

Complaint.

FEDERAL TRADE COMMISSION

v.

BROWN DURRELL COMPANY.

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

Docket 678—April 11, 1923.

SYLLABUS.

Where a corporation 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 wool in packages or containers branded and labeled "cashmere," "fine wool," "all wool," and "natural wool," thereby misleading a substantial part of the purchasing public into believing said goods to be composed of wool:

Held, That the sale of goods branded or 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 the Brown Durrell Company, hereinafter referred to as the 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 Massachusetts, with its principal place of business in the city of New York, State of New York.

PAR. 2. That respondent is engaged in the business of selling hosiery and underwear at wholesale, and causes the commodities sold by it to be transported to the purchasers thereof, from the State of New York, through and into other States of the United States, and in the conduct of such business is in direct, active competition with other persons, partnerships, and corporations similarly engaged.

Findings.

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PAR. 3. That respondent in the course of its business, as described in paragraph 2 hereof, makes use of certain false and misleading labels, which are placed upon the commodities sold by it and upon the boxes in which such commodities are eventually exhibited to the purchasing public when sold at retail; that hosiery and underwear so sold by respondent, made of mixed cotton and wool, have placed thereon and on the boxes containing same the following among other labels, viz, "Worsted," "Fine Wool," "Merino," "All Wool," "Natural Wool," and "Cashmere," which labels are false and misleading and are calculated to and do deceive and mislead 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, Brown Durrell 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 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. Respondent, Brown Durrell Company, is a corporation created and existing under the laws of the State of Massachusetts, with its principal office and place of business in the city of New York, State of New York, where it is engaged in the business

of selling hosiery at wholesale in the State of New York and throughout the various other States of the United States and the District of Columbia, and causing same to be shipped and transported in commerce from the State of New York through and into the various States of the United States and the District of Columbia, in direct competition with various other firms, corporations, and partnerships similarly engaged.

PAR. 2. That the respondent, prior and up to June 1, 1920, in the conduct of its business as described in paragraph 1 above, sold and shipped to retail dealers hosiery made of mixed cotton and wool in packages or containers labeled and branded "Cashmere" and "Fine Wool" and "All Wool" and "Natural Wool." That in all instances the hosiery itself bore no label or brand to indicate the character, kind, or grade of material or materials entering into the manufacture of said hosiery. The boxes containing it, in some instances, were not 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. That some retail dealers purchasing this hosiery from respondent or from respondent's customers, labeled, advertised, and branded as aforesaid, place it and display it on their shelves in the packages or containers, labeled and branded as aforesaid, and sell said hosiery to the purchasing public from said boxes.

PAR. 3. 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 from which said hosiery is fabricated, signifies and is understood by a substantial part of the purchasing public to mean hosiery made entirely of high-grade wool. The term "Fine Wool" when applied to hosiery without any other word or words descriptive of the character, kind, or grade of material or materials from which said hosiery is fabricated, signifies and is understood by a substantial part of the purchasing public to mean hosiery made entirely of wool. The term "All Wool" when applied to hosiery without any other word or words descriptive of the character, kind, or grade of material or materials from which said hosiery is fabricated, signifies and is understood by a substantial part of the purchasing public to mean hosiery made entirely of wool. The term "Natural Wool" when applied to hosiery without any other word or words descriptive of the character, kind, or grade of material or materials from which said hosiery is fabricated, signifies and is understood by a substantial part of the purchasing public to mean hosiery made entirely of wool.

Order.

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PAR. 4. 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 and containers of which are labeled, advertised, and branded with the words "Wool and Cotton," or with no word or words descriptive of the materials. A number of respondent's competitors, in interstate commerce as aforesaid, have sold and shipped, and now sell and ship, hosiery made of high-grade wool and cotton in approximately equal proportions, which hosiery and the packages and containers of which are labeled, advertised, and branded "Cashmere and Cotton," or with no word or words descriptive of said materials.

PAR. 5. The labels or brands under which the respondent sells 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 paragraph 4 above, sell hosiery made of wool and cotton in approximately equal proportions; 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 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, Brown Durrell Company, and its officers, agents, representatives, servants, and employees, cease and desist from directly or indirectly:

1. 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 cashmere, 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.

2. Using as labels or brands on hosiery sold by it, or on the containers thereof, or in advertisements thereof, the words "Fine 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.

3. Using as labels or brands on hosiery sold by it, or on the containers thereof, or in advertisements thereof, the words "All 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.

4. Using as labels or brands on hosiery sold by it, or on the containers thereof, or in advertisements thereof the words "Natural 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.

Complaint.

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