

Complaint.

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FEDERAL TRADE COMMISSION

v.

R. C. RUSSELL, L. C. HAMBLET, R. D. HAMBLET, MRS. M. H. MERRELL AND FIRST NATIONAL OIL COMPANY.

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

Docket 866—January 10, 1923.

SYLLABUS.

Where a corporation, and individuals instrumental in, and responsible for, its organization, in promoting the sale of said corporation's stock made false and misleading statements, in their advertisements, regarding the assets, resources, business progress, production, payment of dividends, and prospects of said corporation, and were thereby enabled to sell much of said stock:

Held, That such false and misleading advertising, under the circumstances 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 R. C. Russell, L. C. Hamblet, R. D. Hamblet, Mrs. M. H. Merrell, and the First National Oil Company, 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, upon information and belief as follows:

PARAGRAPH 1. The respondents, R. C. Russell, L. C. Hamblet, R. D. Hamblet, and Mrs. M. H. Merrell are residents of the State of Texas, each having its principal office and place of business in the City of Houston in said State;

That respondents, R. C. Russell, L. C. Hamblet, R. D. Hamblet, and Mrs. M. H. Merrell in the month of February, 1920, promoted and organized the respondent, First National Oil Company which was and is a corporation organized and existing under and by virtue of the laws of the State of Texas with a capitalization of \$350,000 (35,000,000 shares of par value of 1 cent each).

That in the course of the promotion and organization of said company, the respondent, L. C. Hamblet transferred to it certain oil

leases in the state of Texas and in return therefor received its entire capital stock.

That subsequently respondent, L. C. Hamblet, donated to the treasury of the respondent, the First National Oil Company 4,000,000 shares of said stock upon an agreement by the terms of which he was to be paid one-third of the gross amount received by said company from its sale, and the respondent, R. C. Russell, the sum of \$34,000 for the leases transferred by him to the respondent, L. C. Hamblet, and thereafter conveyed by the latter to respondent, First National Oil Company.

PAR. 2. That the respondents, R. C. Russell, L. C. Hamblet, R. D. Hamblet, and Mrs. M. H. Merrell, in conducting the business of promoting and organizing the said respondent, First National Oil Company, transported or caused to be transported through the mail and otherwise, large quantities of letters, circulars, and advertising matter into and through the various states and territories of the United States, and have procured subscriptions for and sold stock in said company to many persons, copartnerships and corporations throughout the United States and have each and all transported or caused to be transported the said stock sold as aforesaid from the City of Houston in said State of Texas to purchasers thereof in and through the various states of the United States, in direct competition with other persons, copartnerships and corporations engaged in the sale and distribution of stock and securities.

PAR. 3. That the respondents, R. C. Russell, L. C. Hamblet, R. D. Hamblet and Mrs. M. H. Merrell, each for himself and in conjunction with each other and on behalf of and under the direction of respondent, R. C. Russell, have deceived and defrauded the public, particularly that part thereof, who have purchased or contracted to purchase stock in the said respondent, First National Oil Company by means of false and misleading advertisements, false representations and false pretenses and by making, publishing, advertising and circulating false and misleading reports, false statements and false representations regarding the plan of organization, assets, resources, business progress, good-will and prospects of the First National Oil Company and of the standing and ability, and integrity of the respondents associated therewith in the promotion thereof and for that purpose respondents have represented, advertised, published, and circulated particularly the following statements and representations all of which, in whole or in part were false and misleading, by means of which they and each of them have sold much of the stock of the said respondent, First National Oil Company, to wit:

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That the First National Oil Company had had its holdings appraised and inspected by the Secretary of State at the full amount of its authorized capital stock and that as a result of said inspection and appraisal subscribers to the stock were insured against investments in "Blue Sky" and the drilling of "Wild Cat" wells;

That the Breckenridge tract of the First National Oil Company was good for 1,000 barrels per day, with a drill 1 foot in the sand and would be good for several thousand barrels per day when drilled;

That the so-called second well of the First National Oil Company had a capacity of 1,500 barrels daily.

PAR. 4. That in truth and in fact the said Secretary of the State of Texas uniformly approves the valuation placed on holdings of corporations by their promoters and witnesses in accordance with certain forms prescribed by the laws of said state and the said approval did not insure or guarantee the value either of the First National Oil Company's holdings or of its stock nor was it any assurance or protection against wild cat drilling on the part of said company.

That in fact all of the holdings of the First National Oil Company were situated in so-called wild cat territory except its interest in the Breckenridge lease;

That the said respondent, First National Oil Company failed to disclose to the public until after many of its shares had been sold that it only had a one-third interest in the said Breckenridge lease and that the well on said tract in the Breckenridge district in November, 1920, produced a daily average of only 215 barrels and after an approximate production of 8,700 barrels, in the aggregate, this well was abandoned and that the so-called second well instead of producing 1,500 barrels daily averaged less than 600 initial production.

PAR. 5. That the probable and natural tendency of each and all of the said representations so made to the public by respondent, in procuring subscriptions for and selling stock in said company was, and they and each of them were calculated to induce subscriptions for and purchase of said stock, and many persons in various states of the United States to whom such representations were so made by respondents believed them to be true, or some one or more of them, and relying thereon and because thereof purchased a considerable amount of stock in the said First National Oil Company.

PAR. 6. That by reason of the facts recited the respondents and each and all of them, have been and are using unfair methods of com-

petition 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, R. C. Russell, L. C. Hamblet, R. D. Hamblet, Mrs. M. H. Merrell and First National Oil Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said Act.

The respondents having filed their answers and entered their appearance by their attorney, C. A. Teagle, hearing was had before an Examiner of the Commission theretofore duly appointed and testimony having been introduced in support of the allegations of the complaint and no testimony having been introduced by the respondents, the Commission makes this its report, stating its findings as to the facts and conclusion:

PARAGRAPH 1. The respondents, R. C. Russell, L. C. Hamblet, R. D. Hamblet and Mrs. M. H. Merrell, are residents of the State of Texas, each having his or her principal office and place of business in the City of Houston, in said State.

That respondents L. C. Hamblet, and R. D. Hamblet, in the month of February, 1920, promoted and organized the respondent, First National Oil Company, which was and is a corporation organized and existing under and by virtue of the laws of the State of Texas with a capitalization of \$350,000 (35,000,000 shares of par value of 1 cent each).

That in the course of the promotion and organization of said company, the respondent L. C. Hamblet transferred to it certain oil leases in the State of Texas and in return therefor received its entire capital stock.

That subsequently respondent, L. C. Hamblet donated to the treasury of the respondent, First National Oil Company 4,000,000 shares of said stock for development purposes upon the small consideration of the sum of \$5, the balance of said stock, namely, 31,000,000 shares, Hamblet donated to the company upon an agreement that he was to be paid one-third of the gross amount received by said company from the sale of said stock and that respondent R. C. Russell was to receive 16 $\frac{2}{3}$ per cent of the gross amount of said sales, which latter sum was to be applied to L. C. Hamblet's indebtedness of

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\$34,000 to R. C. Russell for the lease transferred by him to the respondent Hamblet and thereafter conveyed by Hamblet to the respondent company, until the said indebtedness to Russell was discharged.

PAR. 2. That respondents, L. C. Hamblet and R. D. Hamblet in conducting the business of promoting and organizing the said respondent, First National Oil Company, transmitted or caused to be transported through the mail and otherwise, large quantities of letters, circulars and advertising matter into and through the various States and Territories of the United States and have procured subscriptions for and sold stock in said company to many persons, copartnerships and corporations throughout the United States and have each and all transported or caused to be transported the said stock sold as aforesaid from the City of Houston, in said State of Texas, to purchasers thereof in and through the various States of the United States in direct competition with other persons, copartnerships and corporations engaged in the sale and distribution of stock and like securities.

PAR. 3. That the respondents L. C. Hamblet and R. D. Hamblet, each for himself and in conjunction with each other, have deceived and defrauded the public, particularly that part thereof who have purchased or contracted to purchase stock in the respondent company by means of false and misleading advertisements, and false representations by making, publishing, advertising and circulating false and misleading reports regarding the assets, resources, business progress and prospects of the First National Oil Company, and for that purpose the said respondents advertised, published, and circulated the following representations which were in whole or in part false and misleading and by means of which much of the stock of the said respondent company was sold, to wit:

1. That the tract known as the Breckenridge tract of the first National Oil Company was good for 1,000 barrels per day "with a drill one foot in the sand" and would be good for several thousand barrels per day when drilled, whereas in truth the said well on the said Breckenridge tract produced but 6,000 barrels for the first 24 days of its activity and for the whole period of its existence, namely four months, produced only 8,372 barrels, of which amount respondent company received only one-third, which was its rightful interest.

2. That the so-called second well of the First National Oil Company had a capacity of 1,500 barrels daily, whereas said well produced only 10,130 barrels during the first 20 days of its production

and the First National Oil Company was entitled to only one-third of eleven-sixteenths of the production therefrom.

3. That about 10,000 barrels of oil have been delivered to the Prairie Pipe Line Company (November 29, 1920) from the well of the First National Oil Company on Block 37, Breckenridge field, whereas at that time only 5,147.39 barrels had been delivered to the said Pipe Line Company and respondent was entitled to only one-third of this amount.

4. That on February 15, 1921, respondent company paid a 10% so-called dividend on all stock sold to the public up to that time, when in fact respondent was in no financial condition to pay a genuine dividend of the said amount or any other amount, that at this time the respondent was indebted to R. C. Russell in the sum of \$19,000 for its leases and had other unpaid obligations due to its officers and promoters.

PAR. 4. That respondent R. C. Russell was a brother-in-law of respondents L. C. Hamblet and R. D. Hamblet and frequently gave them advice as to the organization and promotion of respondent First National Oil Company and acted for some time as trustee of said respondent in conducting some drilling operations of the company, also sold the Hamblets certain leases for the sum of \$34,000, of which amount \$19,000 was never paid him but which would have been paid him had he (Russell) requested it, but at no time did respondent R. C. Russell sell or attempt to sell any of the stock of the said company or aid or assist others in selling same nor was he at any time an officer of the respondent company.

That Mrs. M. H. Merrell was only an employee of the respondent, First National Oil Company receiving about \$100 per month for her services and was not concerned in any way with the management of the respondent company or the sale of its stock.

PAR. 5. That from the time of the organization of the respondent company, March 1, 1920, date of organization of the company, to March 1, 1921, the sum of \$134,000 was received from the sale of stock, \$7,500 of which amount was appropriated by Hamblet, under his contract giving him one-third of the proceeds of the sale of the said stock. The sum of \$52,523.12 was used to pay expenses of stock selling, salaries of officers, and other overhead, leaving a balance of approximately \$70,000 used in the development of the company's properties. Following this period to April, 1922, the respondent company continued its stock selling and also the development of its properties, collecting about \$60,000, but it does not appear to what purposes it was applied or in what proportion, by the respondent company.

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CONCLUSION.

That the practices of the respondents, except R. C. Russell and Mrs. M. H. Merrell, under the conditions and circumstances described in the foregoing findings of fact, are unfair methods of competition in interstate commerce and constitute a 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the pleadings and the testimony and evidence received by an Examiner of the Commission and the Commission having made its findings as to the facts and its conclusion that respondents L. C. Hamblet, R. D. Hamblet and the First National Oil Company 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."

It is now ordered, That L. C. Hamblet and R. D. Hamblet as officers, shareholders or agents of the respondent First National Oil Company and as officers, shareholders or agents of any other corporation, association or partnership and respondents L. C. Hamblet and R. D. Hamblet and the said respondent First National Oil Company, its officers, agents or trustees do cease and desist from directly or indirectly,

1. Publishing, circulating or distributing or causing to be published, circulated or distributed, newspaper, pamphlet, circular, letter, advertisement or any other printed or written matter whatsoever in connection with the sale or offering for sale in interstate commerce of stock or securities wherein is printed or set forth any false or misleading statements or representations concerning the promotion, organization, character, history, resources and assets, oil production, earnings, income, dividends, progress or prospect of any corporation, association or partnership.

2. *It is ordered*, That this proceeding against Mrs. M. H. Merrell and R. C. Russell, be dismissed.

It is further ordered, That respondents L. C. Hamblet and R. D. Hamblet shall within sixty (60) days from the date of service of this order, file with the Commission a report setting forth in detail the manner and form in which they have complied with the Order of the Commission herein set forth.

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