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SENATE

{ REPORT
No. 979

COLLIER MANUFACTURING CO., OF BARNESVILLE, GA.

MAY 10 (calendar day, MAY 11), 1934.—Ordered to be printed

Mr. STEPHENS, from the Committee on Claims, submitted the following

REPORT

[To accompany S. 2242]

The Committee on Claims, to whom was referred the bill (S. 2242) for the relief of the Collier Manufacturing Co., of Barnesville, Ga., having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendments:

In line 5, strike out the figures "\$61,530.02" and insert in lieu thereof the figures "\$48,719.70."

In lines 6 and 7, strike out the words "appropriated, the same being the actual" and insert the words "appropriated, in full settlement of all claims against the Government, for".

In lines 8 and 9, strike out the words "the cancelation of a contract for".

At the end of the bill add the following:

Provided, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

This claim was presented to the Board of Contract Adjustment of the War Department, but relief was denied, as the Board found that no agreement had been entered into between the Collier Manufacturing Co. and any officer or agent of the Government acting under the authority, direction, or instructions of the Secretary of War or of the President within the purview of the act of March 2, 1919. An appeal was taken from the decision of the Board of Contract Adjustment to the Secretary of War, who, under date of

November 4, 1920, affirmed the decision of the Board of Contract Adjustment.

On September 11, 1923, the Collier Manufacturing Co. filed a petition in the Court of Claims. The court found the facts, and on June 1, 1925, rendered its decision that the claimant was not entitled to recover, solely on the ground that it had no contract, express or implied, with the Government. The court found that the contracts were made with Clift & Goodrich, and that the only thing in the contract that identified the claimant was that the goods were to be made of their make.

An examination of the decisions of the Board of Contract Adjustment and of the Court of Claims discloses the fact that this claim was not rejected on its merits but was rejected because the claimant did not occupy the legal status of a contract with the Government, and therefore had no claim against the United States that could be adjudicated or allowed under the terms of the act of March 2, 1919 (40 Stat. U.S., pt. 1, p. 1277), providing for the adjustment and settlement of all such damages incurred by war contractors with the Government during the recent World War.

Undoubtedly the decisions were correctly made and no damage could be collected as a matter of law under the act, since the claimant did not occupy the legal status of a contractor, but as a matter of equity and good conscience your committee believe that the claimant should be compensated for losses incurred in its efforts to serve the Government in good faith in the emergency of war.

The records in this case show that some time prior to March 7, 1918, the Collier Manufacturing Co., which was engaged in the manufacture of knit underwear at Barnesville, Ga., was solicited by the War Department, through the depot quartermaster's offices at St. Louis and Atlanta, to readjust its plant to manufacture cotton undershirts for the use of the Army during the World War. After some negotiations the War Department, on March 7, 1918, entered into a contract with Clift & Goodrich, of New York, who were the general sales agents of the claimants, and who accepted this contract for the account of the claimants and on a brokerage commission basis, under the terms and stipulations of which contract said Clift & Goodrich were to deliver to the Government 120,000 cotton undershirts, the same to be manufactured by the Collier Manufacturing Co., of Barnesville, Ga.

In order to facilitate the transaction, Clift & Goodrich made the contract in behalf of the Collier Manufacturing Co., because Clift & Goodrich had already given the bond required of such contractors; by taking the contract in its own name the transaction could be greatly expedited, which was greatly desired by the Government.

On May 6, 1918, and on June 6, 1918, the Government entered into two similar contracts with Clift & Goodrich each for the manufacture of 120,000 cotton undershirts for the use of the Army, and each contract specifying "these garments to be made by the Collier Manufacturing Co., of Barnesville, Ga., and to be inspected and accepted at the mills."

At first there was no trouble about the character and quality of the merchandise furnished by the Collier Manufacturing Co. under this contract. Out of the first 60,000 garments manufactured there were only six or seven rejects. Up to July 1918 the Collier Manufacturing

Co. shipped the goods direct to the quartermaster's depot at Atlanta without inspection at the mills, and the results of the inspection at Atlanta were so satisfactory that, as already stated, the rejects ran about 1 garment out of every 1,000.

In July 1918, however, the Government, in compliance with the express terms of its contract, had, in order to facilitate the manufacture and delivery, sent its inspectors to the plant of the manufacturing company at Barnesville, Ga., and from that moment real trouble about this contract began. The inspectors sent to Barnesville were totally inexperienced in and unacquainted with the business of manufacturing cotton undershirts. One of the three men sent to Barnesville had previously been employed as a bundle wrapper in the clothing store of George Muse, in Atlanta, Ga., and one of the others had been a machine fixer in an overall factory in Atlanta, and the third a machine fixer in Atlanta. They were totally unacquainted with the operations of a cotton mill and had never had the slightest experience therein; and instead of applying the "machine test" universally applied in the trade to determine the textile strength of the garment, they undertook to test such textile strength by tearing the garments apart by hand, and they thus injured and destroyed a great many of them, which, of course, they then rejected. Besides, these young men were slow and dilatory about the work of inspection, and as a result of all of the above, the goods began to pile up in the factory. The officers of the Collier Manufacturing Co. undertook to get some relief from this situation, both in Washington with the War Department, and in New York with the Knit Goods Committee, a civilian organization aiding the Government in the execution of contracts of this character. This condition continued unchanged, or growing worse, until on September 5, 1918, the War Department, through Major Gray, one of its Quartermaster officers wired the Collier Manufacturing Co. to stop delivery under these contracts, and finally, on October 18, 19, and 22, 1918, less than a month before the Armistice, the Department canceled all three of the above contracts, one of which was practically executed, and the other two practically unexecuted, by agreement with Clift & Goodrich, which agreement was without consideration of any sort, either to Clift & Goodrich, or to the Collier Manufacturing Co. The Collier Manufacturing Co. did not agree to the cancelation, and had no knowledge of the same until May 14, 1919, some 7 months thereafter.

At the time of such cancelation, it was practically apparent that the war was about over, and that the Government had largely overbought cotton undershirts for the Army, and that each changed situation in this respect had more to do with the so-called cancelation of contracts than any fault of the manufacturers.

At one time the officers of the Collier Manufacturing Co. did discuss tentatively with the War Department the cancelation of the war contracts, but they always insisted that the Government should take over the goods already manufactured but not accepted, or reimburse them for their actual losses incurred in their effort to perform their contracts with the Government.

It is indisputed that Major Burger, of the Quartermaster Department, and in charge of the execution of contracts of this character, agreed, both in conversation and by letter, to the equity of the claims

of the Collier Manufacturing Co., and agreed to recommend that the Government accept and pay for the goods already manufactured; also that Mr. Johnson, of the Knit Goods Committee, had entertained and expressed a similar opinion about this matter.

Of course these officials had no right to bind the Government, or to fix its liability, but their opinions as to the merits of the claim, at the time of these transactions, is of very great value. It is also a significant and noteworthy fact that in the spring of 1919 Lieutenant Parker, of the quartermaster's depot at Atlanta, bought for the Government several thousand of these cotton undershirts which had been rejected in August and September 1918.

The actual loss sustained by the Collier Manufacturing Co. in this matter consists of the following items:

1. The merchandise manufactured for the Government on these contracts and not accepted by it was subsequently sold to H. Goldstein Bros. Co., of New York City, at an actual cash loss of \$14,082.29. This figure represented the difference between what these goods actually cost the Collier Manufacturing Co. and what they had to be sold for.

2. The Collier Manufacturing Co. actually lost on yarns bought and contracted for to execute the Government's contract the sum of \$26,090. This amount is arrived at by deducting from the actual cost of these yarns the value of the same at the time the Government refused to proceed with its contracts. Thereupon the Collier Manufacturing Co. was forced to dispose of these yarns, which were no. 16 and the only ones suitable for the execution of these Government contracts and were not suitable for the general civilian trade, by exchanging them for other yarns of a different number at the market price of such yarns at the date of exchange. Such no. 16 yarns had cost the Collier Manufacturing Co. \$67,300, and it was able to obtain therefrom only the sum of \$41,210, which made the loss on this transaction \$26,090.

3. The loss on the machinery and burlap especially bought to execute the contract for the Government was in each instance a total loss, and, while the claimant has only claimed a loss based on the supposed market value of this machinery at the time the contract was canceled, yet in no case has it ever received a cent for this machinery, it having been unable to sell the same, and the same having been junked as worthless, or possibly in some instances at the price of scrap iron—the amount of this loss is \$3,485.50.

4. The cost of changing the plant and readjusting the equipment of the Collier Manufacturing Co. in order to make it possible to execute the Government's contracts, and after the cancelation of these contracts, the cost of changing it back so as to enable it to resume its ordinary business operations—the total cost of these two operations was \$5,061.90.

The letter from the Secretary of War, the decision of the Court of Claims, and other pertinent papers are appended hereto and made a part of this report.

WAR DEPARTMENT,
Washington, January 27, 1934.

HON. JOSIAH W. BAILEY,
Chairman Committee on Claims, United States Senate.

DEAR SENATOR BAILEY: Careful consideration has been given to your letter of January 12, 1934, enclosing copy of bill (S. 2242) to authorize and direct the

Secretary of the Treasury to pay to the Collier Manufacturing Co. of Barnesville, Ga., the sum of \$61,530.02, to cover losses sustained by that company on account of the cancelation of a contract for the manufacture of undershirts for the United States Army in the year 1918.

The claim in question was considered by the Board of Contract Adjustment of the War Department, case no. 150-C-726, and relief denied in a decision dated June 22, 1920. This decision contains a full statement of the facts and circumstances relative to the claim and is contained in volume 6, page 461, Decisions of the War Department Board of Contract Adjustment.

An appeal was taken from the decision of the Board of Contract Adjustment, above referred to, to the Secretary of War, who under date of November 4, 1920, affirmed the decision of the Board of Contract Adjustment. The action of the Secretary of War is contained in volume 8, page 8, Decisions of the War Department Board of Contract Adjustment.

On September 11, 1923, the Collier Manufacturing Co. filed a petition in the Court of Claims covering the same claim. The court found the facts as set forth in the decision of the War Department Board of Contract Adjustment referred to above. On June 1, 1925, the Court of Claims rendered its decision that the plaintiff was not entitled to recover. On October 26, 1925, a motion for a new trial was overruled. This decision is contained in Court of Claims Reports No. 61, page 32. A writ of certiorari was denied by the United States Supreme Court on June 1, 1926 (271 U.S. 680).

For the reasons set forth in the above findings and decisions and for the further reason that the matter has already been adjudicated, this Department recommends that the above bill be not reported favorably.

The file in this case is voluminous. To have it photostated would entail considerable expense. However, if the Committee on Claims still desires to see the file, even though the matter has already been before the court for final action, this Department will be glad to furnish it.

Sincerely yours,

GEO. H. DERN, *Secretary of War.*

EXHIBIT 1, COURT OF CLAIMS OPINION

COLLIER MANUFACTURING CO. (INC.) v. THE UNITED STATES

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

FINDINGS OF FACT

I

Plaintiff was in 1918 a corporation created under the laws of the State of Georgia, engaged in the manufacture of knit underwear.

II

Prior to March 7, 1918, samples and specifications of Government merchandise were sent to plaintiff by the depot quartermaster of St. Louis. Afterward a letter was received from the depot quartermaster at Atlanta, asking for full details of plaintiff's manufacturing facilities and submitting to plaintiff specifications on the underwear wanted. Plaintiff then visited defendant's officers in Atlanta, Ga., relative to its manufacturing facilities and to secure information regarding the underwear required by defendant.

III

Plaintiff communicated with Clift & Goodrich, of New York, who at that time were its sales agents, and gave them full details covering the quantity of merchandise that it could furnish and the prices. Samples were submitted by plaintiff to Government officials. Plaintiff instructed Clift & Goodrich to accept the first order for its account.

IV

The following is a communication from Clift & Goodrich to plaintiff, dated June 20, 1918:

"The following is a statement of the arrangements as they exist between us as we understood in conference with your Mr. Collier:

"We are to have the sole and exclusive control of your output of merchandise, and all sales are to be made only to such customers as we approve. If any sales are made at the mill, they are to be reported immediately to us for record on our books.

"We are to render account current monthly for shipments made during the preceding month, such account current to be rendered about the 10th of each month, and we are to receive a commission of 5 percent of the net amount of sales for our compensation, for service, for selling and guaranteeing the accounts receivable, and for such other services as we may render, and we shall have the right to deduct this commission from the account current when making settlement about the 10th of each month for the previous month's deliveries.

"It is understood that we will make you advances during the month as requested by you.

"The billing of goods to customers is to be done in our name only, and we shall have the sole right to make collections.

"Interest on the account is to be computed at the rate of 6 percent per annum on both sides.

"All express charges, telegrams, etc., from you to us are to be prepaid, and if sent collect, are to be charged to your account. All express charges, telegrams, etc., from us to you are to be prepaid by us.

"All samples which are used by us for selling purposes are to be settled for at the end of the season at a discount of 50 percent.

"The above arrangement is to continue in force up to July 1, 1919, and after that date is to continue in force from year to year unless notice in writing is given by either party to the other on or before the 1st day of March in any year of a desire to terminate contract on the 1st day of July following such notice.

"It is also agreed and understood that should either party give notice on or before the 1st day of March in any year of a desire to terminate contract on the 1st day of July following such notice, you are privileged to go ahead and sell and make such arrangements necessary for the following year's output.

"Kindly confirm the foregoing, and oblige."

The following reply to said letter was sent to Clift & Goodrich by plaintiff in June 1918:

"GENTLEMEN: We hereby confirm the within understanding and agree to the terms mentioned."

V

On March 7, May 7, and June 11, 1918, the Government entered into certain contracts with Clift & Goodrich, of New York City, for furnishing and delivery to it of a specified quantity of undershirts for use by the Army. A copy of the several contracts, marked "Exhibits A, B, and C," respectively, is attached to the petition, and each of them is made a part of these findings by reference. Copies of the awards, as attached to the several contracts, are attached to the said copies of the contracts as parts of exhibits A, B, and C to the petition and are made a part hereof by reference. It appears from these awards that each of them provided that the undershirts were to be made by the Collier Manufacturing Co.

VI

The contract of March 7, 1918, called for delivery of 120,000 garments, of which there were delivered to the Government approximately 106,332, which were accepted. These garments were made in a satisfactory manner, and a comparatively small number, approximately 60, were rejected on inspection by the defendant.

VII

The garments were made by the plaintiff at its plant at Barnesville, Ga. Shipments were made to the depot quartermaster at Atlanta. Invoice of the shipment was sent by plaintiff direct to Clift & Goodrich in New York and a copy of the invoice was forwarded to the depot quartermaster. Upon its receipt by them, Clift & Goodrich sent an invoice to the depot quartermaster at Atlanta for the goods that had been shipped direct, and payments were made to Clift & Goodrich by the Government at New York. Upon the contract

of May 7, 1918, which called for the delivery of 120,000 undershirts, approximately 10,480 were delivered and accepted under the same shipping and billing conditions as obtained with reference to the contract dated March 7, 1918. No deliveries were made on contract of June 11, 1918.

VIII

Plaintiff increased its plant and facilities for the performance of the work called for by these contracts. In September 1918 Major Burgher, one of defendant's officers, advised plaintiff to change its plant back to civilian work and allow the Government to cancel the contracts and take over what merchandise plaintiff had in process of manufacture. After deliveries on first contract and while in the performance under second contract, defendant placed at plaintiff's plant incompetent inspectors, who, over the protest of plaintiff, mutilated about 25,000 undershirts, rendering them unfit for civilian trade. Major Burgher, of defendant's knit-goods buying committee, stated to plaintiff that he would do what he could to have the Government take these goods off of plaintiff's hands, and afterward stated to plaintiff that he had found a way to do so, and promised to give plaintiff shipping instructions, which was not done. Plaintiff's loss, if any, on this item is not satisfactorily shown by the evidence. On September 5, 1918, plaintiff received from Major Gray, one of defendant's officers, a telegram as follows: "No further shipments will be received on contract 2848-A until satisfactory garments can be delivered." This telegram was received by plaintiff while the inspectors, referred to, were at the plaintiff's plant. The failure to accept further deliveries caused plaintiff to receive less money than it would have received if the contracts had been fully performed. The amount of the loss, if any, is not satisfactorily proved.

IX

Plaintiff knew that defendant's officer, Major Burgher, had no authority to enter into or sign contracts; that his authority was limited to recommending purchases.

X

On October 18, October 19, and October 22, 1918, the Government entered into supplemental agreements with Clift & Goodrich, canceling the three original contracts herein referred to and mentioned in finding V. Copies of these supplemental agreements dated October 18, 19, and 22, 1918, are attached to plaintiff's petition marked "Exhibits D, E, and F", respectively, and are made a part of these findings by reference.

XI

On November 4, 1918, defendant wrote Clift & Goodrich a letter as follows: "Referring to the recent interview with Mr. Collier, Sr., and Mr. McKenzie regarding the quantity still on hand of undershirts at the Collier Manufacturing Co.

"It will be recalled that this branch stated that we would investigate the matter and find some way by which it would be possible to recommend the stock of approximately 27,000 undershirts for purchase.

"We have taken this matter up very thoroughly with our inspection and depot relations branch, who in turn took the matter up with Maj. Frank Walton, in charge of the Atlanta depot.

"We are informed by the inspection and depot relations branch to notify you that a recommendation for purchase will be made under the following conditions:

"The Collier Manufacturing Co. to thoroughly and carefully inspect the total quantity of undershirts on hand and segregating those garments that they consider to be imperfect and of tender fabric.

"Notify this branch as to the quantity then remaining which they offer for purchase and for which a recommendation to purchase will be made by this branch.

"The Atlanta depot quartermaster will then inspect the quantity purchased and if rejects are found in this lot to exceed 3 percent of the amount purchased, the entire quantity will be rejected and contract considered as completed.

"Will you take this matter up immediately and inform this branch if you will accept the above conditions to apply against the purchase of the quantity on

hand? On receipt of your reply stating the quantity to be purchased, this branch will then make the necessary recommendations.

"By authority of the Director of Purchase."

XII

On April 8, 1919, defendant, in reply to a letter from plaintiff of April 5, 1918, sent the following letter:

"In reply to your favor of April 5, you are informed that the dates of supplemental agreements reducing your contracts are as follows:

"Contract No. 1164-A, October 18, 1918.

"Contract No. 2848-A, October 22, 1918.

"Contract No. 3735-A, October 19, 1918."

XIII

This claim was presented to the Board of Contract Adjustment of the War Department and that board found that no agreement was entered into between the Collier Manufacturing Co. and any officer or agent of the Government acting under the authority, direction, or instructions of the Secretary of War or of the President within the purview of the act of March 2, 1919. This action was confirmed by the Secretary of War. (See vol. 8, p. 8, Decisions of the War Department.)

CONCLUSION OF LAW

Upon the foregoing findings of fact the court decides, as a conclusion of law, that the plaintiff is not entitled to recover and the petition must be, and it is hereby, dismissed.

Judgment is rendered against the plaintiff in favor of the United States for the cost of printing the record in this case, the amount thereof to be entered by the clerk and collected by him according to law.

MEMORANDUM

Three contracts were made by Clift & Goodrich with the Government, copies of them being attached to the petition. Plaintiff alleges that Clift & Goodrich were sales agents, and on account of the cancellation of the contracts by separate supplemental contracts, also made by Clift & Goodrich, it claims to have suffered a loss. There is no question that the contracts were made with Clift & Goodrich, nor is there any question that there was a settlement made with them by the Government. The plaintiff seeks to make these contracts its own upon the assumption that Clift & Goodrich were its agents. The only thing in the contract that identified the plaintiff with them was that the goods were to be of their make. But this was an undertaking by Clift & Goodrich so far as the Government is concerned, and having made the contract with them, whether they were sales agents of plaintiff or not, the Government had a right to deal with them and did so. The plaintiff had no enforceable contract with the Government. When the matter was heard before the Board of Contract Adjustment they came to that conclusion and the conclusion was confirmed by the Secretary of War. (See Decisions of War Department, vol. 6, p. 461, and vol. 8, p. 8.) There being no contract, express or implied, between the Government and the plaintiff, it cannot recover.

GRAHAM, *Judge*, took no part in the decision of this case.

EXHIBIT 2

CLIFT & GOODRICH,
New York, May 14, 1919.

MR. J. C. COLLIER,
Raleigh Hotel, Washington, D.C.

DEAR SIR: We have your telegram reading, "Mail Raleigh Hotel copies, our date contracts with you, copies of three Government contracts for orders given us, copies of the cancellations of contracts given Government by you." We wish to state that the following are the numbers and the dates:

Contract no. 1164A, dated March 7, 1918. H. J. Hirsch by H. M. Schofield.
Contract no. 3735A, dated June 11, 1918. H. J. Hirsch, S. W. Shaffer.
Contract no. 2848A, dated May 6, 1918. Hirsch by Schofield.

We regret to state that we cannot give you the exact date of the cancellation. We wrote you under date of November 15, 1918, as follows:

"We have today received official cancellation from Washington covering the three contracts which you have the balance due on contracts nos. 2848, 1164, and the entire amount due on contract 3735."

This probably will answer your purpose. If we can help you in any way please do not hesitate to call on us, and trusting that you will have success, we remain

Yours very truly,

CLIFT & GOODRICH.

EXHIBIT 3

In the matter of the House bill no. 6828, and Senate bill no. 2242 for the relief of the Collier Manufacturing Co., Barnesville, Ga., from losses sustained by reason of having contracts canceled by the United States Quartermaster Department in 1918, said bills now being before the Committee on Claims.

Personally came before me, one D. C. Collier, who, under oath this the 1st day of February 1934, makes the following statement:

1. That he was manager of the Collier Manufacturing Co., of Barnesville, Ga., a textile firm which had accepted through its selling agent, Clift & Goodrich, of New York, N.Y., the following contracts for manufacturing cotton undershirts, from the Quartermaster Department of the United States Army:

1164A, dated March 7, 1918, for 120,000 garments.

2848A, dated May 6, 1918, for 120,000 garments.

3735A, dated June 6, 1918, for 120,000 garments.

2. That prior to the closing of these contracts that said Collier Manufacturing Co. was approached by depot quartermasters at both St. Louis and Atlanta to take orders for the manufacture of merchandise for the United States Army during the national emergency.

3. That for patriotic reasons said Collier Manufacturing Co. passed up most profitable civilian business and took the before-mentioned business through its selling agent, Clift & Goodrich, and that the Collier Manufacturing Co. sustained losses during the year 1918 by reason of the governmental handling and cancellation of these contracts, whereas practically all other manufacturing concerns were showing large profits during this period.

4. That the Collier Manufacturing Co. filled all of contract 1164A but did not secure bills of lading from the Quartermaster Department to ship all of the merchandise, said Collier Manufacturing Co. being allowed to start on the manufacture and delivery of contract 2848A, it being the intent to later give delivery instructions for a certain quantity of seconds at the Collier Manufacturing Co.'s plant which the Quartermaster Department has allowed to be applied to contract 1164A, but which the Government never accepted.

5. That the merchandise manufactured by the Collier Manufacturing Co. and applied against contract 1164A was very satisfactory to the Quartermaster Department in Atlanta, as the records showed that only a total of 50 rejects out of 60,000 garments delivered.

6. That partial deliveries were made against contract no. 2848A when mill was held up on delivery by telegram dated September 6, 1918, quoted: "No further shipments will be received on contract 2848A until satisfactory garments can be delivered; signed: Gray, 10:08 a.m."

7. That said D. C. Collier made every attempt to deliver merchandise against the above order to the Quartermaster Department at Atlanta, repeatedly calling their attention to the incompetency of the inspectors stationed at the plant of the Collier Manufacturing Co. for receiving merchandise, none of the men detailed having ever been in an underwear plant prior to their designation as knit-underwear inspectors by the Government. That said D. C. Collier protested at the method used by the inspectors of testing merchandise, forcibly tearing the cloth as a strength test, instead of using the usual machine method for testing the strength of cloth. That he repeatedly called the attention of the Quartermaster Department in Atlanta to the fact that the method of inspection so seriously damaged the merchandise that it was not salable to the civilian trade.

5. That finally in order to try and get relief with a competent and efficient method of inspection, that said D. C. Collier made a trip to New York to interview the officials of the knit goods buying committee (civilian) and presented

the case, and that immediately Mr. Jacobson and Major Burgher suggested that the orders be canceled, stating that the Government had a sufficiency of merchandise, mentioning that they had already canceled orders which had been placed with the Signal Knitting Mills, of Chattanooga, Tenn. They further stated that the inspectors detailed to the plant by the depot quartermaster had damaged the rejected merchandise by marking it up so as to render it unsalable for civilian purposes. They stated that they would order the merchandise on hand and in process inspected immediately for delivery on contract, and would wire the depot quartermaster to have inspectors report to the plant at once. Mr. Burgher stated that he had secured authority to take our seconds on hand, and as well the first at the mill, and that following the completion of delivery on these that then cancellation would be issued for the unfilled balance on the orders formerly referred to. Said D. C. Collier further states that this agreement was satisfactory to him, and he returned to the mill to await inspectors for accepting and passing delivery of the merchandise; above agreement dated September 18, 1918.

6. That, on returning to the mill, no move was made by the Government officials to carry out the agreement aforesaid, no inspectors from the Atlanta depot reported to the plant. Said D. C. Collier further states that he used every effort to have the inspectors report to the plant for accepting the merchandise on hand, communicating with the Atlanta depot of Clift & Goodrich, and the officials of the knit goods branch in New York, but without avail. Officials of the knit-goods branch not even answering the telegram.

7. Said D. C. Collier states that finally after about 30 days had elapsed, J. C. Collier made a trip to New York to see Messrs. Jacobson and Burgher of the knit-goods committee to find out why they had not carried out the agreement which they had with D. C. Collier for having the merchandise on hand inspected and accepted. J. C. Collier returned and reported to the mill that he had a new agreement with Major Burgher, and that he would agree to take the merchandise on hand at the mill, and that he would order inspection to be started at the mill at once.

8. Said D. C. Collier states that on November 4 a letter was received from the Quartermaster Department setting forth certain special conditions governing the acceptance of the merchandise which were not a part of the original orders and which had not been in force previously in the inspection and acceptance of merchandise, the specifications being so tight and unreasonable that it would have been almost impossible to have delivered any of the merchandise. Said D. C. Collier stated that he endeavored to get this method of inspection modified, but without success. Said D. C. Collier further states that failing to secure a modification of these conditions of inspection that he then wired the department quartermaster accepting them and asking for inspectors to report immediately. Said D. C. Collier states that he found it impossible to have the Government accept the merchandise on hand and to complete their agreement for acceptance of the same as set forth above. Said D. C. Collier and as well J. C. Collier making numerous trips to Washington, New York, and Atlanta seeking to have the Government carry out their obligation, without avail.

7. Said D. C. Collier further states that they never received any notice from Messrs. Burgher and Jacobson of the knit-goods buying committee, or from any other Government official that Messrs. Clift and Goodrich had signed a cancellation on the three aforesaid contracts as of October 18, 19, 22, 1918, and that this information was not secured until 1919 when Mr. J. C. Collier secured it in Washington from the War Department files.

8. Said D. C. Collier further states that the real reason that the War Department, through the knit-goods committee, was seeking to get out of taking this merchandise, and of tightening up on the inspection, and suggesting that said Collier Manufacturing Co. agree to a cancellation, was that the Quartermaster Department found that the knit-goods committee had purchased much more merchandise than they could use. Maj. F. H. Burgher testified before the Board of Contract Adjustment that his committee bought no more knit undershirts after July 15, 1918, the date of the battle of Chateau Thierry, the result of which changed the mind of the world about the future of the war. Records of the War Department following the close of the war showed millions of cotton undershirts on hand which accounts for the Government officials seeking to avoid taking additional quantities of merchandise in September and October 1918.

9. Said D. C. Collier further states that Collier Manufacturing Co. was the real contractor, and so treated by the Government, though technically a subcontractor, due to the fact that Clift & Goodrich was their selling agent, receiving only a small percent commission on all of the sales whether made direct by

said Collier Manufacturing or through the efforts of the Clift & Goodrich sales force. Deponent further states that he authorized Clift & Goodrich to close these contracts aforesaid, at the price specified following negotiations with the depot quartermasters at St. Louis and Atlanta. Deponent further states that Clift & Goodrich signed the cancellation of these orders without the consent or knowledge of said Collier Manufacturing Co.

10. Deponent further states that the officials of said Collier Manufacturing Co. have used every method to collect this claim as follows against the United States Government, and as was provided by the act of March 2, 1919. That they have presented this claim before the Board of Contract Adjustment but have been denied, due to the technical reason that Clift & Goodrich is considered as the contractor, and that there is no provision in this act to take care of losses by a subcontractor.

11. Deponent further states that the United States Government is morally bound to redress this wrong through an act of Congress, as the law does not take care of this particular case as above set forth.

12. Deponent further states that as a result of the Quartermaster's handling of these contracts, refusing to carry out agreements made by the knit-goods committee, and the improper signing of cancellation without the knowledge or consent of said Collier Manufacturing Co., that the Collier Manufacturing Co. was financially damaged to a very large degree and that their loss amounted to a total of \$61,530.02 detailed below, and which can be substantiated.

SUMMARY LOSSES ON WAR CONTRACTS SUSTAINED BY COLLIER MANUFACTURING CO.

United States Quartermaster was to pay for approximately 46,888, type 6, Army undershirts under contract 2848-A at 56 cents each for firsts, 15 percent less for seconds.

1. Net loss Government merchandise sold to H. Goldstein Bros. Co., New York City, detailed on schedule no. 1 attached.....	\$14,082.29
Loss of yarns:	
The 110,000 pounds 16's yarns on hand and under contract cost (see par. C).....	67,300.00
We have a total estimated value on the 110,000 pounds 16's yarns less commission of 5 percent to resell, based on offers and market quotations (see par. C).....	41,210.00
2. Total loss on the 110,000 pounds 16's yarns.....	26,090.00
3. Loss on 10 flatlock W. & G. machines, second-hand value, item (1), par C.....	2,750.00
4. Loss on 1 S. & W. knitting machine bought for war use, item (2), par. C.....	350.00
5. Item marked (4), par. C (burlap).....	272.00
6. Items marked (3), par. C, total loss (squeeze-roll).....	113.50
7. Total loss sustained (see par. D).....	5,061.91
Total.....	48,719.70
8. Interest for 6 months on \$22,629.70 of net losses sustained (not including yarns, etc.), from Nov. 12, 1918, to May 11, 1919, at 6 percent per annum.....	641.01
9. Interest on 6,000 pounds Swift yarns, 16's, and 18,000 pounds Belton 16's, amounting to \$13,770, from Nov. 12, 1918, to May 11, 1919, at 6 percent per annum.....	413.10
Total.....	49,773.80
10. Interest on \$49,773.80 and other expenses, sheet M attached, \$905.75.....	11,756.22
Total.....	61,530.02

13. Deponent states that the above claim is true and correct.

(Signed) D. C. COLLIER.

[SEAL]

RUTLEDGE LAURENS,
Notary Public, Georgia, State at Large.

My commission expires June 16, 1937.

EXHIBIT 4

WAR DEPARTMENT,
OFFICE OF THE ZONE SUPPLY OFFICER,
Atlanta, Ga., March 20, 1919.

From: The Zone Supply Officer, Zone Inspection Division, Textile Branch,
Atlanta, Ga.
To: The Collier Mfg. Co., Barnesville, Ga.
Subject: Contract 2848-A; Clift & Goodrich.

1. With reference to your letter of March 18 advising that you have on hand some 4,000 undershirts which have been inspected and accepted by inspectors from this depot.
2. The records in this office show that a supplemental agreement issued on the above contract provides for the acceptance of 10,480 garments.
3. Inspection reports show that 10,480 garments have been inspected and accepted. However, of these 10,480 garments, there have only been shipped and paid for, 9,280; which leaves a difference of 1,200 garments accepted, which have not been shipped.
4. According to the above, this office can allow you to ship 1,200 more shirts on this contract.
5. You are, therefore, requested to make out shipping order request covering 1,200 of these garments which have been inspected by the Government inspector, giving case numbers, etc., in which they are packed.
6. Upon receipt of this shipping order request, bill of lading and shipping instructions will be forwarded you, and invoices passed for payment when received by this office.

By direction of the zone supply officer:

WM. PARKER, Jr.,
Second Lieutenant, Quartermaster Corps,
Textile Branch.

○

Total

10. Insured on \$11,775.00 and other expenses, about 2% estimated.

11. 750.33

12. 61,530.03

Total

13. Dependent states that the above claim is true and correct.

(Signed) D. C. COLLIER

BUTTERFIELD LAWRENCE

Major, United States Army

My commission expires June 10, 1937.