

Complaint

It is further ordered, That the respondents herein 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 this order.

IN THE MATTER OF

FLORIDA CHILDREN'S WEAR MANUFACTURERS' GUILD,
INC.

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

Docket C-2187. Complaint, April 3, 1972—Decision, April 3, 1972.

Consent order requiring a Miami, Fla., trade association of 22 manufacturers of children's apparel in the State of Florida to cease refusing to permit participation in its annual trade shows of any producer of such goods in Florida and requiring as a condition of membership to refrain from any legal action against respondent; it is further ordered that all manufacturers previously denied participation be notified that they are no longer barred from respondent's trade shows.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (Title 15, U.S.C., Section 41 *et seq.*), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the party listed in the caption hereof and more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Florida Children's Wear Manufacturers' Guild, Inc., is a not-for-profit corporation organized on or about November 22, 1963, and is existing and doing business under and by virtue of the laws of the State of Florida. Respondent maintains its office and principal place of business at 1090 Northeast 79th Street, Miami, Florida.

Respondent Florida Children's Wear Manufacturers' Guild, Inc., a trade association composed of approximately twenty-two manufacturers of children's apparel located within the State of Florida, was organized for the general purpose of improving and expanding

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the children's wear and accessories industry and allied products in the State of Florida by the cooperative efforts of its members. To this end it has developed a trade show, through which a substantial portion of its members' merchandise is sold.

PAR. 2. The trade show sponsored and conducted by respondent trade association is a market place at which the merchandise of its member manufacturers is exhibited, offered for sale and sold to children's wear retailers. Respondents' trade show is the only trade show in the Florida area devoted exclusively to children's apparel and accessories produced in the State of Florida, and prospective customers from throughout the United States attend the market place. The importance of this trade show to the children's wear industry is attributable, in part, to the demand in other parts of the country for Florida manufactured and labeled goods. It is therefore of substantial competitive importance to a Florida children's apparel manufacturer to display his products at said trade show.

PAR. 3. In the course and conduct of the operation of the trade show, orders are solicited from buyers and persons representing retailers of children's apparel and accessories, and thereafter the manufacturer members of respondent trade association ship said merchandise or cause said merchandise to be shipped from the State of Florida across state lines to the purchasers thereof, located in the various States of the United States. Said purchasers in turn resell this merchandise to members of the general public.

Therefore, the respondent trade association and the members thereof, have carried on and are now carrying on a constant course of trade in commerce in children's apparel and accessories between and among the various States of the United States. Respondent, and the members thereof, are engaged in a constant and substantial flow of such merchandise in "commerce" as that term is defined in the Federal Trade Commission Act.

PAR. 4. Except to the extent that actual and potential competition has been hindered, frustrated, lessened and restrained by reason of the practices hereinafter alleged, respondent trade association through its trade show is in substantial competition with other methods of offering for sale and distributing children's apparel and accessories, including organized trade shows in Florida and elsewhere, and members of respondent trade association are in substantial competition with one another and with other firms engaged in the manufacture and distribution of children's apparel and accessories, both at the trade show and otherwise.

PAR. 5. Beginning about 1968, respondent trade association, and the members thereof, have by means of agreements and understandings, combined, conspired and pursued a planned common course of action to adopt, place into effect, and carry out, and have adopted and placed into effect by various means and methods, a plan, scheme or policy to hinder, frustrate, restrain, suppress and eliminate competition in the offering for sale and sale of children's apparel and accessories in commerce.

Pursuant to, and in furtherance and effectuation of the aforesaid course of action of respondent and the agreements of respondent trade association's members or others not parties hereto, respondent has:

(1) Prohibited members from displaying their wares or merchandise for purposes of sale to customers or to potential customers, directly or indirectly, whether by regularly employed salesmen or by independent salesmen, commission merchants, agents or otherwise, in any organized market week or showing in the State of Florida during their trade show period, and during the seven (7) days immediately prior to the show and the seven (7) days immediately subsequent to the show.

(2) Prohibited members from combining with any other member or nonmember to participate in any trade show as a Florida group outside the State of Florida, during the period thirty (30) days prior to, during, and thirty (30) days subsequent to their trade show.

(3) Prohibited members from advertising or publicizing their participation in any trade show to be conducted in the State of Florida during the period thirty (30) days prior to, during, and thirty (30) days subsequent to their trade show.

(4) Prohibited members from advertising or permitting their firm names or labels to be advertised or used in any publicity release or in any literature in any other trade show or display group during the period of thirty (30) days prior to and during their trade show.

(5) Conditioned the participation of manufacturers of children's apparel and accessories in the respondent's trade show upon an agreement of renunciation of any claims for loss, damage, or expenses incurred as a result of prior exclusion, or of any future claims for any future action by respondent guild.

(6) Prohibited manufacturers of children's apparel and accessories from participating in their trade show if they are a subsidiary of a corporation not organized under the laws of the State

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of Florida, and not principally based in southern Florida, without regard to the place of manufacture of the goods desired to be shown, or the type of business of the parent company.

(7) Refused to permit manufacturers of children's apparel located in the State of Florida to exhibit their merchandise at respondent's trade shows.

(8) Combined and conspired with third parties to prohibit or attempt to prohibit manufacturers or salesmen of children's apparel from showing or advertising their merchandise in the time, place or manner of their own choosing.

PAR. 6. The acts, practices and methods of competition engaged in, followed, pursued or adopted by respondent, and the combination, conspiracy, agreement or common understanding entered into or reached between and among the members of respondent trade association or others not parties hereto, and the acts and practices, as hereinabove alleged, are unfair and to the prejudice of the public because they tend to and do restrain competition between and among Florida and out-of-state manufacturers, restrain competition between nonmembers and members of respondent trade association, raise barriers to entry of new competition in the sale of children's apparel and accessories, limit and restrict sales opportunities of salesmen representing Florida manufacturers of said merchandise, and otherwise restrain trade and commerce.

Said acts, practices and methods of competition, and the adverse competitive effects resulting therefrom, constitute unreasonable restraints of trade and unfair methods of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

This matter having come on to be heard by the Commission upon a record consisting of the Commission's proposed complaint charging the respondent named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act and an agreement by and between respondent and counsel supporting the complaint, which agreement contains an order to cease and desist, an admission by the respondent of all the jurisdictional facts alleged in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the proposed complaint, and waivers and provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent

has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement as providing an adequate basis for appropriate disposition of the proceeding and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Florida Children's Wear Manufacturers' Guild, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 20 SE 14th Street, in the city of Miami, State of Florida.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

I

It is ordered, That respondent and its officers, agents, representatives, employees, successors and assigns, directly or indirectly, or through any corporate or other device, in connection with the offering for sale, sale or distribution of children's apparel and accessories in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Refusing or threatening to refuse to permit participation in any trade show of children's apparel or accessories, to any manufacturer who in fact causes said merchandise to be produced within the borders of the State of Florida.

2. Prohibiting or forbidding any manufacturer of children's apparel or accessories from having his merchandise displayed, exhibited, sold, advertised, promoted or offered for sale, either alone or in conjunction with others, at any time or at any place said manufacturer may choose to do so.

3. Requiring of any manufacturer of children's apparel or accessories, as a condition to membership or trade show participation, to agree to refrain from instituting any legal action against respondent.

4. Refusing, or threatening to refuse participation at any trade shows of children's apparel or accessories to any manufacturer whose merchandise is manufactured within the borders of the State of Florida, who did not give consideration to or

did not comply with any demand that respondent made, suggested, or urged upon said manufacturer.

5. Combining or conspiring with any person or firm to prohibit any manufacturer or salesman of children's apparel from showing or advertising his merchandise in any manner, method or place of his choosing.

6. Nothing contained herein shall prevent respondent from retaining, adopting, and enforcing reasonable regulations for the registration and conduct of members and buyers at trade shows, including the assignment of specifically designated show areas, so long as such regulations are not misused as devices to unreasonably restrain trade.

II

It is further ordered, That respondent shall cease and desist from operating any trade show unless and until:

1. All manufacturers who have been denied membership or trade show participation in the past by virtue of any reason which contravenes, in whole or in part, any of the provisions of this order, are notified that their merchandise is no longer prohibited from being shown at respondent's trade shows.

2. All provisions or restrictions appearing in any contract, agreement or understanding between respondent and any third party which contravenes, in whole or in part, the letter or spirit of any of the provisions of this order, are withdrawn and cancelled.

3. All manufacturers of children's apparel known to respondent, any of whose children's apparel is manufactured within the State of Florida, are advised in writing that they are eligible to participate in respondent's trade shows.

III

It is further ordered, That respondent trade association, within sixty (60) days from the effective date of this order, shall:

1. Mail a conformed copy of this order to each manufacturer of children's apparel or accessories known to respondent who produces said merchandise within the State of Florida.

2. File with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

It is further ordered, That respondent trade association notify the commission at least thirty (30) days prior to any proposed change

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in the corporate respondent such as dissolution, assignment or sale
resulting in the emergence of a successor corporation the creation or