

## FEDERAL TRADE COMMISSION

v.

JOHN F. MOORE, CLARENCE G. FISHER, EDWARD J. MURPHY AND W. K. MATHEWS, PARTNERS, STYLING THEMSELVES MOORE & FISHER.

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

Docket 687—October 24, 1922.

## SYLLABUS.

Where a firm engaged in the sale at wholesale 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; sold hosiery composed of cotton and of silk, hosiery composed of wool and cotton in about equal proportions, and hosiery composed entirely of mercerized cotton, respectively branded and labeled "Pure Thread Silk," "Merino" or "Cashmere," and "Silk Lisle"; thereby misleading a substantial part of the purchasing public with reference to the composition of said goods:

*Held*, That the sale of goods branded and labeled as above 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 John T. Moore, Clarence G. Fisher, Edward J. Murphy, and W. K. Mathews, partners styling themselves Moore & Fisher, hereinafter referred to as 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 respondents constitute a partnership and carry on business at New York, N. Y., under the firm name and style of Moore & Fisher, and are engaged in the business of selling hosiery at wholesale, causing hosiery sold by them to be transported to the purchasers thereof from the State of New York, through and into other States of the United States, and carry on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

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PAR. 2. That the respondents in the course of their business as described in paragraph 1 hereof, make use of certain false and deceptive brands and labels which are placed upon hosiery sold by them and upon the boxes containing such hosiery; that among such false and deceptive labels are the following: Hosiery made of mixed cotton and silk is labeled "World's Best Pure Thread Silk"; hosiery made of silk and cotton so woven as to put the silk on the outside and cotton on the inside is labeled "Silk Plated"; hosiery which contains no silk is labeled "Silk Lisle"; hosiery made of mixed cotton and wool is branded "Cashmere." That the use of such labels as aforesaid is calculated to and does mislead and deceive the purchasing public.

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, John F. Moore, Clarence G. Fisher, Edward J. Murphy and W. K. Mathews, partners, styling themselves Moore & Fisher, 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 statement 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, John F. Moore, Clarence G. Fisher, Edward J. Murphy and W. K. Mathews, constitute a partnership, and carry on business at New York, N. Y., under the firm name and style of Moore & Fisher.

PAR. 2. That the respondents are engaged in the business of purchasing from manufacturers and selling to retailers in the State of New York and in other States of the United States hosiery, and in causing same to be shipped and transported from the State of New York through 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 said respondents in said hosiery among and between the States of the United States.

PAR. 3. That the respondents, prior to April 1, 1920, in the course of their business as described in paragraph 2 above, sold and shipped hosiery made of a proportion of material derived from the cocoon of the silkworm, and cotton, which was labeled and branded, and distributed in packages or containers which were labeled and branded "Pure Thread Silk"; sold and shipped hosiery made of wool and cotton in about equal proportions which was labeled and branded, and distributed in packages or containers labeled and branded "Merino" or "Cashmere"; sold and shipped hosiery made entirely of mercerized cotton which was labeled and branded, and distributed in packages or containers labeled and branded "Silk Lisle." That dealers purchasing these various kinds of hosiery, labeled and branded, and in packages or containers labeled and branded as aforesaid, offer and sell them so labeled to the general purchasing public. That neither the said hosiery, nor the packages or boxes containing it are labeled or branded with any other word or words to indicate the character, kind or grade of material or materials entering into the manufacture of said hosiery.

PAR. 4. That the words "Pure Thread Silk" when applied to hosiery without any other word or words descriptive of the kind or grade of material signifies and is understood by a substantial part of the purchasing public to mean hosiery which is made entirely of material derived from the cocoon of the silkworm. That the words "Merino" or "Cashmere" when applied to hosiery without any other word or words descriptive of the kind or grade of material signify and are understood by a substantial part of the purchasing public to mean hosiery which is made entirely of a high-grade wool;

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that the words "Silk Lisle" when applied to hosiery without any other word or words descriptive of the kind or grade of material signify and are understood by a substantial part of the purchasing public to mean hosiery which is made in part, at least, of material derived from the cocoon of the silkworm.

PAR. 5. That many of respondents' competitors in selling 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 are now selling and shipping in said commerce between the States, hosiery which is made of material derived from the cocoon of the silkworm, which hosiery and the packages or containers of which are labeled, advertised, and branded "Pure Thread Silk." 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 a high-grade wool, which hosiery and the packages or containers of which are labeled, advertised, and branded "Cashmere." 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 twisted cotton yarns, which hosiery and the packages or containers are labeled, advertised, and branded "Lisle."

PAR. 6. That many of respondents' competitors, engaged in interstate commerce as aforesaid, have sold and shipped, and now sell and ship, hosiery which is made of a small proportion of the material derived from the cocoon of the silkworm and cotton, which hosiery and the packages or containers of which are labeled, advertised, and branded with no other word or words descriptive of the material except "Silk and Cotton," or are labeled, advertised, and branded with no word or words descriptive of the material. That many of respondents' competitors, engaged in interstate commerce, as aforesaid, have sold and shipped, and now sell and ship, hosiery which is made of a small proportion of material derived from the cocoon of the silkworm and twisted cotton yarns, which hosiery and the packages or containers of which are labeled, advertised, and branded with no other word or words descriptive of the material except "Silk and Lisle," or are labeled, advertised, and branded with no word or words descriptive of the material. 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 of wool and cotton in about equal proportions, which hosiery and the packages or containers of which are labeled, advertised, and branded with no other word or words descriptive of the material except "Wool and

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Cotton," or are labeled, advertised, and branded with no word or words descriptive of the material. That many 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 of which are labeled, advertised, and branded with no other word or words descriptive of the material except "Mercerized Cotton," or are labeled, advertised, and branded with no word or words descriptive of the material.

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, cotton, cashmere, lisle or wool; or hosiery made wholly or in part of other materials than those named, and labeled, or 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, John F. Moore, Clarence G. Fisher, Edward J. Murphy and W. K. Mathews, partners, styling

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themselves Moore & Fisher, 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 it, or on the containers 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.

II. Using as labels or brands on hosiery sold by it, or on the containers thereof, the words "merino" or "cashmere," (1) unless the hosiery so labeled or branded be composed entirely of wool of a high grade, or (2) unless, when the hosiery is composed partly of cashmere or merino wool, it is accompanied by a word or words aptly and truthfully describing the other material or materials of which the hosiery is in part composed.

III. Using as labels or brands on hosiery sold by it, or on the containers thereof, the word "lisle," (1) unless the hosiery so labeled or branded be composed entirely of twisted cotton yarn, or (2) unless, when the hosiery is composed partly of twisted yarn, it is accompanied by a word or words aptly and truthfully describing the other material or materials of which the 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.

## Complaint.

## FEDERAL TRADE COMMISSION

v.

P. E. ENNIS, DOING BUSINESS UNDER THE NAME AND  
STYLE OF PURE SILK HOSIERY MILLS.COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF  
AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 859—October 24, 1922.

## SYLLABUS.

Where an individual, and his corporate successor, engaged in the purchase and sale of hosiery, but neither owning nor operating any mills manufacturing said product,

- (a) Respectively adopted and used as a trade-name, the names "Pure Silk Hosiery Mills," and "Pure Silk Hosiery Mills, Inc.," and so carried on their business; and
- (b) Used letterheads, circulars, circular letters, pamphlets and advertisements in publications of general circulation, falsely setting forth, in effect, that they were manufacturers of hosiery and that by reason of the direct sale of hosiery by them from manufacturer to consumer, the public was enabled to purchase for \$5.50 three pairs of hose, which in the usual course of trade from manufacturer, to wholesaler, to retailer, sold at \$4.00 a pair;

With the capacity and tendency thereby to mislead and deceive the purchasing public by inducing numerous persons to purchase from them on the basis of said false representations, to the injury of manufacturers who did in fact sell direct to the public, and of competing dealers who purchased from the manufacturer and resold to the public:

*Held*, That such misleading adoption and use of trade-name, 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 P. E. Ennis, doing business under the name and style Pure Silk Hosiery Mills, hereinafter referred to as respondent, has been and now 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 to the Commission that a proceeding by it in respect thereof would be of interest to the public, issues this complaint, stating its charges in that respect on information and belief, as follows:

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PARAGRAPH 1. That respondent is a resident of the City of Chicago, State of Illinois and is engaged in selling hosiery in said city and State and in other States, under the trade-name and style of Pure Silk Hosiery Mills, as hereinafter more fully set out.

PAR. 2. That on or about the 16th day of August, 1920, respondent entered into a contract with Abraham Goodman, Jacob Goodman, Lazure L. Goodman and W. L. Kobin, partners doing business under the name and style "Real Silk Hosiery Mills," said partners all being residents of the City of Indianapolis, Indiana, and there engaged in the manufacture of men's and women's hosiery, by the terms of which contract respondent became the agent of said partnership for the purpose of selling, in the State of Illinois and other States of the United States, silk hosiery manufactured by said partnership, said sales to be made by agents of respondents through the personal solicitation of customers and the orders secured by such solicitation to be filled by said partnership by shipment from its mills in said City of Indianapolis, direct to the purchasers; that said partnership furnished to respondent certain printed matter for use by respondent and his said agents in and about the solicitation of customers consisting, amongst other things, of printed slips headed "Suggestions" which contained instructions as to the use and care of silk hosiery, order blanks upon which the customer's order for hosiery was entered and salesmen's credential cards upon all of which appeared the name "Real Silk Hosiery Mills"; that in conformity with the terms of said contract respondent appointed a large number of agents, through whom he solicited and obtained from large numbers of persons residing in various States of the United States orders for silk hosiery manufactured by aforesaid partnership, in and about which-solicitation said agents made appropriate use of aforesaid printed matter; that all orders for hosiery obtained by respondent in the manner above set out were sent by him from the City of Chicago, State of Illinois, to said partnership at the City of Indianapolis, State of Indiana, and said partnership filled said orders by sending the hosiery therein ordered from its mill and place of business in said City of Indianapolis into and through various States of the United States to the purchasers thereof at their several places of residence in various States of the United States.

PAR. 3. That on or about the 2d day of April, 1921, aforesaid contract was abrogated by the parties thereto whereupon respondent, through his aforesaid agents, engaged in the sale of hosiery made by manufacturers other than said partnership and conducted said last named business under the name and style "Pure Silk Hosiery

Mills" in a manner in all respects similar to the manner in which he had theretofore sold the hosiery of said partnership and still so engages in such new business; that in connection with his said new business respondent furnished his aforesaid agents with certain printed matter consisting among other things of printed slips headed "Helpful Hints" which contained instructions as to the use and care of silk hosiery, order blanks upon which the consumer's order for hosiery was entered and salesmen's credential cards all of which bore the name "Pure Silk Hosiery Mills," and closely simulated in language and form, the slips headed "Suggestions," the order blanks and salesmen's credential cards, respectively, furnished by aforesaid partnership and formerly used by respondent and his agents in and about the sale of said partnership's hosiery, as hereinbefore set out; that in the solicitation of customers for said new business, respondent's said agents made use of said printed matter bearing the name "Pure Silk Hosiery Mills" in like manner as they had, in soliciting sales for the hosiery manufactured by aforesaid partnership, theretofore used the printed matter furnished by said partnership as hereinbefore set out; that respondent has, ever since the commencement of his said new business, continued to conduct the same in the manner above set out and still so conducts said new business and therein has continuously been and now is in competition with all persons, partnerships and corporations similarly and otherwise engaged in the hosiery trade.

PAR. 4. That the use by respondent of the name "Pure Silk Hosiery Mills," in the manner and under the circumstances hereinbefore set out was and is calculated to create, and has the capacity and tendency of creating, the belief amongst the persons solicited by respondent in his aforesaid new business, that the "Pure Silk Hosiery Mills," is identical with the "Real Silk Hosiery Mills"; that respondent has made no change in the source of supply of the hosiery offered by him and that the same has been and still is the product of the Real Silk Hosiery Mills, and of inducing the public, including customers of respondent who formerly purchased from him hosiery manufactured by aforesaid partnership to purchase, as and for hosiery made by said partnership, hosiery made by other manufacturers.

PAR. 5. That respondent further, in the course of his aforesaid new business, falsely asserts and represents to prospective purchasers through his aforesaid agents and by means of statements appearing in leaflets, circulars and other literature, that the Pure Silk Hosiery Mills actually manufactures in its own mills the hosiery

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offered for sale and is therefore able to sell the same to the said purchasers at mill prices and that said hosiery is dyed by the Pure Silk Hosiery Mills in its own plant in order to make sure that said hosiery shall be sanitary and non-poisonous, whereas in truth and in fact there exists no Pure Silk Hosiery Mills except as a trade-name under which respondent does business and respondent does not manufacture or dye the hosiery sold by him as hereinbefore set out, but buys such hosiery from the manufacturer thereof and resells the same at a profit over and above the cost to him of such hosiery; that said false representations have the capacity and tendency of misleading and deceiving the public into the erroneous belief that the Pure Silk Hosiery Mills is a business concern which operates a mill or mills in which the hosiery offered for sale by respondent's agents is manufactured and dyed, that said concern is therefore able to sell said hosiery to the ultimate consumer at wholesale price and at a price substantially less than that usually demanded by the retailer in the ordinary course of trade for like products of similar quality, that said hosiery is dyed by said concern in its own plant whereby the possibility of the use of unsanitary and poisonous dyes is eliminated; that by reason of the premises aforesaid false assertions tend to induce the public to purchase the hosiery offered by respondent in preference to hosiery of similar kind and quality offered by retail dealers.

PAR. 6. That the use by respondent of the trade-name "Pure Silk Hosiery Mills," in the manner and under the circumstances hereinbefore set out, constitutes 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.

PAR. 7. That the false assertions of respondent set out in Paragraph Five hereof and the use of said assertions by respondent in the manner and under the circumstances in said Paragraph set out, constitute 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, P. E. Ennis, doing business under

the name and style of Pure Silk Hosiery Mills, charging him with unfair methods of competition in commerce, in violation of the provisions of said Act.

The respondent, having entered his appearance by his attorneys, McInerney & Power of Chicago, Illinois, and filed his answer herein, denying certain allegations in the complaint and admitting others, thereupon testimony of witnesses was submitted on behalf of the Commission, and by the respondent, before Warren R. Choate, an Examiner for the Federal Trade Commission, and it appearing that said respondent in September, 1921, had caused to be organized under the laws of the State of Illinois, a corporation under the name and style of Pure Silk Hosiery Mills, Inc., to which corporation said respondent had turned over the business and property theretofore owned and carried on by him under the name and style of the Pure Silk Hosiery Mills; it was thereupon stipulated that the complaint in this proceeding should stand and be regarded as having been duly issued and served upon the said Pure Silk Hosiery Mills, Inc., the successor in business to the respondent, P. E. Ennis, doing business under the name and style, Pure Silk Hosiery Mills, and the Federal Trade Commission being now fully advised in the premises, and upon consideration thereof, makes this its report, stating its findings as to the facts and conclusion.

#### FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, P. E. Ennis, a resident and citizen of the State of Illinois, from April 2, 1921, to September 8, 1921, was engaged in the business of selling hosiery, with principal place of business in Chicago, Illinois, and carried on such business under the name and style of Pure Silk Hosiery Mills, causing hosiery sold by him to be transported to the purchasers thereof from Chicago, Illinois, through and into other States of the United States, and carried on such business in direct active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. That on September 8, 1921, the respondent, P. E. Ennis, caused to be organized under the laws of the State of Illinois, a corporation under the name and style of Pure Silk Hosiery Mills, Inc., which corporation, immediately after its organization, took over the business and property theretofore owned and carried on by P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills, and became, and still is, the successor in business to the respondent named in the complaint, and pursuant to the terms of the stipulation hereinbefore referred to, said corporation, Pure Silk

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Hosiery Mills, Inc., will stand and be regarded as a respondent herein; that said Pure Silk Hosiery Mills, Inc., since its organization, has also caused hosiery sold by it to be transported to the purchasers thereof from the State of Illinois, through and into other States of the United States, and has carried on its said business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. That neither the respondent, P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills, nor the successor in business, Pure Silk Hosiery Mills, Inc., owned or operated any factory or mills in which hosiery was manufactured, at the time of the taking of the testimony herein on March 8th and 9th, 1922, or prior thereto, but the hosiery sold by them was purchased in wholesale quantities from the manufacturers thereof and then resold by them to the public in due course of commerce among the several States of the United States.

PAR. 4. That the respondent named in the complaint herein, and his successor in business, in the course of the business carried on by them, have made use of letter-heads, circulars, circular letters, pamphlets and advertisements in publications of general circulation, which contained false and misleading statements to the effect, among other things, that respondents were manufacturers of hosiery and by reason of the direct sale of hosiery by them, from manufacturer to consumer, the public is thereby enabled to purchase for \$5.50, three pairs of hose, which, in the usual course of trade from manufacturer to wholesaler, to retailer, to the public, such hosiery would sell for \$4.00 per pair.

PAR. 5. That the use by the respondent, P. E. Ennis, of the word "Mills" in the trade name, under which he carried on business prior to September 8, 1921, and the word "Mills" in the corporate name of his successor in business, under the circumstances set out in Paragraph Four hereof, was calculated to mislead and deceive the purchasing public by inducing numerous persons to purchase hosiery from respondents upon the erroneous belief that respondents were manufacturers of hosiery and were selling their product at prices substantially below those at which hosiery of like grade and quality would sell in the usual course of trade from manufacturer to jobber, to retailer, to the public; that such practices had the capacity and tendency to injure manufacturers of hosiery who did in fact sell their product direct to the public, as well as dealers who purchase hosiery from the manufacturer and resell same to the public.

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## CONCLUSION.

That the acts and things done by the respondents, P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills and his successor in business, the Pure Silk Hosiery Mills, Inc., as set out in the above findings as to the facts, constitute an unfair method of competition in interstate commerce, in violation of 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."

## ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, and the respondent, P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills, having entered his appearance by his attorneys, McInerney & Power, and having filed his answer, and testimony in support of the charges stated in the complaint and on behalf of respondent having been submitted, and it appearing that said respondent, in September, 1921, caused a corporation to be organized under the laws of the State of Illinois, under the name and style of Pure Silk Hosiery Mills, Inc., which corporation became and is the successor in business to P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills, the respondent named in the complaint herein, and by stipulation said corporation has been made a party-respondent herein, and the Commission having made its report stating its findings as to the facts and conclusion, that the respondent, P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills, and its said successor in business, the Pure Silk Hosiery Mills, Inc., have 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," which said report is hereby referred to and made a part hereof.

*Now, therefore, it is ordered,* That the respondents, P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills, and his successor in business, the Pure Silk Hosiery Mills, Inc., and each of them, cease and desist from carrying on the business of selling hosiery, in commerce among the several States of the United States, under a trade name or corporate name which includes the word "Mills," in combination with the words "Pure Silk Hosiery," or words of like import, unless and until such respondents, or either

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of them, actually owns or operates a factory or mills in which hosiery sold by them, or either of them, is manufactured.

*It is further ordered,* That the respondents, P. E. Ennis, doing business under the name and style of Pure Silk Hosiery Mills and the Pure Silk Hosiery Mills, Inc., within sixty days after the date of the service upon them of this order, file with the Commission their reports in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set forth.

## Complaint.

## FEDERAL TRADE COMMISSION

v.

## C. H. PARKER COMPANY.

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

Docket 851—October 30, 1922.

## SYLLABUS.

Where a corporation engaged in the manufacture and sale of paints and varnishes sent circular letters to the trade offering as "Navy Architectural Spar and Interior Varnish" a product not made for, used, or approved by the Navy, but on the contrary rejected by it as not conforming to its specifications:

*Held*, That 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 the C. H. Parker Company, 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 Valparaiso in said State.

PAR. 2. That respondent is engaged in the business of manufacturing and selling paints and varnishes, and causes commodities 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, on May 27, 1921, and on other dates, mailed to dealers engaged in the sale of paints and varnishes, throughout the several States of the United States, circular letters

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which contained the statement that respondent was sacrificing for immediate sale 30,000 gallons of "Navy Architectural Spar and Interior Varnish"; that said statement was false, fraudulent and misleading in that the product so offered for sale was not "Navy Architectural Spar and Interior Varnish," the fact being that the product referred to and described in said circular letters, had been made by respondent ostensibly under a contract with the Navy Department of the United States, and had been rejected by said Department because the product had not been made in conformity with the Government specifications set out in said contract, in that one of the ingredients required by said specifications was spirits of turpentine, but the product as furnished by respondent contained no spirits of turpentine and did contain petroleum spirits which had been substituted by respondent for spirits of turpentine; that by reason of said false, fraudulent and misleading statement in said circular letters contained, the said dealers and the purchasing public were induced to purchase said varnish in the belief that it had been procured from the Government by respondent or manufactured in accordance with Government specifications.

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.

## REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to 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," the Federal Trade Commission issued and served a complaint upon the respondent, C. H. Parker Company, charging it with unfair methods of competition in commerce, in violation of the provisions of said Act.

The respondent having entered its appearance in person and formal hearings having been had before George McCorkle, an Examiner of the Commission, and testimony having been introduced in behalf of the Commission, and no testimony being offered on behalf of the respondent;

Thereupon, this proceeding came on for final hearing upon the testimony and the evidence introduced; and the Commission having only 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. Respondent, C. H. Parker Company, is a corporation organized and doing business under the laws of the State of Indiana, with its principal office and place of business at Valparaiso, in said State, and engaged in manufacturing, selling and shipping paints and varnishes throughout the State of Indiana, and from that State into many of the other States of the United States, in competition with other persons, firms, partnerships and corporations similarly engaged.

PAR. 2. Prior to June 9, 1921, at various times, respondent mailed to dealers engaged in the sale of paints and varnishes throughout the various States of the United States, circular letters containing the statement that respondent was sacrificing for immediate sale 30,000 gallons of Navy Architectural Spar and Interior Varnish.

PAR. 3. The words "Navy Architectural Spar and Interior Varnish," as used by respondent, has a tendency to convey, and did convey to paint and varnish dealers who received the circulars mentioned in the next preceding paragraph, the idea that such varnishes were either used or approved by the United States Navy, whereas as a matter of fact respondent's varnishes had not only neither been used nor approved by the United States Navy, but on the contrary the United States Navy had rejected the varnishes offered by respondent as not being according to the United States Navy specifications.

## CONCLUSION.

The practices engaged in by respondent, as set forth and 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 the evidence, respondent having specifically waived the filing of briefs, arguments, etc.; and the Commission having made its findings as to the facts, with its conclusion that respondent has violated the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled, "An

## Order.

5 F. T. C.

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

*It is now ordered*, That the respondent, C. H. Parker Company, a corporation organized and existing under the laws of the State of Indiana, its officers, directors, agents, servants and employes, cease and desist from directly or indirectly selling or offering for sale, or advertising for sale in interstate commerce, paints, varnishes or other similar materials in connection with the word "Navy," unless as a matter of fact, its paints, varnishes, and other similar materials are made in accordance with specifications laid down and approved by the Navy Department.

*It is further ordered*, That respondent, within sixty (60) days after the receipt of this order, report in writing to the Commission the manner and extent to which compliance with this order has been made by said respondent.

THE DAUM, ROGERS, SPRITZER CO.

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Complaint.

FEDERAL TRADE COMMISSION