

Complaint.

FEDERAL TRADE COMMISSION

v.

ROYAL DUKE OIL CO.

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

Docket 789—May 15, 1923.

SYLLABUS.

Where a concern organized for the purpose of acquiring and operating oil and gas leases; in advertising the sale of its stock,

- (a) Made numerous false and misleading statements concerning the location, extent or nature, value and prospects of its holdings or rights, and concerning its plans and future, and general business condition; and
- (b) Represented to purchasers of its stock that the same was worth above par and requested them to give it an option thereon for repurchase at an increase of 25 per cent above its par value, when as a matter of fact it was insolvent and had no oil production, and thereby attached a fictitious value to said stock in order to accelerate the purchase thereof by its stockholders and others;

With the result that the public was misled and deceived and numerous persons were induced to purchase such 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 Royal Duke Oil 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 joint stock association, operating under a declaration of trust, dated January 15, 1919, and recorded in the deed records of Tarrant County, Tex., with principal place of business at Fort Worth, Tex.; the authorized capital stock of said respondent was originally \$100,000, which was later increased to \$250,000, then to \$500,000, and again to \$5,000,000, divided into 5,000,000 shares of the par value of \$1 each.

PAR. 2. That the respondent was organized for the purpose of acquiring oil and gas leases on lands and the drilling of wells thereon, and immediately after its organization it inaugurated an advertising campaign with a view of selling its stock to the public

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throughout the United States, and as a result thereof respondent sold shares of its stock upon mail orders direct to the purchasers thereof, or through agents which sold such stock on commission to numerous purchasers throughout various places in the United States, and respondent caused certificates of such stock, when sold, to be transported to the purchasers thereof from the State of Texas through and into other States of the United States, and in the sale of such stock was in direct, active competition with other corporations and joint stock associations similarly engaged.

PAR. 3. That respondent, in the course of its sale of stock, as described in paragraph 2 hereof, made use of advertisements which were published in newspapers of general circulation throughout the United States, and circulars, circular letters, and other advertising matter which were given general circulation throughout the United States by respondent, which advertisements and advertising matter contained numerous false and deceptive statements of and concerning the business and properties of respondent and the value of its stock, which statements were calculated to and did mislead and deceive the public, and numerous persons were thereby induced to purchase the said stock; that among such false and deceptive statements were statements to the effect that the value of the assets of the company had been doubled by the acquisition of 4,000 acres in San Saba County, Tex., whereas such acreage was of no value, and the lands included therein were in unproven territory; the further statement was made that respondent "owned eleven different tracts of land," the locations and areas of such tracts being given in such statements, whereas respondents did not own any of said lands, but had only a leasehold interest in parts of said lands, which interest was subject to forfeiture for failure to carry out the terms of the leases, and as to other portions of said lands respondent had only an interest therein which entitled it to drill for oil thereon at its own expense and receive one-half of any oil produced; that certain tracts covered by said leases were described in said advertisements and advertising matter as proven acreage, although no oil was produced therefrom, and such lands were not within any productive area, and drilling thereon had been abandoned by respondent; that numerous other statements of like false and deceptive nature were contained in said advertisements and advertising matter.

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, Royal Duke Oil 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 trustees, and filed its answer herein, hearings were had before an examiner of the Commission theretofore duly appointed, due notice of the time and place of holding said hearings having been given respondent, and testimony and evidence introduced in support of the allegations of the said complaint. No evidence having been offered on behalf of respondent, the hearings were duly closed, and the testimony so taken was reduced to writing and filed, together with the other evidence, in the office of the Commission.

And thereupon this proceeding came on regularly for final determination by the Commission, and the Commission having duly considered the entire record, and now being 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. The respondent, Royal Duke Oil Company, is an association operating under a declaration of trust dated January 15, 1919, and recorded on the official records of Tarrant County, State of Texas, and has its principal place of business at Fort Worth in said State. The authorized capital stock of respondent company was originally \$100,000, which amount was increased to \$250,000, and later to \$500,000, and later still to 5,000,000 shares of the par value of \$1 each. T. A. Hilburn and B. L. Hilburn were president and secretary, respectively, and also trustees of respondent company.

PAR. 2. The respondent was organized for the purpose of acquiring oil and gas leases on lands and developing same by drilling oil wells thereon, and after its organization respondent inaugurated an advertising campaign to sell its stock to the public throughout the various States of the United States, and did sell its stock by mail orders, direct to the purchasers thereof and through agents at various places in the United States, and respondent caused certificates of the stock so sold to be transmitted to the purchasers thereof, from the city of Fort Worth, in the State of Texas, through said State into other States of the United States, and [in] engaging in the sale of its said stock was in direct, active competition with other corporations, partnerships, and associations engaged in the sale of stock and similar securities.

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PAR. 3. That respondent, in the course of the sale of its stock as described in paragraph 2 hereof, made use of advertisements which were published in newspapers of general circulation throughout the United States, particularly the Daily Oklahoman, published in Oklahoma City, State of Oklahoma; the Salt Lake Tribune, of Salt Lake, Utah; the Cincinnati Enquirer, and other newspapers, and of circulars, letters, and other advertising matter which were given circulation throughout the United States by respondent, which advertisements and other published matter contained false and deceptive statements of and concerning the business and property of respondent and the value of its stock. Said statements were calculated to, and did, mislead and deceive the public, and numerous persons were induced thereby to purchase stock in respondent company. Among the false and misleading statements generally advertised by the respondent were the following:

1. That the assets of respondent company had been doubled by the acquisition of 4,000 acres of land in San Saba County, Tex. Whereas, in truth and in fact the said lands were of no value as oil producing lands. San Saba County was condemned territory, and respondent's $6/8$ interest in said acreage was conditioned upon a drilling operation on respondent's part which was partially carried out and then abandoned, at a loss to respondent of \$175,000.

2. That respondent "owned 11 different tracts of land," giving the locations and boundaries of same, whereas, in fact, respondent did not own any of said tracts, but had only a leasehold interest in some, and in other tracts only a so-called drilling interest. Respondent had only a $7/16$ interest in the Hanks well, the only substantial asset it possessed, and the interest of the respondent had coupled with it also an agreement to drill a well on the said lease; in the $2\frac{1}{2}$ acres in the Hardin tract respondent had only a $7/24$ interest, the White Star Oil Company and the O-Tex Company owning the other interests. Respondent had only a drilling interest in the 30 acres at Leeray, Eastland County, Tex., which was $4/8$ of any oil produced on the land at respondent's expense from the first well, the expense of any other wells to be drilled on the land to be equally divided. So with respondent's interest in the 50 acres in Block 4, H. & T. C. R. R. Survey, Eastland County, and the 4,000 acres in San Saba County, Tex. A drilling agreement as to the interest of respondent in each of said tracts was the only ground of respondent's claim in the land.

PAR. 4. The following advertised statements of the respondent company, made after the loss of the Hanks well, which was respondent's only dependable asset, as to its financial condition, its assets and policy, were untrue, and were calculated, had the capacity and tend-

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ency to and did mislead and deceive purchasers of respondent's stock:

1. That respondent company was "never in so good a condition, except for lack of immediate drilling funds," when, as a fact, the only producing well that respondent company had beside the Hanks well was the well in the Funderberg Survey, known as the Smith No. 1, from which the respondent had derived a total of only \$6,600, and the said well had been abandoned by respondent.

2. That respondent would "drill only in territory that had been proven to be productive of oil," whereas, in truth, respondent's drilling operations were largely in unproven or so-called "wild-cat" territory. Six wells drilled by respondent out of a total of eight were dry wells, or nonproductive; that respondent's operations on the San Saba lease, where respondent lost \$175,000, were in condemned territory, and so considered prior to respondent's adventure therein; likewise, respondent's operations in Cotton County, Okla., and on the Van Cleave tract in Block 103 in Burkburnett.

3. That respondent's stock was worth above par, and stockholders were requested to give respondent an option on same, to be purchased on or before May, 1921, at an increase of 25 per cent above its par value; whereas, in truth, respondent was then insolvent, had no oil production, and was by this means attaching a fictitious value to its said stock; in order to accelerate its purchase by its stockholders and other purchasers.

CONCLUSION.

The practices of respondent, 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 the evidence received by an examiner of the Commission, and the Commission having made its findings as to the facts and its conclusion that the respondent has 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 the respondent, Royal Duke Oil Company, its officers, agents, and trustees, do cease and desist from directly or indirectly—

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Making or causing to be made in any manner whatsoever in selling in interstate commerce, or in promoting and furthering in interstate commerce the sale of stock or other securities of Royal Duke Oil Company or any other trust, association, or corporation, any false or misleading statement or misrepresentation to the effect that the property or operation of Royal Duke Oil Company or of any such other trust, association, or corporation is in proven oil territory; or making or causing to be made in like manner any other false or misleading statement or misrepresentation concerning the promotion, organization, character, history, resources, assets, production, earnings, income, dividends, progress, or prospects of Royal Duke Oil Company or of any such other trust, association, or corporation.

It is further ordered, That the respondent, Royal Duke Oil Company, within sixty (60) days from the date of the service of this order, file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which it has complied with the order of the Commission herein above set forth.

UNITED WOOLEN MILLS OF WASHINGTON.

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JACK BERNSTEIN, DOING BUSINESS AS UNITED
WOOLEN MILLS OF WASHINGTON.