

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

Docket 811—March 13, 1922.

SYLLABUS.

Where a firm engaged in the sale of cutlery, novelties, etc., sold to retailers at prices ranging from \$4.25 to \$4.75 per dozen, and at \$2.25 per dozen, respectively, two styles of knives mounted upon display cards respectively bearing the legends "The Latest Bathing Girl Pocket Knife, Choice \$1.50" and "Gold Filled Knives, Warranted Steel Blades, \$.98, Regular Price \$2.00," the fact being that said marked prices did not represent the prices at which it was contemplated that they were to be sold to the ultimate purchasers, but were fictitious prices used to mislead such purchasers into believing that said knives were of good quality and reasonably worth the prices 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 Irving Stern, Irving Kestin, S. W. Singer and D. M. Rosenberg, partners styling themselves Singer, Stern & Co., hereinafter referred to as respondents, have been and are 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 respondents constitute a partnership and carry on business in New York, N. Y., under the firm name and style of Singer, Stern & Co., and are engaged in the business of buying and selling in wholesale quantities, cutlery, novelties, specialties, etc., and cause commodities sold by them to be transported to the purchasers thereof from the State of New York through and into other States of the United States, and carry on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. That respondents, in the course of their business as described in Paragraph One hereof, sell principally to retail dealers, pocket knives, in wholesale quantities, which knives are attached to display cards, usually one dozen knives to a card, upon which cards are printed false and fictitious proposed resale prices; that in one line so sold by respondents, the knives are attached to cards upon which is printed "The Latest Bathing Girl Pocket Knife, Choice \$1.50"; in another line the knives are attached to cards upon which is printed, "Gold Filled Knives, Warranted Steel Blades, 98 cents, Regular Price \$2.00"; that such indicated prices of \$1.50 and \$2.00 respectively do not represent the true value of such knives, or the prices at which it is contemplated by respondent, or the retail dealers through whom such knives are distributed, such knives shall be re-sold in the usual course of retail trade; but such indicated prices are put upon the display cards for the purpose of creating in the minds of the purchasers at retail the erroneous belief that such knives are of good quality and reasonably worth the prices so printed on such cards; that the retailers dealers through whom such cards are distributed, generally offer to sell and sell such knives to the public at prices substantially less than those printed on the display cards, whereby the public is misled and deceived, and induced to purchase such knives upon the mistaken belief that knives of good quality are being sold at greatly reduced prices.

PAR. 3. That by reason of the facts recited, the respondents are 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 respondents, Irving Stern, Irving Kestin, S. W. Singer, and D. M. Rosenberg, partners styling themselves Singer, Stern & Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said Act.

The respondents having entered their appearance and filed their 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.

## Findings.

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And thereupon this proceeding came on for final hearing 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 respondents, Irving Stern, Irving Kestin, S. W. Singer and D. M. Rosenberg are partners trading under the name and style of Singer, Stern & Company, with principal office and place of business in the City of New York, State of New York.

PAR. 2. The respondents, Singer, Stern & Company, are engaged in the business of buying and selling in wholesale quantities cutlery, novelties, specialties, etc., and cause the commodities sold by them to be transported to the purchasers thereof from the State of New York through and into other States of the United States in interstate commerce; and carry on such business in direct active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. The respondents in the course of their business sold to retail dealers a certain class and style of knife mounted upon display cards, one dozen knives to each card, and upon said display cards there was printed "The Latest Bathing Girl Pocket Knife, Choice \$1.50," the figures \$1.50 referring to the price of each knife. These knives so marked, were sold and distributed by the respondents to their customers in interstate commerce at prices varying from \$4.25 to \$4.75 per dozen knives.

PAR. 4. The knives so sold and distributed by respondents were at no time of a value of \$1.50 each and said price did not represent the true value of the knife or the price at which it was contemplated by the respondents that the knife should be sold to the ultimate purchasers; the said price was placed upon the display card for the purpose of creating in the minds of the purchaser at retail the erroneous belief that said knives were of good quality and reasonably worth the price so printed upon said cards and said price of \$1.50 was a false, fictitious and misleading price.

PAR. 5. The respondents likewise in the course of their business sold to retail dealers another class or style of knife, mounted upon display cards, one dozen knives to each card, upon which said display card was printed "Gold Filled Knives, Warranted Steel Blades \$.98, Regular Price \$2.00," the figures \$.98 and \$2.00 referring to the price of each knife. These knives so mounted were sold by the respondents to their customers at \$2.25 per dozen knives.

PAR. 6. The knives so marked "\$.98, Regular Price \$2.00," were at no time of a value approximating \$2.00, the alleged regular price; no such price had been at any time established, nor was any such price ever contemplated as a price at which the knives could or were in-

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## Order.

tended to be sold to the ultimate purchaser but was a fictitious, grossly exaggerated and misleading statement calculated and intended to deceive the purchasing public.

PAR. 7. The respondents handled only a small quantity of the two classes or styles of knives hereinbefore described, did not originate the practice of marking up the price, such practice was a common custom in the trade and respondents followed the custom as they found it.

## CONCLUSION.

That the practices of the respondents 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 respondents, the testimony and evidence submitted, and the Commission having made its findings as to the facts with its conclusion that the respondents have 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 respondents, Irving Stern, Irving Kestin, S. W. Singer and D. M. Rosenberg, partners styling themselves Singer, Stern & Company, their agents, servants and employees do cease and desist from marketing in interstate commerce, knives bearing upon the cards to which said knives are attached, or upon any container in which the knives may be packed, any false, fictitious or misleading statement of or concerning the price of said knives, or any false, fictitious or misleading statement as to the value of said knives.

*It is further ordered,* That the respondents within sixty (60) days after the date of the 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 hereinbefore set forth.

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**FEDERAL TRADE COMMISSION DECISIONS.**

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**Complaint.**

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