

Complaint.

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FEDERAL TRADE COMMISSION

v.

GEORGE BORGFELDT & COMPANY.

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

Docket 817—March 14, 1922.

SYLLABUS.

Where a corporation engaged in the sale of imported razors and razor hones to jobbers at approximately \$6.00 a dozen, and at \$45.00 to \$50.00 a thousand, respectively,

- (a) Sold said razors packed in individual containers bearing the legend "Extra Hollow Ground. Fully Warranted. Germany. Price \$3.00 Each"; and
- (b) Sold said hones packed in individual containers bearing the legend "Boss Barber Razor Hone Price \$1.00";

The fact being that said marked prices did not represent the actual or contemplated retail prices thereof, but were fictitious prices used for the purpose and with the effect of misleading purchasers at retail into believing that the same were of good quality and reasonably worth the prices so marked:

Held, That such mislabeling, or misrepresentations 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 George Borgfeldt & Company, 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 New York, N. Y.

PAR. 2. That respondent is engaged in the business of buying and selling in wholesale quantities, both imported and domestic hardware specialties, among which are razors, and respondent causes the commodities 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 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 imported German razors of inferior quality, which razors are packed singly in cases upon which are printed false and fictitious proposed resale prices; that among the razors sold as aforesaid are razors which are sold by respondent to retail dealers at \$6.00 per dozen, upon the containers of which are placed the words and figures following: "Extra Hollow Ground, Fully Warranted, Germany. Price \$3.00 each"; that said price of \$3.00 does not represent the true value of such razors, or the price at which it is calculated by respondent, or the retail dealers through whom such razors are distributed, that such razors shall be sold in the usual course of retail trade, but such price mark is placed upon the containers for the purpose of creating in the minds of purchasers at retail the erroneous belief that such razors are of good quality and reasonably worth the price so printed on such containers; that the retail dealers, generally, offer to sell and sell such razors to the public at prices substantially less than that printed on the case of such razors, whereby the public is misled and deceived and induced to purchase such razors upon the mistaken belief that a razor of good quality is being sold at a greatly reduced price. Respondent further, in the course of its said business, sells razor hones packed singly in containers on which are printed false and fictitious proposed resale prices; that among the hones sold as aforesaid are hones which are sold by respondent to jobbers at 10 cents each, upon the individual containers of which is printed, "Price \$1.00"; that said price of \$1.00 does not represent the true value of such hones or the price at which it is calculated by respondent, or the retail dealers through whom such hones are distributed, that such hones should be sold in the usual course of retail trade, but such price mark is placed upon the containers 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 container; that the dealers who sell such hones at retail, generally, offer to sell and sell such hones to the public at prices substantially less than that printed on such containers, whereby the public is misled and deceived and induced to purchase such hones upon 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.

Findings.

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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 George Borgfeldt & Co., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said Act.

The respondent having entered its appearance and filed its 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.

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 conclusions:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. George Borgfeldt & Co., 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 New York, N. Y.

PAR. 2. The respondent is engaged in the business of buying and selling in wholesale quantities both imported and domestic hardware specialties, among which are razors and razor hones and respondent causes the razors and razor 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 such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. The respondent in the course of its business sells to jobbers razors imported from Germany, which razors are packed singly in cases upon which cases are printed a proposed retail price, the words and figures upon said containers being: "Extra Hollow Ground. Fully Warranted. Germany. Price \$3.00 each." These razors so packed with the containers marked as aforesaid cost the respondent approximately \$5.00 a dozen laid down in New York, and are sold by the respondent to jobbers at approximately \$6.00 per dozen and are sold to the ultimate purchaser at prices substantially less than the proposed retail price of \$3.00 printed upon the containers.

PAR. 4. The price of \$3.00 does not represent the true value of the razors or the price at which it is contemplated by the respondent that the said razors shall be sold to the ultimate purchaser; but such price is a false and fictitious price placed upon the container for the purpose

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of creating in the minds of purchasers at retail the erroneous belief that such razors are of good quality and reasonably worth the price so printed on such containers, whereby the purchasing public is misled and deceived.

PAR. 5. The respondent, also, in the course of its business, sold to jobbers razor hones, which said razor hones are packed singly in containers upon which are printed a proposed retail price, the words and figures upon said containers being "Boss Barber Razor Hone. Price \$1.00." These hones so packed with the containers marked as aforesaid cost the respondent approximately \$40.00 a thousand and are sold by the respondent to the jobbers for \$45.00 to \$50.00 per thousand and are sold to the ultimate purchaser at prices substantially less than the proposed retail price of \$1.00 printed upon the container.

PAR. 6. The price of \$1.00 does not represent the true value of the hone or the price at which it is contemplated by the respondent that the said hone shall be sold to the ultimate purchaser, but such price is a false and fictitious price placed upon the container for the purpose of creating upon 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, whereby the purchasing public is misled and deceived.

PAR. 7. The practice of so marking up the price on razors and razor hones was not originated by the respondent but was a long established custom in the razor and razor hone trade and 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 submitted, and the Commission having made its findings as to the facts with its conclusion that the respondent has violated the provisions of an Act of Congress, approved September 26, 1914, entitled, "An Act to create a

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Federal Trade Commission, to define its powers and duties and for other purposes,"

It is now ordered, That the respondent, George Borgefeldt & Co., 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 razors and razor hones bearing upon the containers in which said razors and razor hones are packed any false, fictitious or misleading statement of or concerning the price of said razors or razor hones, or any false, fictitious or misleading statements as to the value of said razors or razor 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.

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