

Complaint.

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FEDERAL TRADE COMMISSION

v.

FEDERAL ROPE COMPANY, INC.

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

Docket 164—July 6, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of rope made from the fiber of old ropes and hawsers exclusively, which it did not make of Manila fiber only, and which so closely resembled new rope made of new, unused, and therefore superior fiber that it could only be distinguished by those skilled in the art of rope making, or by expert analysis,

(a) With the effect of misleading and deceiving the public,

(1) Used the word "Manila" on its letterheads, price lists, etc., and on its tags, stencils, and other printed matter attached and applied to said rope, or the wrappings and coverings thereof, notwithstanding the fact that the word "Manila" is properly used only to describe rope composed exclusively of new Manila fiber, and is by custom and agreement not applied to rope not so composed; and

(2) By invoices and by direct oral and written statements likewise falsely represented said rope to the purchasing public as composed exclusively of new Manila fiber;

(b) With the intent and effect of misleading and deceiving the public, simulated the letterheads, price lists, tags, and other printed matter distributed among dealers and consumers of rope, or attached and applied to the same or to the wrappings or coverings thereof, and the style and method of packing and preparing for shipment, of rope manufacturers who employed only new and unused fiber in the manufacture of their product; and

(c) Falsely represented to purchasers and prospective purchasers that its product was made from new and unused fiber and was not stranded from yarn taken from old and used rope:

Held, That such false and misleading representations, and such simulation of business administration or methods, 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 Federal Rope Company, Inc., hereinafter referred to as the respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 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," and it appearing that a proceeding by it in respect

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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, Federal Rope Company, Inc., is and at all times hereinafter mentioned was a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, having its office and principal place of business in the City of New York, State of New York, and is now and for more than two years last past has been engaged in the manufacture and sale of rope in and among the several States and Territories of the United States and the District of Columbia in direct competition with other persons, firms and corporations engaged in interstate commerce in the manufacture and sale of rope.

PAR. 2. That the respondent in the conduct of its business manufactures its rope in the City of New York, State of New York, and purchases and enters into contracts of purchase for the necessary materials needed therefor, in other States and Territories of the United States, causing the same to be transported to such factory where they are made into the finished product and sold and shipped to purchasers thereof; that after such products are so made into the finished product and sold and shipped to purchasers thereof, they are continuously moved to, from and among other States and Territories of the United States and there is continuously and has been at all times hereinafter mentioned a constant current of trade and commerce of such rope between and among the various States of the United States and Territories thereof and District of Columbia.

PAR. 3. That in the manufacture, sale and use of rope, various names are used and applied to them for the purpose of designating the various materials out of which said ropes are made, and that the word "Manila" when applied to rope, both in the technical and popular usage, has a precise and exact meaning, and is only accurately and properly used in identifying and describing rope composed exclusively of new Manila fibers, and that by custom and agreement among rope manufacturers generally, the word "Manila" is not used in the brand, label or any printed matter in connection with any rope containing less than one hundred per cent pure Manila fiber unless the said word "Manila" is qualified by other words conspicuously and clearly showing the percentage of Manila hemp in said rope.

PAR. 4. That with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the manufacture and sale of rope, the respondent by the use of letterheads, price lists,

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and other printed matter containing the word "Manila" distributed among dealers and consumers of rope, and by the use of tags, stencils and other printed matter attached and applied to said rope or the wrappings and coverings thereof containing the word "Manila," has for more than two years last past represented, and still continues to represent that the said rope manufactured by respondent is composed entirely and exclusively of new Manila fiber, which representations are false and misleading, and calculated and designed to mislead and deceive the public into the belief that the said rope manufactured by respondent is composed entirely and exclusively of new and unused Manila fiber while in fact it is remade from strands taken from old and used rope and contains other than pure Manila fiber.

PAR 5. That it is the common belief and impression among dealers and consumers of rope and the purchasing public generally that rope having the appearance of and sold as new and unused rope is manufactured entirely from new and unused fiber and not from such as was previously taken from old and used rope; that for more than two years last past with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the manufacture and sale of rope, the respondent has used such methods and devices as letterheads, price lists, tags, stencils and other printed matter distributed among dealers and consumers of rope or attached and applied to such rope or the wrappings and coverings thereof, and has used certain methods, appearances and simulations in packing and distributing said rope to the trade and among consumers generally so as to give said rope the appearance of new and unused rope, which methods and devices have conveyed and do convey, and are calculated and designed to convey the belief and impression that the said rope manufactured by the respondent is composed of new and unused fibers, and that the respondent has at all times herein mentioned concealed and wholly failed to disclose that the rope so manufactured by the respondent is in fact composed of fiber taken from old and used rope.

REPORT, MODIFIED FINDINGS AS TO THE FACTS, AND
MODIFIED ORDER.¹

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 charging it with the use of unfair methods of competition in commerce in violation of the provisions of

¹ For original findings and order see 2 F. T. C. 327.

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said Act. The respondent having entered its appearance by its attorney 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 respondent before an Examiner of the Federal Trade Commission theretofore duly appointed.

And the Commission having made and entered a report containing its findings as to the facts and conclusion, and having issued and served on the respondent an order to cease and desist made thereon, dated March 4, 1920, and thereafter it appearing to the Commission upon reconsideration of the matter that said findings as to the facts should be modified in certain respects;

Now, therefore, the Federal Trade Commission having duly reconsidered the record, and being now fully advised in the premises, on its own motion under and by virtue 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," hereby modifies its findings as to the facts heretofore made in this proceeding on the 4th day of March, 1920, and the same is hereby modified, so that as modified, said findings as to the facts shall read as follows, to wit:

MODIFIED FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Federal Rope Company, Inc., is and at all times hereinafter mentioned was a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, having its office and principal place of business in the City of New York, State of New York, and is now and for more than two years last past has been engaged in the manufacture and sale of rope and in the shipment of said rope from its place of business to purchasers thereof in other States and Territories of the United States and the District of Columbia, in direct competition with other persons, firms and corporations engaged in interstate commerce in the manufacture and sale of rope.

PAR. 2. That respondent in the course of its business, purchases old and used vegetable fiber rope and hawsers in the State of New York and in other States of the United States and causes same to be transported from the several places where such hawsers are so purchased, to its factories in the City of New York, where said hawsers are unwound and unstranded; that from the fiber of the yarn thus reclaimed all of respondent's product is manufactured; that the rope so manufactured by respondent from old, used and reclaimed fiber so closely resembles in appearance rope manufac-

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tured from new and unused fiber that it can not be distinguished therefrom except by those skilled in the art of rope making or by expert analysis; that respondent sells its products to purchasers thereof in States other than the State of New York, and causes the same to be transported pursuant to such sales from the State of New York to such purchasers through, across and into many States and Territories of the United States and the District of Columbia.

PAR. 3. That the word "Manila" when applied to rope, both in technical and popular usage, has a precise and exact meaning, and is only accurately and properly used in identifying and describing rope composed exclusively of new Manila fibers, and that by custom and agreement among rope manufacturers generally, the word "Manila" is not used in the brand, label or any printed matter in connection with any rope containing less than one hundred per cent pure Manila fiber, unless the said word "Manila" is qualified by other words conspicuously and clearly showing the percentage of Manila hemp in said rope. For general purposes and usage rope manufactured from Manila fiber is generally regarded as surpassing in quality rope manufactured from all other fibers.

PAR. 4. That in the manufacture and sale of rope in interstate commerce the respondent, by the use of letterheads, price lists and other printed matter containing the word "Manila" distributed among dealers and consumers of rope, and by the use of tags, stencils and other printed matter attached and applied to said rope or the wrappings and coverings thereof containing the word "Manila" and by means of invoices accompanying the sale of said rope, wherein such rope is characterized and described, and by means of direct oral and written statements made by the respondent's officers and agents, for a period of more than two years immediately prior to the issuance of the complaint herein, represented to the purchasing public that the said rope manufactured by respondent was composed entirely and exclusively of new Manila fiber, which representations were false and misleading, and did mislead and deceive the public into the belief that the said rope manufactured by respondent was composed entirely and exclusively of new and unused Manila fiber, while, in fact, it was remade from yarns taken from old and used rope as aforesaid, and a large part of it was remade from such yarns that contained other than pure Manila fiber.

PAR. 5. That it is the common belief and impression among dealers and consumers of rope and the purchasing public generally that rope having the appearance of and sold as new and unused rope is manufactured from new and unused fiber and not from such as

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was previously taken from old and used rope, and that the greater proportion of rope sold in commerce is manufactured from new fiber and that the existence of the practice of remaking rope from old and used rope is not generally known to dealers and consumers of rope, and that such remade rope is much inferior in quality to rope made from new and unused fiber.

PAR. 6. That the respondent for a period of more than two years last past, with the intent, purpose and effect of misleading and deceiving the public in interstate commerce in the manufacture and sale of rope, has used such methods and devices as letterheads, price lists, tags, stencils and other printed matter distributed among dealers and consumers of rope are [or] attached and applied to such rope, or the wrappings or coverings thereof, and in packing and preparing its product for distribution to the purchasers thereof, both dealers and consumers, it has adopted and used the style and method of packing and preparing for shipment used and employed by rope manufacturers who use only new and unused fiber in the manufacture of their product; that is to say, respondent packs its product in coils containing 1,200 feet of rope in length and covers each coil with burlap on which it stencils the words "Manila" or "Pure Manila Rope" and attaches to each coil so packed and prepared for shipment a tag on which is printed the following words "Federal Rope Company" and "Manila Rope" on a scroll representing a piece of rope; also, "Morgan Ave. and Ten Eyck Street—Brooklyn, N. Y." together with the name and address of the purchaser, and does not in any manner mark either the rope or its covering so as to disclose to the purchasers thereof the fact that the rope so manufactured and sold by respondent is made of fiber taken from old and used rope.

PAR. 7. That for a period of more than two years last past, the respondent on various occasions by means of direct statements made by its officers and agents, has falsely represented to purchasers and prospective purchasers of its rope that its said product was made from new and unused fiber and that it was not restranded from yarn taken from old and used rope as aforesaid.

CONCLUSION.

The practices of said respondent, under the conditions and circumstances described in the foregoing modified findings as to the facts, are unfair methods of competition in interstate commerce, and constitute a violation 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."

Order.

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MODIFIED 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 the evidence, 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," and the Commission having heretofore, to wit, on March 4, 1920, entered and served its order upon the respondent requiring it to cease and desist from certain practices:

And it appearing to the Commission upon reconsideration of the matter that said order should be modified in certain respects,

Now, therefore, The Federal Trade Commission on its own motion, under and by virtue 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," hereby orders that the order to cease and desist heretofore made in this proceeding on the 4th day of March, 1920, be and the same is, hereby modified so that, as modified, said order shall read as follows, to wit:

It is now ordered, That the above-named respondent, Federal Rope Company, Inc., cease and desist from using the word "Manila" in any way to designate and describe rope manufactured by it which is not wholly composed of Manila fiber, and

It is further ordered, That the respondent cease and desist from in any manner advertising, holding out, representing and selling any rope not composed of new and unused fibers without plainly indicating the fact that it is manufactured of used or reclaimed fiber.

And the Federal Trade Commission under and by virtue 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," hereby orders that notice of the modification hereinabove mentioned shall be given the said Federal Rope Company, Inc., by registering and mailing a copy thereof addressed to such corporation at its principal office.

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