

## Complaint.

## FEDERAL TRADE COMMISSION

v.

## SULLOWAY MILLS.

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

Docket 736—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 "Foot Warmer Wool Hosiery," "Wool," "Oxford Wool," "Black Cashmere," "Cashmere," and "Ladies Cashmere Hose"; 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 Sulloway Mills, 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 New Hampshire, with its principal place of business, in the City of Franklin, 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 New Hampshire, through and into other States of the United States, and carriers 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 Two hereof, places upon hosiery sold by it and upon the boxes containing same, false and deceptive labels, which labels are calculated to and do create in the minds of the purchasing public, the mistaken belief that such hosiery is made wholly of wool, whereas such hosiery is made of wool and materials other than wool, in approximately equal proportions; that among such false and de-

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ceptive labels so used by respondent, are labels which contain the words "Foot-warmer Woolen Hosiery," the word "Wool," "Oxford Wool," "Cashmere," "Black Cashmere," "Ladies' Cashmere Hose."

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, Sulloway Mills, 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 by its attorney 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, Sulloway Mills, is a corporation duly incorporated and doing business under and by virtue of the laws of the state of New Hampshire, with its principal place of business in the city of Franklin, state of New Hampshire.

PAR. 2. That the respondent is engaged in the business of manufacturing and selling at wholesale in the state of New Hampshire and in other states of the United States, hosiery, and in causing same to be shipped and transported from the state of New Hampshire 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 until it learned of this investigation by the Commission, about October 1, 1920, in the conduct of its business described in Paragraph Two above, sold and shipped hosiery 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 "Foot-Warmer Woolen Hosiery" and "Wool" and "Oxford Wool" and "Black Cashmere" and "Cashmere" and "Ladies Cashmere Hose." That dealers purchasing this hosiery from respondent or from respondent's customers, labeled, advertised and branded, or in packages or containers labeled, advertised and branded as aforesaid, offer and sell it so labeled, advertised and branded to the general purchasing public. That neither the said hosiery nor the boxes containing it were labeled, advertised 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 word "Woolen," when applied to hosiery without any other word or words descriptive of the character, kind or grade of material or materials, is understood by the general purchasing public to mean hosiery made entirely of wool. 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, is understood by the general purchasing public to mean hosiery made entirely of wool. That the term "Oxford Wool," when applied to hosiery without any other word or words descriptive of the character, kind or grade of material or materials, is understood by the general purchasing public to mean hosiery 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, is understood by the general purchasing public to mean hosiery made entirely of a high grade of wool.

PAR. 5. That many of respondent's competitors are engaged in the business of selling hosiery to persons in states other than those in which their principal factories or places of business are located, and of causing hosiery so sold to be transported from the states in which their principal factories or places of business are located through and into other states of the United States pursuant to such sales. That many such competitors, prior to October 1, 1920, sold and shipped and are now selling and shipping, in said commerce between the states of the United States, hosiery made entirely of wool, which hosiery and the packages or containers for which are labeled, advertised and branded "Woolen" without any other word or words descriptive of the character, kind or grade of material of which such

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hosiery is made. That many such competitors, prior to October 1, 1920, sold and shipped and are now selling and shipping, in said commerce between the states of the United States, hosiery made entirely of wool, which hosiery and the packages or containers for which are labeled, advertised and branded "Wool" without any other word or words descriptive of the character, kind or grade of material of which such hosiery is made. That many such competitors, prior to October 1, 1920, sold and shipped and are now selling and shipping, in said commerce between the states of the United States, hosiery made entirely of wool, which hosiery and the packages or containers for which are labeled, advertised and branded "Oxford Wool," without any other word or words descriptive of the character, kind or grade of material of which such hosiery is made. That many such competitors, prior to October 1, 1920, sold and shipped and are now selling and shipping, in said commerce between the states of the United States, hosiery made entirely of wool, which hosiery and the packages or containers for which are labeled, advertised and branded "Cashmere," without any other word or words descriptive of the character, kind or grade of materials of which such hosiery is made.

PAR. 6. That many of respondent's competitors, in the course of commerce between the States as described in Paragraph Five above, prior to October 1, 1920, sold and shipped and are now selling and shipping hosiery made of wool and cotton in approximately equal proportions, which hosiery and the packages or containers for which are labeled, advertised and branded with no word or words descriptive of the material or materials entering into the manufacture of such hosiery. That many of respondent's competitors, in the course of commerce between the states as described in Paragraph Five above, prior to October 1, 1920, sold and shipped and are now selling and shipping hosiery made of wool and cotton in approximately equal proportions, and the labels, advertisements and brands on which and on the packages or containers for which contain the words "Woolen and Cotton," or the words "Wool and Cotton," or the words "Cashmere and Cotton."

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 wool; or hosiery made wholly or in part of other materials

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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 respondent 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, Sulloway Mills, and 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 words "Woolen," "Wool" or "Oxford 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.

II. 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.

*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.

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FEDERAL TRADE COMMISSION DECISIONS.

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