

Complaint.

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FEDERAL TRADE COMMISSION

v.

ROCKFORD MITTEN & HOSIERY COMPANY.

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

Docket 686—November 1, 1922.

SYLLABUS.

Where a corporation 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 of cotton and wool in approximately equal proportions as "Wool Fashioned Hose," "Women's Black Cashmere Hose," "Fashioned Cashmere Hose," "Women's Black Cashmere Hose Fashioned" and "Ladies High Grade Cashmere"; thereby misleading a substantial part of the purchasing public with reference to the composition of said goods:

Held, That such branding, labeling, 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 the Rockford Mitten & Hosiery Company, hereinafter referred to as respondent, has been and is 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 respondent is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business in the City of Rockford in said State.

PAR. 2. That respondent is engaged in the business of manufacturing and selling hosiery, and causes 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 carries on such 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, places or causes to be placed upon hosiery sold by it, made of cotton and wool in approximately equal proportions, and upon the boxes in which such hosiery is eventually offered for sale by the retail dealers to the purchasing public certain false and deceptive labels among which are the following: "Worsted Ribbed Hose," "Worsted Fashioned Hose," "Wool Fashioned Hose," "Woman's Black Cashmere Hose," "Black Cashmere," "Fashioned Cashmere Hose," "Woman's Black Wool Hose Fashioned," "Ladies' High-Grade Cashmere"; which labels are false and misleading and are calculated to and do mislead and deceive the purchasing public.

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, the Federal Trade Commission issued and served a complaint upon the respondent, Rockford Mitten and Hosiery Company, 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 in its own proper person and filed its 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 respondent 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 respondent, Rockford Mitten and Hosiery Company, is a corporation duly incorporated under and by virtue

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of the laws of the state of Illinois, with its principal place of business in the City of Rockford in said state.

PAR. 2. That the respondent is engaged in the business of manufacturing and selling in the state of Illinois and in other states of the United States, hosiery, and in causing same to be shipped and transported from the state of Illinois through and into other states of the United States pursuant to such sales, in competition with other corporations, copartnerships 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 respondent, in said hosiery, among and between the states of the United States.

PAR. 3. That the respondent in the conduct of its business prior to July 1, 1920, has sold and shipped hosiery which was made of cotton and wool in approximately equal proportions which it labeled, advertised and branded, and in packages or containers which it labeled, advertised and branded "Wool Fashioned Hose" and "Woman's Black Cashmere Hose" and "Fashioned Cashmere Hose" and "Woman's Black Cashmere Hose Fashioned" and Ladies' High Grade Cashmere." That dealers purchasing these various kinds of hosiery, labeled, advertised and branded, and in packages or containers labeled, advertised 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 were 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 word "wool," when applied to hosiery without any other word or words descriptive of the character, kind or grade of material or materials, signifies and is understood by a substantial part of the purchasing public to mean hosiery which is made entirely of wool. That the word "Cashmere," when applied to hosiery without any other word or words, descriptive of the character, kind or grade of material or materials, signifies and is understood by a substantial part of the purchasing public to mean hosiery which is made entirely of a high grade wool.

PAR. 5. That many of respondent's competitors, in the sale 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 said commerce between the states, hosiery, which is made entirely of wool, which hosiery and the packages or containers of which are labeled,

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advertised and branded "Wool"; that a number of such competitors have sold and shipped, and now sell and ship in interstate 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."

PAR. 6. That a number of respondent's 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 approximately equal proportions, which hosiery and the packages or containers of which are labeled, advertised and branded with the words "Wool and Cotton" or with no word or words descriptive of the materials. That a number of respondent's competitors, engaged in interstate commerce as aforesaid, have sold and shipped, and now sell and ship, hosiery made of a high grade wool, and cotton in approximately equal proportions, which hosiery and the packages or containers of which are labeled, advertised and branded "Cashmere and Cotton," or with no word or words descriptive of the materials.

PAR. 7. The labels or brands under which the respondent sells, advertises and ships 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 respondent cause said hosiery to compete unfairly with goods of its competitors in interstate commerce who as set forth in paragraphs 5 and 6 above, sell hosiery made entirely of cashmere 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 respondent, 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 respondent, and the statement of facts agreed upon by the respond-

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ent and counsel for the Commission, 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,"

It is now ordered, That the respondent, Rockford Mitten and Hosiery Company, its 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, or in advertisements thereof, the word "cashmere," (1) unless the hosiery so labeled, branded or advertised be composed entirely of wool of a high grade, or (2) unless, when the hosiery is composed partly of wool of a high grade 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.

II. Using as labels or brands on hosiery sold by it, or on the containers thereof, or in advertisements thereof, the word "wool," (1) unless the hosiery so labeled, branded or advertised be composed entirely of wool, or (2) unless, when the hosiery is composed partly of 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.

Respondent is 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.

SULLOWAY MILLS.

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