

Complaint.

FEDERAL TRADE COMMISSION

v.

JACK BERNSTEIN, DOING BUSINESS AS UNITED
WOOLEN MILLS OF WASHINGTON.COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 926—May 15, 1923.

SYLLABUS.

Where an individual engaged at Washington in the manufacture and sale of men's clothing, but neither owning, operating, nor interested in any mill or mills manufacturing woolen cloth, and with no direct connection therewith,

(a) Adopted and used, as a trade name for one of his stores, the name "United Woolen Mills of Washington"; and

(b) Advertised that he had direct mill connection;

With a tendency and capacity to mislead and deceive the purchasing public into the belief that in buying of him it was dealing with a chain of stores and was buying directly from the manufacturer of the cloth, and saving jobbers' and middlemen's profits; and thereby to secure their patronage:

Held, That such misleading adoption and use of trade name, and such false and misleading advertising, under the circumstances set forth, constituted unfair methods of competition.

COMPLAINT.

Acting in the public interest pursuant to 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," the Federal Trade Commission charges that Jack Bernstein, doing business as United Woolen Mills of Washington, hereinafter referred to as respondent, has been, and is, using unfair methods of competition in commerce, in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Jack Bernstein, is now, and for the past seven years has been, engaged in the business of manufacturing and selling men's clothing under his own name at 814 F Street NW., in the city of Washington and District of Columbia. Some time during the year 1921 respondent opened another store at 816 F Street NW., under the name of United Woolen Mills of Washington, where he conducted a business similar to that hereinbefore mentioned. In the conduct of the two businesses hereinbefore described, respondent is, and has been, in competition with other persons, partnerships, and corporations engaged in similar business in the District of Columbia.

PAR. 2. Under the name of United Woolen Mills of Washington, respondent has advertised, during the year last past, in the news-

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papers of general circulation throughout the District of Columbia to the effect respondent was a manufacturer of cloth from which it made custom-made clothes and that respondent had direct mill connections, when as a matter of fact respondent neither owned, operated, nor had any interest in any woolen mill.

PAR. 3. The use by respondent of the trade name "United Woolen Mills of Washington" is calculated to and has the capacity and tendency to mislead and deceive the purchasing public into the belief that respondent owns and operates, or has an interest in, mills which manufacture the woollens from which respondent's clothing is made, and that persons buying from respondent are buying directly from the manufacturer of the cloth, thereby saving the profits of middlemen, etc., when as a matter of fact respondent neither owns, operates, nor has any interest in, any mill manufacturing woolen cloth.

PAR. 4. Among other concerns in competition with the respondent are the "United Woolen Mills," a nationally known corporation engaged in the same business as respondent, organized and existing under the laws of the State of West Virginia, and which concern has been engaged in said business for a great number of years and owns and operates many branch stores. By reason of the above, the use by the respondent of the name "United Woolen Mills of Washington" is calculated to and has the capacity and tendency to mislead and deceive the purchasing public into the belief that they are dealing with the United Woolen Mills, a West Virginia corporation.

The above alleged acts are each and all to the prejudice of the public and of respondent's competitors, and constitute unfair methods 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, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission issued and served its complaint upon the respondent, Jack Bernstein, doing business under the name of "United Woolen Mills of Washington," charging him with violation of Section 5 of said Act.

Respondent having entered his appearance and filed his answer herein, together with a stipulation as to the facts in support of the allegations of said complaint, agreeing among other things that

the Commission may proceed to make its findings, conclusions, and order without further notice of proceedings, and this matter having come regularly on to be heard and having been duly considered, the Commission, being fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Jack Bernstein, is now, and for several years last past has been, engaged in the business of manufacturing and selling men's clothing under his own name at 814 F Street NW., in the city of Washington, District of Columbia. During the year 1921 respondent opened another store under the name of "United Woolen Mills of Washington," where he conducts a business similar to the one hereinbefore mentioned. In the conduct of the two such businesses, respondent is and has been in competition with other persons, partnerships, and corporations, similarly engaged in business in the District of Columbia who do not use the word "Mills" as a part of their trade name.

PAR. 2. Respondent does not now own, operate, or have an interest, nor has he ever owned, operated, or had an interest in any mill or mills manufacturing woolen cloth, and the use by respondent of the trade name "United Woolen Mills of Washington" is false and misleading and has both the tendency and capacity to mislead and deceive the purchasing public of the city of Washington, District of Columbia, into the belief that respondent owns, operates, or has an interest in or is connected with a mill or mills manufacturing woolen cloth, and the use of the said trade name has a further tendency and capacity to induce the general purchasing public of the city of Washington, District of Columbia, to purchase the clothing tailored by respondent under the belief that by buying from respondent it is buying direct from the manufacturer of the cloth from which the clothing is made, thereby saving the profits of certain middlemen and jobbers.

PAR. 3. Respondent, on November 15, 1921, advertised in the Washington Herald, a newspaper of general circulation throughout the District of Columbia, to the effect that said respondent had "direct mill connection," when in truth and in fact respondent has never had, nor has he now, direct connection with any mill or mills manufacturing woolen cloth, and the statements contained in the said advertisements had the tendency and capacity to mislead and deceive the general purchasing public into the belief that respondent had "direct mill connection" and to induce it to purchase said goods of respondent upon such belief so created.

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PAR. 4. The use by respondent of the name "United Woolen Mills of Washington" has the tendency and capacity to mislead and deceive the purchasing public of the city of Washington, District of Columbia, into the belief that by purchasing from respondent it is dealing with one of a chain consisting of two or more stores engaged in the same business and under the same general ownership and control, when in truth and in fact respondent has not now, nor has he had, any connection with any chain of stores under the same management and control.

CONCLUSION.

The use by respondent of the name "United Woolen Mills of Washington," under the circumstances above set out, is an unfair method of competition within the meaning 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 complaint of the Commission, the answer thereto, and a stipulation as to the facts filed herein, the Commission having made its findings as to the facts and its conclusion that the respondent has violated 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,"

It is now therefore ordered, That the respondent, Jack Bernstein, doing business under the name and style of "United Woolen Mills of Washington," do cease and desist from using the word "Mills" as a part of the firm name or style of business in any manner whatsoever and/or advertising, representing, or indicating that he owns, operates, or has a connection with a mill manufacturing woolen cloth unless or until as a matter of fact respondent owns or operates such mill.

It is further ordered, That respondent shall, within sixty (60) days after the date of the service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which this order has been conformed to and complied with.

G. F. HEMLER.

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