

Complaint.

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FEDERAL TRADE COMMISSION

v.

W. A. SHOFFNER AND L. I. YOUNG, PARTNERS, STYLING
THEMSELVES THE ALAMANCE HOSIERY MILLS.

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

Docket 677—October 24, 1922.

SYLLABUS.

Where a firm engaged in the manufacture and sale of hosiery in competition with concerns who either correctly branded, labeled, and advertised their products with reference to composition or failed to brand, label, and advertise the same at all in that respect; branded, labeled, advertised, and sold hosiery composed entirely of mercerized cotton as "American Silk"; thereby misleading a substantial part of the purchasing public into believing said goods to be composed entirely of silk:

Held, That such branding, labelling, advertising, and sales, 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 W. A. Shoffner and L. I. Young, partners styling themselves the Alamance Hosiery Mills, hereinafter referred to as the respondents, have been and are 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 this respect on information and belief as follows:

PARAGRAPH 1. That the respondents are engaged at Burlington, N. C., in the business of manufacturing and selling hosiery, which product is sold to jobbers in various States outside of the State of North Carolina, and respondents cause the hosiery manufactured by them to be transported to the purchasers thereof, from the State of North Carolina through and into various other States of the United States; that in the conduct of such business respondents are in direct active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That respondents in the course of their business, as described in paragraph 1 hereof, place upon hosiery sold by them, and

upon the boxes containing same, false and deceptive labels, in that such labels are calculated to and do create in the minds of the purchasing public, the mistaken belief that such hosiery is made of materials of better and more expensive grades or qualities than those of which such hosiery is in fact made; that among such false and deceptive labels, so used by respondents, are labels containing the words "American Silk," which labels are placed upon hosiery which contain no genuine silk, and on the boxes containing such hosiery.

PAR. 3. That by reason of the facts recited, the respondents are 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 respondents, W. A. Shoffner and L. I. Young, partners, styling themselves the Alamance Hosiery Mills, charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said Act.

The respondents having entered their appearance in their own proper person and filed their answer herein, admitting all the allegations of the complaint and each count and paragraph thereof, and having made, executed, and filed an agreed statement of facts, in which it is stipulated and agreed by the respondents that the Federal Trade Commission shall take such agreed statements of facts as the facts in this case and in lieu of testimony, and proceed forthwith with such agreed statement of facts to make its findings as to the facts and such order as it may deem proper to enter therein without the introduction of testimony or the presentation of argument in support of same, and the Federal Trade Commission, having duly considered the record and being now fully advised in the premises, makes this its report stating its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondents, W. A. Shoffner and L. I. Young, constitute a partnership and carry on business at Burlington, N. C., under the firm name and style of the Alamance Hosiery Mills.

PAR. 2. That the respondents are engaged in the business of manufacturing and selling, in the State of North Carolina and in other States of the United States, hosiery and in causing same to be shipped and transported from the State of North Carolina through

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and into other States of the United States pursuant to such sales in competition with other copartnerships, corporations, and individuals engaged in similar commerce between and among the States of the United States, and that there has been and is continuously a current of trade to and from the said respondents in said hosiery among and between the States of the United States.

PAR. 3. That prior to April 1, 1920, the respondents in the conduct of their business, as described in paragraph 2 above, sold and shipped hosiery made entirely of mercerized cotton, which it labeled, advertised, and branded, and distributed in packages or containers which it labeled, advertised, and branded "American Silk." That dealers purchasing this hosiery from respondents or respondents' customers, labeled, advertised, and branded, and in packages or containers labeled, advertised, and branded as aforesaid, offer and sell it so labeled to the general purchasing public. That neither the said hosiery, nor the boxes nor packages containing it are labeled, advertised or branded with any other word or words to indicate the kind or grade of materials entering into the manufacture of said hosiery.

PAR. 4. That the term "American Silk," when applied to hosiery without any other word or words descriptive of the kind or grade of materials, signifies and is understood by a substantial part of the purchasing public to mean hosiery which contains material derived from the cocoon of the silkworm.

PAR. 5. That many of respondents' competitors in the selling of hosiery are engaged in interstate commerce selling and shipping their goods from one State into another. That a number of such competitors have sold and shipped, and now sell and ship in commerce between the States, hosiery which is made entirely of silk, which hosiery and the packages or containers of which are labeled, advertised, and branded "Silk."

PAR. 6. That a number of respondents' competitors, engaged in interstate commerce as aforesaid, have sold and shipped, and now sell and ship, hosiery which is made entirely of mercerized cotton, which hosiery and the packages or containers for which are labeled, advertised, and branded with no word or words descriptive of the material entering into the manufacture of said hosiery. That a number of respondents' competitors in interstate commerce as aforesaid have sold and shipped, and now sell and ship, hosiery made entirely of mercerized cotton, which hosiery and the packages or containers of which are labeled, advertised, and branded with no word or words descriptive of the material except "Cotton" or "Mercerized Cotton."

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PAR. 7. The labels or brands under which the respondents sell, advertise, and ship hosiery as set forth in the foregoing findings tend to and do mislead and deceive a substantial part of the purchasing public as to the composition of materials of said hosiery; said labels or brands as so used by respondents cause said hosiery to compete unfairly with goods of their competitors in interstate commerce who, as set forth in paragraphs 5 and 6 above, sell hosiery made entirely of silk or mercerized cotton, or hosiery made wholly or in part of other materials than those named, labeled and branded so as to indicate the true composition thereof, or not labeled or branded by any words descriptive of the composition thereof.

CONCLUSION.

The practices of the said respondents, under the conditions and circumstances described in the foregoing findings, 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 TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission, the answer of the respondents, and the statement of facts agreed upon by the respondents and counsel for the Commission, and the Commission having made its findings as to the facts with its conclusion, that the respondents have 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,"

It is now ordered, That the respondents, W. A. Shoffner and L. I. Young, partners, styling themselves the Alamance Hosiery Mills, and their officers, agents, representatives, servants and employees, cease and desist from directly or indirectly:

I. Using as labels or brands on hosiery sold by them, or on the containers thereof, or in advertisements thereof, the word "silk," or any modification thereof, (1) unless the hosiery on which it is used is made entirely of the silk of the silkworm, or (2) unless, where the hosiery is made partly of silk, it is accompanied by a word or words aptly and truthfully describing the other material or materials of which such hosiery is in part composed.

Respondents are further ordered, To file a report in writing with the Commission sixty (60) days from notice hereof, stating in detail the manner in which this order has been complied with and conformed to.

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FEDERAL TRADE COMMISSION DECISIONS.

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