

IN THE MATTER OF
KENMONT HAT CO., INC., ET AL.

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

Docket 8394. Complaint, May 11, 1961—Decision, Oct. 24, 1961

Consent order requiring New York City distributors of hats to retailers to cease selling finished hats converted from imported bodies with nothing to show the foreign country of origin, since the words showing the foreign country had been removed by shearing off the edges of the brims.

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 Kenmont Hat Co., Inc., a corporation, and Isadore Herman, individually and as an officer of said corporation, hereinafter referred to as respondents.

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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 Kenmont Hat 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 principal office and place of business located at 55 West 39th Street, in the City of New York, State of New York.

Respondent Isadore Herman is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices 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 offering for sale, sale and distribution of hats to retailers for resale to the public.

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 New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said product, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, the respondents purchase hat bodies from importers, convert said bodies into finished hats and sell them. When the aforesaid hat bodies are received by respondents they bear words stamped into the brims thereof, near the edge, showing the foreign country of origin of the hat bodies. In the course of finishing the hats, respondents remove the words showing the foreign country of origin of the bodies by shearing off the edges of the brims of the hats. The word "Imported" is stamped in the crown of the finished hats but the foreign country of origin of the hat bodies is not shown in any manner when the finished hats are sold by respondents. Consequently, the public is not informed of the foreign country of origin of the hat bodies.

PAR. 5. There is a preference among a substantial number of the American purchasing public for products, including hats, manufactured, partly or wholly, in certain foreign countries over those manufactured, partly or wholly, in other foreign countries.

PAR. 6. By and through the use of the aforesaid practices, respondents place in the hands of others means and instrumentalities by

and through which they may mislead and deceive the public as to the origin of their hat bodies.

PAR. 7. 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 hats of the same general kind and nature as that sold by respondents.

PAR. 8. The acts and practices of the respondents and their failure to disclose the foreign country of origin of their hat bodies, as aforesaid, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the purchase of substantial quantities of their hats. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 9. 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 and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. DeWitt T. Puckett for the Commission;

Keating and Brodtkin, by *Mr. John M. Keating*, New York, N.Y., for the respondents.

INITIAL DECISION, BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on May 11, 1961, charging Respondents with violation of the Federal Trade Commission Act by failing to show, on the finished hats sold by them, the foreign country of origin of the hat bodies which Respondents purchase from importers and convert into such finished hats.

Thereafter, on August 28, 1961, Respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Chief, Division of General Practices, and the Acting Director of the Commission's Bureau of Deceptive Practices, and thereafter, on September 6, 1961, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Kenmont Hat Co., Inc. as a New York corporation, with its office and principal place of business located at 55 West 39th Street, New York, New York, and Respondent Isidor Herman (erroneously named in the complaint as Isadore Herman) as an individual and an officer of said corporation, who formulates, directs and controls the policies, acts and practices thereof.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree 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 order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore.

It is ordered, That Respondents Kenmont Hat Co., Inc., a corporation, and its officers, and Isidor Herman, 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 hats, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling hats containing fur or wool felt bodies which have been made in a foreign country unless such hats have a marking or stamping on an exposed surface of such conspicuousness as to be clearly visible to prospective purchasers of the hats and so placed and affixed as not readily to be hidden or obliterated, and of such a degree of permanency as to remain on the hats until consummation of consumer purchase thereof, revealing the foreign country of origin of such hat bodies;

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2. Furnishing means and instrumentalities to others by and through which they may mislead the public as to the country or origin of such products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing examiner shall, on the 24th day of October 1961, become the decision of the Commission; and, accordingly:

It is ordered, That Respondents Kenmont Hat Co., Inc., a corporation, and Isidor Herman (erroneously named in the complaint as Isadore Herman), 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.