

Complaint.

FEDERAL TRADE COMMISSION

v.

THE BRACHER COMPANY, INC.

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

Docket 816—March 13, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of razor hones packed in individual containers bearing the legends "Standard Razor Hone Price \$1.00," "Iris Razor Hone Price \$1.00," or "The Dixie Razor Hone Price \$1.00," sold the same so packed at prices ranging from \$18.00 per thousand to \$40.00 per thousand, the fact being that said marked price did not represent the actual or contemplated retail price of said hones; with the effect of misleading retailers and the purchasing public into believing that said hones were of good quality and reasonably worth the price so marked:

Held, That such mislabelling 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 Bracher Company, Inc., hereinafter referred to as the 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 New Jersey, with its principal place of business in the City of Belleville, in said State.

PAR. 2. That respondent is engaged in the business of manufacturing and selling razor hones, oil stones and similar specialties, and causes products sold by it to be transported to the purchasers thereof from the State of New Jersey 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, razor hones at \$18.00 per thousand, which hones are packed singly in con-

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tainers, upon which containers is printed a false and fictitious proposed resale price; that said price, \$1.00, does not represent the true value of such hones, or the price at which it is contemplated by the respondent, or the dealers through whom such hones shall be distributed, such hones shall be sold in the usual course of retail trade; but such indicated price is placed upon the containers of such hones for the purpose of creating in the minds of the purchasers at retail, the erroneous belief that such hones are of good quality, and reasonably worth the price so printed on such containers; that the retail dealers through whom such hones are distributed, generally offer to sell and sell such hones to the public at prices substantially less than those printed on such containers; whereby the public is misled and deceived, and induced to purchase such hones on the mistaken belief that a hone 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, The Bracher Company, Inc., charging said respondent with the use of unfair methods of competition in violation of the provisions of the said Act.

The respondent, The Bracher Company, Inc., 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 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 Bracher Co., Inc., is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business in Belleville in said State.

PAR. 2. The respondent is engaged in the business of manufacturing and selling razor hones and similar specialties and causes the products sold by it to be transported to the purchasers thereof from the State of New Jersey 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 manufactures and sells to jobbers razor hones, which said razor hones are packed singly in cases upon which containers are printed a proposed retail price the words and figures upon said containers being: "Standard Razor Hone, Price \$1.00 ; "Iris Razor Hone, Price \$1.00"; "The Dixie Razor Hone, Price \$1.00." These hones so packed with the containers so marked were sold by the respondent to jobbers during the following years at the following prices: For the year 1914, \$18.00 per thousand; 1916, \$20.00 per thousand; 1917, \$22.50 per thousand; 1918, \$25.00 per thousand; and 1919, \$35.00 and \$40.00 per thousand, and are sold by the jobbers to the retailers at an advance of approximately \$5.00 per thousand and are sold to the ultimate purchaser at retail at prices substantially less than the proposed retail price of \$1.00 printed upon the containers.

PAR. 4. The price of \$1.00 so printed upon the container does not represent the true value of the hone, but such price is false and fictitious and which said price has a tendency to create and has created in the minds of purchasers and retailers the erroneous belief that such hones are of good quality and reasonably worth the price so printed on such containers, whereby the purchasing public is misled and deceived, but said prices so marked upon the containers were not the prices at which, to the knowledge and intent of the respondent, the said hones were to be sold to the ultimate purchaser.

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 re-

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spondent, 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, The Bracher Company, Inc., a corporation organized and existing under the laws of the State of New Jersey, its officers, directors, agents, servants and employees, do cease and desist from marketing in interstate commerce razor hones bearing upon the containers in which said hones are packed any false, fictitious or misleading statement of or concerning the price of said hones, or any false, fictitious or misleading statement as to the value of said hones.

It is further ordered, That the respondent within sixty (60) 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.

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