

Complaint.

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FEDERAL TRADE COMMISSION

v.

N. SHURE COMPANY.

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

Docket 809—March 13, 1922.

SYLLABUS.

Where a corporation engaged in the sale to retailers of razors packed in individual containers bearing the legend "EXTRA HOLLOW GROUND. Fully Warranted. Price \$3.00," sold the same so packed at approximately \$6.00 per dozen; the fact being that said marked price was not the price at which it was contemplated that they were to be sold to the ultimate purchasers, but was a false and fictitious price used to mislead purchasers into believing that said razors were reasonably worth the price so marked: *Held*, That such mislabeling, or misrepresentation of price, under the circumstances set forth, constituted an unfair method of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that the N. Shure Company, hereinafter referred to as respondent, has been and is using unfair methods of competition 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 that respect on information and belief as follows:

PARAGRAPH 1. That the respondent is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago, in said State.

PAR. 2. That respondent is engaged in buying and selling, in wholesale quantities, jewelry, cutlery, notions, novelties, etc., and causes commodities sold by it to be transported to the purchasers thereof, from the State of Illinois through and into other States of the United States, and carries on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. That respondent in the course of its business described in Paragraph Two hereof, places special orders with manufacturers for razors costing respondent approximately \$5.00 per dozen, upon the condition that the razors will be packed singly in boxes or con-

tainers upon which is printed "Extra Hollow Ground. Fully Warranted. Price \$3.00"; that upon delivery to respondent it resells said razors so boxed to the trade at approximately \$6.00 per dozen; that such indicated resale price so printed on said boxes is false and fictitious, and does not represent the true value of such razors, or the price at which it is calculated by respondent or the retail dealers through whom such razors are distributed, that such razors shall be resold in the usual course of retail trade; but such price mark is placed upon the containers for the purpose of creating in the minds of the purchasers at retail, the erroneous belief that such razors are of good quality and reasonably worth the price so printed on such containers; that the retail dealers through whom such razors are distributed, generally offer to sell and sell such razors to the public at a price substantially less than that printed on the containers, whereby the public is misled and deceived and induced to purchase such razors upon the mistaken belief that a razor of good quality is being sold at a greatly reduced price.

PAR. 4. That by reason of the facts recited, the respondent is using an unfair method of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, N. Shure Company, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said Act.

The respondent having entered its appearance and filed its answer herein, hearings were had and evidence was thereupon introduced in support of the allegations of said complaint before Edward M. Averill, an Examiner of the Federal Trade Commission theretofore duly appointed.

And thereupon this proceeding came on for final hearing upon the testimony and evidence introduced, and the Commission, having duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent, N. Shure Company, is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in Chicago, in said State.

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PAR. 2. The respondent is engaged in the business of buying from manufacturers in wholesale quantities, cutlery, including razors, which it in turn sells to retailers, and in the course of its regular business buys and sells razors which said razors it causes to be transported to the purchasers thereof from the State of Illinois, through and into other States of the United States in interstate commerce and carries on such business in direct active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 3. The respondent in the course of its business buys from manufacturers, razors costing respondent approximately \$5.00 per dozen, said razors being packed singly in boxes or containers upon which said containers is printed:

“EXTRA HOLLOW GROUND.

Fully Warranted.

Price \$3.00.”

and sells the said razors so boxed or put up in containers, to its trade at approximately \$6.00 per dozen. The price \$3.00 stamped upon the container of such razor was not the price at which, to the knowledge and intent of the respondent, the razor was to be sold to the ultimate purchaser, but is a false and fictitious price, placed upon the container for the purpose of creating in the mind of the purchaser at retail the erroneous belief that such razors are reasonably worth the price so printed on such containers.

PAR. 4. The respondent did not initiate the foregoing practice of marking up the supposed retail price of razors, it being a common custom in the razor business, and respondent followed the custom as it found it.

CONCLUSION.

That the practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods of competition in interstate commerce and constitute a violation 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.”

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, the testimony and evidence submitted, and the Commission having made its findings as to the facts with its conclusion that the

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respondent has violated the provisions 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,"

It is now ordered, That the respondent, N. Shure Company, its officers, directors, agents, servants and employees, do cease and desist from marketing, in interstate commerce, razors bearing upon the containers in which said razors are packed any false, fictitious or misleading statement of or concerning the price of said razors or any false, fictitious or misleading statement as to the value of said razors.

It is further ordered, That respondent within sixty (60) days after the service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

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FEDERAL TRADE COMMISSION

v.

IRVING STERN, IRVING KESTIN, S. W. SINGER AND
D. M. ROSENBERG, PARTNERS STYLING THEMSELVES
SINGER, STERN & CO.