

IMPERIAL KNIFE CO.

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

Docket 814—March 13, 1922.

SYLLABUS.

Where a firm engaged in the manufacture and sale, exclusively to jobbers or wholesalers, of pocket knives, at prices ranging from \$21.00 to \$33.00 per gross, advertised and sold a certain style thereof mounted upon display cards bearing the legend "GOLD FILLED KNIVES—WARRANTED STEEL BLADES, \$.98," and in smaller letters "Regular Price \$2.00"; the fact being that said knives frequently retailed at \$.25, and that said purported "regular" price did not represent the price at which it was contemplated they were to be sold to the ultimate purchasers, but was a fictitious, exaggerated, and misleading price calculated and intended to deceive the purchasing public:

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 D. A. Fazzano, Michael Mirando and Felix Mirando, partners styling themselves the Imperial Knife Company, 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 at Providence, R. I., under the firm name and style of the Imperial Knife Company, and are engaged in the business of manufacturing and selling pocket knives, and cause knives sold by them to be transported to the purchasers thereof from the State of Rhode Island 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 described in paragraph one hereof, sell to jobbers, at \$21.00 per gross, small brass pocket knives attached to display cards, usually one dozen knives to a card, upon which cards are printed false and fictitious proposed resale prices, together with other false and misleading descriptive matter, viz: "Gold Filled Knives, Warranted Steel Blades, 98¢, Regular price \$2.00"; that other knives of like quality, sold by respondent at \$21.00 per gross, are placed upon display cards upon which is printed similar false and misleading descriptive matter, with indicated prices of 48¢, 65¢, \$1.75, \$1.98 and \$2.25, respectively, together with the statement that the regular prices of such knives were, respectively, \$2.00, \$2.50, \$4.00 and \$4.50; that neither the indicated proposed resale prices of such knives, nor the alleged regular prices of such knives, represent the true value of such knives, or the prices at which it is contemplated by respondents, or the dealers through whom such knives are distributed, that such knives shall be sold in the usual course of retail trade, but such prices are 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 prices 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 such display cards, whereby the public is misled and deceived and induced to purchase such knives through a 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, D. A. Fazzano, Michael Mirando, and Felix Mirando, partners styling themselves The Imperial Knife Company, charging them with unfair methods of competition in commerce in violation of the provisions of said Act.

The respondents having entered their appearance by their attorneys and filed their answers herein, hearings were had and evidence

Findings.

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was thereupon introduced in support of the allegations of said complaint and on behalf of the respondents before Edward M. Averill, a Trial Examiner of the Federal Trade Commission, theretofore duly appointed.

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, D. A. Fazzano, Michael Mirando and Felix Mirando are partners trading under the name and style of The Imperial Knife Company, with factory and principal place of business in Providence, State of Rhode Island, and are engaged in the business of manufacturing and selling pocket knives, and cause pocket knives so manufactured and sold by them to be transported to the purchasers thereof from the State of Rhode Island through and to other States of the United States in interstate commerce; and carry on such business in direct competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. The respondents in the course of their regular business do not sell their products at retail or to the ultimate consumers or purchasers of the knives, but sell exclusively in quantities to the jobber or wholesaler. About November, 1918, the respondents started to manufacture a particular class or style of knife which said knife was at first packed in bulk by the dozen and no price was indicated upon the container in which the knives were packed, but later customers of the respondents requested said respondents to put up the knives on display cards, each card containing one dozen knives, the said display card bearing the following words and figures: "GOLD FILLED KNIVES—WARRANTED STEEL BLADES 98¢," and in smaller letters "Regular Price, \$2.00." The figures 98¢ and \$2.00 referred to the price per knife. The respondents also sold to their customers similar knives mounted upon similar cards bearing different and higher prices, a small proportion of such cards bearing the legend "\$2.25, Regular Price \$4.50" and during the year 1920 respondents sold 7,500 gross of knives so mounted of which total sales 90 per cent were marked "98¢ Regular Price \$2.00" and 10 per cent were marked with various higher prices.

PAR. 3. The respondents also advertised by catalogues sent out through the mail and distributed in various cities of the United States, and by insertions in the trade journals circulated in various States of the United States, the class and style of knives aforesaid,

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said catalogues and trade journals carrying [a] fac-simile of the mounted card described in paragraph two hereof.

PAR. 4. The respondents have since 1918, in the usual course of their business, sold the said knives so mounted on display cards as hereinbefore described, the price varying with the market and competitive conditions from \$33.00 to \$21.00 per gross.

PAR. 5. The knives so manufactured, advertised, mounted upon display cards and sold, were at no time of a value anywhere approaching \$2.00, the alleged regular price, no such price having at any time been established, nor was any such price ever contemplated as a price at which the knife could or was intended to be sold to the ultimate purchaser; but was a fictitious, grossly exaggerated, and misleading statement, calculated and intended to deceive the purchasing public, and in truth and in fact the said knives were generally and customarily sold to the ultimate purchaser at prices greatly below even the 98¢ marked upon said card, in many instances being sold for 25¢.

PAR. 6. The respondents did not originate the practice hereinbefore described. The practice was a common custom in the trade and respondents followed the custom as they found it.

CONCLUSION.

That the practices of the said 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 answers of the respondents, the testimony and evidence, and the Commission having made its findings as to the facts and 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, D. A. Fazzano, Michael Mirando, and Felix Mirando, partners styling themselves The Imperial Knife Company, their agents, servants and employees cease

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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 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 it has complied with the order to cease and desist hereinbefore set forth by the Commission.

THE BRACHER CO., INC.

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Complaint.