LINSEED OIL & PAINT CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 491.—January 29, 1920.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of oils, greases, and kindred products, and trading as the Midwest Linseed Oil & Paint Co.—

(*a*) advertised a product composed of linseed oil adulterated with a low-grade mineral oil as "Raw commercial linseed oil" and "Boiled commercial linseed oil," thereby misleading purchasers into the belief that they were being supplied with pure linseed oil;

(*b*) sold and offered for sale linseed oil adulterated and mixed with low-grade mineral oil and other ingredients as "Commercial raw linseed oil, not sold or intended for medicinal purposes," and "Commercial boiled linseed oil, not sold or intended for medicinal purposes," without affirmatively indicating that said linseed oil had been adulterated or mixed;

(*c*) used upon its letterheads and advertising circulars distributed among its customers, pictures showing two buildings, one marked "Factory," with an overhead sign bearing the name "Midwest Linseed Oil Co.," the other marked "Dealer," although during the period in which such letterheads and advertising circulars were

used, said corporation had no buildings marked as aforesaid and did not own, occupy, or operate any such large factory as represented by said pictures; with the result of deceiving the trade and general public:

Held, That such adulteration, false and misleading advertising, and false representations, under the circumstances set forth, constituted unfair methods of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that the Penn Lubric Oil Co., trading as Midwest Linseed Oil & Paint Co., hereinafter referred to as respondent, has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in this respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Penn Lubric Oil Co., is a corporation doing business under the laws of the State of Missouri with its principal office and place of business located at the city of Kansas City, in said State, and is engaged in the business of manufacturing, purchasing, selling, and reselling certain oils, greases, and kindred products under the trade name of Midwest Linseed Oil & Paint Co., in competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of its business the respondent purchases the component ingredients used in the manufacture of said oils, greases, and kindred products in various States and Territories of the United States and transports the same through other States and Territories in and to the city of Kansas City, State of Missouri, where they are made and manufactured into the finished product and sold and shipped to purchasers thereof; that after such products are so manufactured they are continuously moved to, from, and

among other States of the United States, the Territories thereof, and the District of Columbia; and there is continually and has been at all times herein mentioned a constant current of trade and commerce in said products between and among the various States and Territories of the United States, the District of Columbia, and foreign countries, and more particularly from other States and Territories of the United States and the District of Columbia, to and through the city of Kansas City, State of Missouri, and from there to and through other States of the United States, Territories thereof, the District of Columbia, and foreign countries.

PAR. 3. That the respondent, trading under the name Midwest Linseed Oil & Paint Co., for more than a year last past in the sale of certain of its products in interstate commerce has in the conduct of its business labeled and branded certain of its products which are and have been adulterated and mixed with a low grade of mineral oil and other ingredients as "Commercial raw linseed oil" and "Commercial boiled linseed oil, not sold or intended for medicinal purposes"; that such brands and labels are false and misleading and calculated and designed to and do deceive the trade and general public into the belief that such products are manufactured and composed wholly of linseed oil.

PAR. 4. That the respondent, trading under the name Midwest Linseed Oil & Paint Co., for more than a year last past has used and is now using a cut upon their letterheads of extensive buildings, one of which is marked "Factory," with an overhead sign bearing the words "Midwest Linseed Oil Co.," and the other marked "Dealer" with an overhead sign "Hardware and paint," with the intent and purpose of deceiving and misleading the trade and general public into believing that the said cut represents the manufacturing plants as shown to be the plant of respondent, when in fact and truth respondent does not own or operate the plant as represented and indicated by the said cut; that such representations so made by respondent on said letterheads are misleading and calculated and designed to and do deceive the trade and general public.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having reason to believe that the above-named respondent, Penn Lubric Oil Co. (trading as Midwest Linseed Oil Co.), has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in that respect would be to the interest of the public, and fully stating its charges in that respect; and the respondent Penn Lubric Oil Co. (trading as Midwest Linseed Oil & Paint Co.), having filed its answer admitting that all the allegations of said complaint and each count and paragraph thereof are true in the manner and form therein set forth, and consenting and agreeing that the Federal Trade Commission shall forthwith proceed to make and enter its report stating its findings as to the facts and its conclusions of law and its order disposing of this proceeding without the introduction of testimony or the presentation of argument: therefore, the Federal Trade Commission now makes and enters this its report stating its findings as to the facts and its conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Penn Lublic Oil Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, having its principal office and place of business located at Twenty-eighth and Southwest Boulevard, in the city of Kansas City, in said State, and is now and for more than one year last past has been engaged in the business of manufacturing, purchasing, selling, and reselling certain oils, greases, and kindred products in interstate commerce throughout the various States of the United States, the Territories thereof, the District of Columbia, and foreign countries, in direct competition with other persons, firms, copartners, or corporations similarly engaged.

PAR. 2. That for more than one year last past respondent, Penn Lubric Oil Co., has carried on and conducted the linseed oil and paint department of its business under the trade name and style of Midwest Linseed Oil & Paint Co.

PAR. 3. That the respondent, trading under the name and style of Midwest Linseed Oil & Paint Co., in the conduct of its linseed-oil business, has never manufactured linseed oil, but purchases pure linseed oil from various dealers in such oils wherever it can buy to the best advantage and transports said oil to its factory, where it is adulterated, mixed, or compounded with a low-grade mineral oil and other ingredients, according to a formula, under high heat temperature and then sold to the public in interstate commerce.

PAR. 4. That for more than one year last past respondent, trading under the name and style of Midwest Linseed Oil & Paint Co. in the conduct of its business, as aforesaid, has published and circulated advertising matter in which it has offered for sale to the public a product which it calls "Raw commercial linseed oil," and "Boiled commercial linseed oil," which said linseed oil is not pure linseed oil but is adulterated, mixed, or compounded with a low-grade mineral oil, as aforesaid, and said terms are calculated and designed to and do lead the customers and purchasers of respondent's product to believe that they are being supplied with pure linseed oil.

PAR. 5. That for more than one year last past the respondent, trading under the name and style of Midwest Linseed Oil & Paint Co., has in the conduct of its business, as aforesaid, sold and offered for sale linseed oil which has been adulterated and mixed with a low-grade mineral oil and other ingredients under the label or brand "Commercial raw linseed oil, not sold or intended for medicinal purposes," and "Commercial boiled linseed oil, not sold or intended for medicinal purposes," which said label or brand does not notify, inform, or indicate to the purchasers thereof that the linseed oil has been adulterated, mixed, or compounded, as aforesaid.

PAR. 6. That for more than one year last past the respondent, trading under the name and style of Midwest Linseed

Oil & Paint Co., in the conduct of its business, as aforesaid, has used upon its letterheads and advertising circulars which were circulated among its customers a certain cut or picture representing two buildings, one of which is marked "Factory," with an overhead sign bearing the name "Midwest Linseed Oil Co.," and the other marked "Dealer"; that during the time in which respondent used, circulated, and published such letterheads and advertising circulars containing such pictures and representations it had no buildings marked "Factory" bearing the sign "Midwest Linseed Oil Co.," or "Dealer," and did not own, lease, occupy, or operate any such large factory as represented by said cut or picture, and that such representations on its letterheads and advertising circulars were calculated and designed to and did deceive the trade and general public.

PAR. 7. That the effect of the acts and practices in the manner and form above mentioned and set forth may be to hinder, harass, and embarrass competitors of the respondent in the conduct of their business.

CONCLUSIONS.

That the methods of competition set forth in the foregoing findings of facts in paragraphs 4, 5, and 6, and each and all of them are under the circumstances therein set forth unfair methods of competition in interstate commerce in violation of an act of Congress approved September 26, 1916, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, and the respondent, Penn Lubric Oil Co. (trading as Midwest Linseed Oil & Paint Co.), having filed its answer in which it consented and agreed that the Federal Trade Commission shall proceed forthwith upon the same and make and enter its report stating its findings as to the facts, its conclusion, and its order, without the introduction of testimony, and waiving any and all right to re-

quire the introduction of testimony or the presentation of argument in support of the same, and the Federal Trade Commission having made and entered its report stating its findings as to the facts and its conclusions that the respondent has violated section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof: Now, therefore,

It is ordered, That the respondent, Penn Lubric Oil Co. (trading as Midwest Linseed Oil & Paint Co.), its officers, agents, representatives, servants, and employees, cease and desist from directly or indirectly—

(1) Using cuts, prints, pictures, or other representations on its letterheads or in its advertisements or other printed matter circulated and published by it which falsely represent its office or factory or plant or equipment or place of business.

(2) Selling or offering for sale linseed oil which has been adulterated, mixed, or compounded with low-grade mineral oil and other ingredients as "Commercial raw linseed oil, not sold or intended for medicinal purposes," and "Commercial boiled linseed oil, not sold or intended for medicinal purposes," without notifying or informing or indicating to the purchasers thereof that the same is adulterated, compounded, or mixed, as aforesaid.

(3) From selling or offering for sale any compound or mixture of linseed oil with cheaper oils, chemicals, or other ingredients as and for pure linseed oil.

(4) From publishing, circulating, or causing to be published or circulated throughout the various States of the United States, the Territories thereof, the District of Columbia, or foreign countries advertisements, circular letters, or any other printed matter whatsoever wherein it is stated, set forth, or held out to the trade and general public that the respondent is offering to sell linseed oil when the product so offered or advertised has been adulterated, mixed, or compounded with baser mineral oil, chemicals, or other ingredients unless it is clearly, definitely, and distinctly

stated or indicated or shown to the purchasers or prospective purchasers thereof the true character of the same.

(5) From selling or offering for sale in any manner whatsoever paints, oils, greases, and kindred products which have been adulterated or which contain adulterated ingredients as and for pure products.

It is further ordered, That the respondent, Penn Lubric Co. (trading as Midwest Linseed Oil & Paint Co.), shall within 60 days from the date of this order file with the Commission a report setting forth in detail the manner and form in which it has complied with the order of the Commission herein set forth.

FEDERAL TRADE COMMISSION

v.

JACOB LANGH