FEDERAL TRADE COMMISSION

v.

UNION SOAP COMPANY.

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

Docket 848—April 3, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale, to peddlers exclusively, of an inferior grade and quality of toilet soap, sold the same in wrappers and containers bearing legends misrepresenting the composition thereof, as well as its own name and place of business, and bearing also fictitious and exaggerated pretended resale prices, which it knew had been and were to be used to mislead and deceive the purchasing public respecting the grade and quality thereof:

Held, That such mislabeling, or misrepresentation of composition, business identity, and price, under the circumstances set forth, constituted unfair methods of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that the Union Soap Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce, 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 Indiana, with principal place of business at Indianapolis, in said State.

PAR. 2. That respondent is engaged in the business of manufacturing and selling soap, and causes soap sold by it to be transported to the purchasers thereof from the State of Indiana through and into other States of the United States and carries on its 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 2 hereof, manufactures and sells laundry and toilet soaps of inferior grade and quality, usually upon special orders from peddlers, house to house canvassers, street fakers, fair workers, auctioneers and other itinerant vendors of merchandise; that respondent markets its said products under various misleading and fanciful

brand names, among which are "Olive Cream Castile", "Cucumber Cream", "Almond Cream", "Hot Springs Mineral", etc., although all of said soaps are made of the same ingredients except for a slight variation in the use of coloring matter and perfume; that each of said soaps contain approximately the following proportions of the various ingredients, viz, water, 33 per cent; coconut oil, 15 per cent; caustic lye, 25 per cent; silica, 7 per cent; filler, 20 per cent; that soaps so sold by respondent are packed in boxes, three cakes to the box, each cake wrapped in individual wrappers, upon which boxes and wrappers are printed what purports to be proposed resale prices, but which prices are false, fictitious and misleading; in that such prices are greatly in excess of the prices at which respondent or its vendees contemplate that such soap will be resold, and are greatly in excess of the actual prices at which such soaps sell in the usual course of retail trade; that said soaps are sold by respondent with full knowledge that the price marks on the boxes and wrappers are to be used for the purpose of misleading and deceiving the purchasing public and to induce the public to purchase said soaps when offered for sale at prices substantially below those printed on said boxes and wrappers, upon the mistaken belief that such soaps are being sold at a greatly reduced price; that among soaps so sold by respondent at prices ranging from 1 cent to 2 cents per cake, are soaps packed in boxes three cakes to a box, upon which boxes are printed, "Price 75¢", and upon the individual wrappers of each cake "Price 25¢", and other grades are packed in boxes six cakes to a box, upon which boxes are printed "Price $1.00"; that in the sale of its products in boxes and wrappers so marked, respondent comes in direct competition with other manufacturers of soaps who do not market their product in containers and wrappers upon which are printed false, fictitious and misleading price marks; that respondent by the means aforesaid, aids, abets and assists its customers in using unfair methods of competition against others similarly engaged, but who do not sell soaps in containers marked with such false, fictitious and misleading price marks.

PAR. 4. That respondent further in the course of its business, markets its products in containers upon which are printed what purports to be the name of the manufacturer, but respondent instead of using its own name and place of business, uses various fanciful names of concerns that do not exist, with places of business designated as being in cities and states other than the State of Indiana, thereby misleading and deceiving the purchasing public and preventing the public from discovering the true manufacturer of the products.

PAR 5. That by reason of the facts recited, the respondent has been and 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, the Union Soap 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 the complaint before George McCorkle, 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 conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That respondent is a corporation organized and doing business under the laws of the State of Indiana with its principal office and place of business in the City of Indianapolis in said State and engaged in the business of manufacturing soap and selling and shipping same to purchasers residing in said State and in the various other states of the United States, in competition with other persons, firms, copartnerships and corporations similarly engaged.

PAR. 2. That respondent in the course of its business as described in Paragraph 1 hereof, for several years prior to June, 1921, manufactured and sold various brands of toilet soap designating them as "Cucumber Cream," "Olive Cream Castile," "Almond Cream," and "Hot Springs Mineral"; that at the date of the hearing in this case, on January 25, 1922, respondent had abandoned the manufacture of all brands of soap except "Cucumber Cream" and "Olive Cream Castile"; that all of said brands contained the same material and were of the same grade and quality, the ingredients being water 33 per cent, lye 25 per cent, filler 20 per cent, coconut oil 15 per cent and silica 7 per cent; there is a slight variation as to the perfumes and coloring matter used in the different brands. The said soap is of inferior grade and quality and as appears from the above analysis, contains nothing from the cucumber vegetable, nor does the "Olive Cream Castile" contain any olive oil. The said brands of soap,

together with some varieties of laundry soap, are sold exclusively to peddlers. The fanciful brands made by respondent are packed in boxes, three cakes to the box, each cake wrapped in an individual wrapper upon which boxes and wrappers are printed what purports to be certain proposed resale prices, but which in truth are not resale prices but are fictitious, false, and misleading in that such prices are greatly in excess of the prices at which respondent and its vendees contemplated that said soap would be resold, and in fact is sold; that the said soaps are sold to respondent's customers with full knowledge on the part of respondent that the price marks on the said boxes and wrappers have been, and are being, used as a means of misleading and deceiving the purchasing public as to the grade and quality of the said soap; that the said toilet soaps are sold by respondent at forty cents for twelve bars plus ten bars of laundry soap. The boxes in which the said soap is packed have printed upon them in conspicuous type the following:

One Fourth Dozen		Price 75 cents.
Toilet Bath Shampooing	CUCUMBER CREAM SOAP	Cleansing Purifying Fragrant
NEW YORK	U. S. SOAP COMPANY.	LOS ANGELES.

PAR. 3. That respondent has an agent in Los Angeles and one in New York City, but has no office or other place of business in said cities, and no books or accounts of any kind are kept, and no business is transacted, by respondent, under the name of "U. S. Soap Company," which name appears on the soap boxes above referred to.

PAR. 4. That there are other dealers in toilet soap who do not sell their said products in containers marked with false and fictitious prices.

CONCLUSION.

That the practices of respondent as set forth in the foregoing report are unfair methods of competition in interstate commerce in violation 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, and the testimony and evidence submitted, 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 Union Soap Co., its officers, directors, agents, and employees do cease and desist from selling, offering for sale, or advertising for sale, in interstate commerce, toilet soap or other kinds of soap bearing upon the boxes or wrappers in which said soap is packed or wrapped, or upon the soap itself, or in any advertising or written matter in relation to said soap:

(1) Any false, fictitious, or misleading statement or representation as to the ingredients or price of said soap;

(2) Any statements or representations which falsely state or represent the name of the manufacturer to be other than the Union Soap Co.;

(3) Any statements or representations which falsely state or represent the address or location of the respondent Union Soap Co.'s office or place of business.

It is further ordered, That the respondent, within sixty (60) days after the date of the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order of the Commission hereinbefore set forth.

FEDERAL TRADE COMMISSION
v.
HYGRADE KNITTING COMPANY, INC.