in the City of Boston, State of Massachusetts;

3. Individual respondent Hyman Greenblatt is an officer of said corporate respondent. His address is the same as that of the corporate respondent;

4. Respondents are engaged in commerce as "commerce" is defined in the pertinent statutes which are invoked by the complaint filed herein. Now, therefore,

*It is ordered*, That Churchill Sportswear Co., Inc., a corporation, and its officers, and Hyman Greenblatt, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of women's garments or other textile products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Madras" or any simulations thereof, either alone or in combination with other words, to designate, describe or refer to any fabric or other textile product which is not, in fact, made of fine cotton, handloomed and imported from India, and, if the cloth is other than natural in color, has not been dyed with bleeding vegetable dyes;

2. Placing in the hands of retailers or others any means or instrumentalities whereby they may mislead or deceive the purchasing public with respect to the merchandise as set forth in Paragraph 1, above.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 24th day of August 1961, become the decision of the Commission; and, accordingly:

*It is ordered*, That respondents Churchill Sportswear Co., Inc., a corporation, and Hyman Greenblatt, individually and as an officer of said corporation, shall, within sixty (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 the order to cease and desist.