

Complaint.

FEDERAL TRADE COMMISSION

v.

GERALD D. GROSNER, TRADING UNDER THE NAME AND
STYLE OF GROSNER'S.COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 758—June 27, 1922.

SYLLABUS.

Where an individual engaged in the sale at retail of clothing and men's furnishings, including underwear labeled, advertised and branded by the manufacturer as "natural wool," "natural Australian wool," and "Fine Natural Australian worsted," notwithstanding the fact that the same contained a very substantial proportion of cotton; understanding and believing such to be the fact, and with the effect of misleading and deceiving the purchasing public as to the quality or composition thereof,

(a) Advertised the same as "Natural Wool"; and

(b) Sold said underwear so labeled, advertised and branded, without any other word or words descriptive of the material of which it was composed;

Held That such misbranding and mislabeling, and such false and misleading advertising, 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 Gerald D. Grosner, trading under the name and style of Grosner's, hereinafter referred to as respondent, has been and is using unfair methods of competition in 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 respondent owns and operates a retail clothing and gentlemen's furnishing store in the City of Washington, District of Columbia, under the name and style of Grosner's, and sells clothing and men's furnishings at retail in the District of Columbia, and in the conduct of such business is in competition with other individuals, copartnerships and corporations similarly engaged.

Findings.

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PAR. 2. That respondent, in the conduct of his business as described in Paragraph One hereof, sells underwear, which he knows is made of cotton and wool in approximately equal proportions, labeled, advertised and branded "Natural Wool" and "Natural Australian Wool" and "Fine Natural Australian Worsted"; that none of the above referred to labels, advertisements or brands contain any other word or words descriptive of the materials of which such underwear is manufactured; that the general purchasing public understands and believes that underwear labeled, advertised and branded "Natural Australian Wool," or "Fine Natural Australian Worsted" is made entirely of wool from Australia, which is believed by the public to be a very high grade of wool, and that underwear labeled, advertised or branded "Natural Wool" is made entirely of wool; that therefore each and all such labels, advertisements and brands are false and misleading and are calculated to, and actually do, mislead and deceive the purchasing public as to the quality of such underwear.

PAR. 3. That respondent, in the course of his business as described in Paragraph One hereof and for the purpose of bringing certain underwear offered for sale and sold by him to the attention of the purchasing public, caused an advertisement of said underwear to be inserted in the Washington Times of January 27, 1921, a daily newspaper having a general circulation in the District of Columbia; that said advertisement represented and described said underwear as "Natural Wool," whereas, in truth and in fact, respondent knew that said underwear was made of cotton and wool in approximately equal proportions; that the general purchasing public understands and believes that underwear described or represented as "Natural Wool" is made entirely of wool; and that therefore the representation and description of said underwear contained in said advertisement are false and misleading and are calculated to, and actually do, deceive and mislead the public as to the quality of said underwear.

PAR. 4. That by reason of the facts recited, respondent is using unfair methods of competition in commerce within the intent and meaning 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The respondent having appeared in person and having filed his answer, and having agreed with the Counsel for the Commission on an agreed statement of facts and stipulated that such statement should be taken as the facts in this proceeding, and in lieu of evi-

dence, and both parties having waived all rights to the introduction of other evidence, and stipulated further that the Federal Trade Commission should proceed forthwith upon said statement of facts to make and enter a report stating its findings as to the facts and its conclusion therefrom, and issue an order disposing of this proceeding, the Commission, having duly considered the evidence as agreed upon 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 respondent owns and operates a retail clothing and gentlemen's furnishing store in the City of Washington, District of Columbia, under the name and style of Grosner's and sells clothing and men's furnishings at retail in the District of Columbia and in the conduct of such business is in competition with other individuals, copartnerships and corporations similarly engaged.

PAR. 2. The respondent in the conduct of his business as described in Paragraph One, has for more than two years prior to April 18, 1921, sold underwear as labeled, advertised and branded by the manufacturer, viz. "Natural Wool," "Natural Australian Wool" and "Fine Natural Australian Worsted," without any other word or words descriptive of the material of which it was composed; at the time he understood and believed such underwear to be composed of cotton and wool in approximately the proportions of one-third cotton and two-thirds wool, and it actually contained approximately 40 per cent of cotton.

PAR. 3. A substantial part of the purchasing public understands and believes that underwear labeled, advertised and branded "Natural Australian Wool" or "Fine Natural Australian Worsted" is made entirely of wool from Australia of a high grade, and that underwear labeled, advertised and branded "Natural Wool" is made entirely of "wool"; therefore each and all such labels, advertisements and brands were false and misleading, and were calculated to, and did, deceive and mislead the purchasing public as to the quality of such underwear.

PAR. 4. The Federal Trade Commission sent out to the public a questionnaire to ascertain the public's understanding of the terms, among others, "Natural Wool," "Natural Worsted" and "Australian Wool" as applied to underwear. Said questionnaire was mailed during October and November, 1920, to residents of Philadelphia, Washington, New York City, Boston, Chicago, Detroit and Buffalo, whose names were selected at random from the telephone directory of those cities except that in New York City about 25 per

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cent of the names were supplied by the New York office of the Commission. An analysis of the 168 responses received as to the meaning of the several labels submitted appears in the following table:

City.	Natural wool.		Natural worsted.		Australian wool.	
	All wool.	Mixed.	All wool.	Mixed.	Wool.	Mixed.
New York.....	68	8	52	21	70	5
Washington.....	12	2	10	4	10	2
Philadelphia.....	20	2	10	10	19	2
Boston.....	13	1	5	8	12	2
Chicago.....	4	0	2	2	3	0
Detroit.....	15	3	9	9	14	4
Buffalo.....	22	0	9	11	18	0
Total.....	154	16	97	65	146	15

PAR. 5. The respondent in the course of his business as described in Paragraph One hereof and for the purpose of bringing said underwear offered for sale and sold by him to the attention of the purchasing public, caused an advertisement of said underwear to be inserted in the Washington Times of January 27, 1920, a daily newspaper having a general circulation in the District of Columbia; said advertisement represented and described said underwear as "Natural Wool" whereas in truth and in fact respondent believed that said underwear was composed of cotton and wool in approximately the proportions of one-third cotton and two-thirds wool and said underwear actually contained approximately 50 per cent of cotton; a substantial part of the purchasing public understands and believes that underwear described and represented as "Natural Wool" is made entirely of wool; the representation and description of said underwear contained in said advertisement was false and misleading and tended to, and did, deceive and mislead the public as to the composition and quality of said underwear.

CONCLUSION.

The practice of the respondent under the conditions and circumstances above set forth 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 agreed statement of facts, stipulated by the respondent and the Commission in lieu of evidence, the report as to the facts and conclusion of the trial examiner and the exceptions thereto, 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 Federal Trade Commission, to define its powers and duties, and for other purposes,"

Now, therefore, it is ordered, That the respondent, Gerald D. Grosner, trading under the name and style of Grosner's, his agents, servants and employees cease and desist from advertising or selling or offering to sell underwear that is composed in part of cotton, as, or under labels containing the words "wool" or "worsted," either alone or in combination with any other word or words, unless accompanied by a word or words clearly indicating the presence of cotton, (e. g. "Natural Wool, Wool and Cotton"); or by word or words otherwise clearly indicating that such underwear is not made wholly of wool (e. g. "part wool").

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

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FEDERAL TRADE COMMISSION DECISIONS.

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