

Complaint.

4 F. T. C.

FEDERAL TRADE COMMISSION

v.

M. S. RODENBERG COMPANY.

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

Docket 813—March 13, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale, exclusively to jobbers or wholesalers, of jewelry, cutlery, etc., sold at prices ranging from \$3.75 to \$6.00 per dozen, a certain style of knife, mounted upon display cards bearing the legend "The latest Bathing Girl Pocket Knife, Choice \$1.50"; the fact being that said marked price did not represent the price at which it was contemplated they were to be sold to the ultimate purchasers, but was a fictitious price used for the purpose of misleading such purchasers into believing that said knives were of good quality and 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 M. S. Rodenberg Company, hereinafter referred to as the respondent, has been and is using unfair methods of competition in 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," 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 Rhode Island, with its principal place of business in the City of Providence, in said State.

PAR. 2. That respondent is engaged in the business of manufacturing and selling jewelry, cutlery, novelties, etc., including pocketknives, and causes commodities sold by it to be transported to the purchasers thereof from the State of Rhode Island 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 as described in Paragraph Two hereof, sells to jobbers and retail dealers pocket-

knives attached to display cards, usually one dozen knives to a card, upon which cards are printed false and fictitious proposed resale prices; that among the knives sold as aforesaid, are knives which are sold by respondent to jobbers or wholesalers at \$3.75 to \$4.00 per dozen, and which are resold by jobbers and wholesalers to retail dealers at \$4.75 per dozen; that upon the display cards to which such knives are attached are printed the words and figures following: "The Latest Bathing Girl Pocket Knife, Choice \$1.50"; that said price, \$1.50, does not represent the true value of such knives, or the price at which it is contemplated by respondent or the dealers through whom such knives are distributed, at which such knives shall be sold in the usual course of retail trade, but such indicated price is placed 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 price so printed on such cards; that the retail dealers through whom such knives 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 a knife 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, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission issued and served a complaint upon the respondent, M. S. Rodenberg Company, charging it with unfair methods of competition in violation of the provisions of said Act.

The respondent, M. S. Rodenberg Company, having entered its appearance and having filed its answer herein, hearings were had, testimony taken, and evidence introduced before Edward M. Averill, a Trial 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 upon the exceptions to the report of the said Trial Examiner, and the Commission having duly

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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, M. S. Rodenberg Company, is a corporation organized and existing under the laws of the State of Rhode Island with its principal place of business in the city of Providence in said State.

PAR. 2. The respondent is engaged in the business of manufacturing and selling jewelry, cutlery, novelties, etc., including pocket knives and causes such commodities sold by it to be transported to the purchasers thereof from the State of Rhode Island 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. The respondent, during the course of its business, does not sell to retailers or to the ultimate consumer or purchaser, but sells exclusively in quantities to the jobber or wholesaler. During the year 1919, the respondent as a novelty or fad manufactured and sold a certain style of knife which was mounted on painted display cards, one dozen knives to a card, the said card having thereon a female clad in a bathing suit and the following words and figures; to wit: "The Latest Bathing Girl Pocket Knife Choice \$1.50." These knives so mounted were sold and distributed by respondent in interstate commerce to its consumers at prices varying from \$3.75 to \$6.00 per dozen.

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

PAR. 5. The respondent sold during the years 1919-1920 approximately 120 cards, each card containing one dozen knives and realized from this branch of its business approximately \$550, and in December, 1920, the attention of respondent having been called to the fictitious and misleading statement as to the price, the respondent discontinued the sale of such knives so mounted and destroyed

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all cards bearing any price and has not since that time distributed any such merchandise containing any false, fictitious or misleading price.

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, and the argument of counsel, and the Commission having made its findings as to the facts with its conclusion that the respondent has violated the provisions of the 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, M. S. Rodenberg Company, a corporation organized and existing under the laws of the State of Rhode Island, its officers, directors, 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.

Is is further ordered, That the respondent within sixty days after the date of 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 by the Commission.

Complaint.

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FEDERAL TRADE COMMISSION

v.

D. A. FAZZANO, MICHAEL MIRANDO, AND FELIX MIRANDO, PARTNERS STYLING THEMSELVES THE IMPERIAL KNIFE CO.