

Complaint.

4 F. T. C.

FEDERAL TRADE COMMISSION

v.

AMERICAN HONE COMPANY.

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

Docket 812—March 14, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of razor hones packed in individual containers bearing the legend "The Razor Hone That Makes the Velvet Edge. THE BEST \$1.00 Hone. Uniform—Lasting—Reliable—Economical," or the legend "'FAST AND FINE' RAZOR HONE FOR BARBERS' USE. Preferred to All Others, Surface Will Remain Perfect Through Years of Service, Price \$1.00," sold the same so packed at prices ranging from \$6.00 to \$20.00 per thousand to jobbers who resold them to street peddlers and razor hone mail order houses; the fact being that said marked price did not represent either the usual or contemplated retail price of said hones, but was a fictitious price used for the purpose of misleading purchasers at retail into believing that they were of good value and reasonably worth the prices 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 American Hone 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 under the laws of the State of New York, with its principal place of business at Olean in said State.

PAR. 2. That the respondent is engaged in the business of manufacturing and selling razor hones, and causes hones sold by it to be transported to the purchasers thereof from the State of New York through and into other States of the United States, and carries on the said 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 razor hones in wholesale quantities to retail dealers, which hones are packed singly in containers, upon which containers are printed false and fictitious proposed resale prices; that among the hones so sold by respondent are hones for which respondent receives \$13.50 to \$15.00 per gross, upon the containers of which is printed "The best \$1.00 Hone"; other hones are sold by respondent for \$9.00 per dozen, and are packed in containers upon which is printed, "Price \$2.00"; that such suggested resale prices do not represent the true value of such hones or the prices at which it is contemplated by respondent or the dealers through whom such hones are distributed, such hones may be sold in the usual course of retail trade, but such indicated prices are placed upon the containers of such hones for the purpose of creating in the minds of purchasers at retail the erroneous belief that such hones are of good quality and reasonably worth the prices 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 upon the mistaken belief that hones of good quality are being sold at greatly reduced prices.

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, American Hone Company, charging it with unfair methods of competition in commerce in violation of the provisions of said Act.

The respondent having entered its appearance by its attorneys and filed its answer herein, hearings were had and evidence was thereupon introduced in support of the allegations of said complaint and on behalf of the respondent 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

Findings.

4 F. T. C.

advised in the premises makes this its findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent, American Hone Company, is a corporation organized under the laws of the State of New York with its principal place of business at Olean, in said State.

PAR. 2. The respondent is engaged in the business of manufacturing and selling razor hones, and causes hones sold by it 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 carries on the said business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. The respondent in the course of its business sells in wholesale quantities to jobbers, hones packed singly in containers upon which said containers appear the following words and figures:

“The Razor Hone That Makes The Velvet Edge.
THE BEST \$1.00 HONE
Uniform—Lasting—Reliable—Economical.”

(Com. Ex. 1.)¹

and upon other containers the words and figures:

“‘FAST AND FINE’ RAZOR HONES
For Barbers’ Use
Preferred To All Others.
Surface Will Remain Perfect
Through Years of Service.
Price \$1.00.”

(Com. Ex. 2.)¹

The said hones, packed singly in containers as described, are sold by the respondent to the jobber at prices varying from \$6.00 to \$20.00 per thousand hones and are by said jobbers sold to street peddlers and razor hone mail order houses who in turn sell to the purchasing public. Very rarely are such hones so marked “\$1.00” sold to the ultimate purchaser at \$1.00 but are sold at prices substantially less than \$1.00.

PAR. 4. The said price of \$1.00 so printed upon the said containers is a false, fictitious proposed retail price, and does not represent the price at which it is contemplated by the respondent the hones shall be sold to the ultimate purchaser; but such indicated price is placed upon the container for the purpose of creating in the minds of the

¹ Not printed.

378

Order.

purchasers at retail the erroneous belief that such hones are of good value or reasonably worth the price so printed on such containers.

PAR. 5. The sale of hones packed singly in containers marked as above described constitutes a very small percentage of the respondent's business and the respondent did not initiate such practices, it being a common custom in the razor and razor hone trade, and the 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, and the Commission having made its findings as to the facts and its conclusion that the 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, the American Hone Company, its officers, directors, agents, servants, and employees, 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 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.

382

FEDERAL TRADE COMMISSION DECISIONS.

Complaint.

4 F. T. C.