

Complaint.

FEDERAL TRADE COMMISSION

v.

G. F. HEMLER.

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

Docket 1001—May 15, 1923.

SYLLABUS.

Where it had been long known that cigars manufactured at Tampa, Fla., were largely composed of tobacco imported from Havana, Cuba, and such cigars had come to be widely and favorably known and generally referred to as "Tampa Cigars"; and thereafter an individual engaged elsewhere in the manufacture and sale of cigars made from other than Havana tobacco, placed on certain brands of his cigars bands bearing the words "Tampa, Florida," and on the paper lining of the boxes containing the same, the words "All Havana Hand Made," with the effect of misleading and deceiving a substantial part of the purchasing public and to the injury of competing manufacturers of genuine Tampa cigars who so labeled, branded and advertised their product:

Held, That such misbranding and mislabeling, under the circumstances set forth, constituted an unfair method 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 G. F. Hemler, sometimes doing business under the name and style of The Star Cigar Company, hereinafter referred to as the 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 is engaged at McSherrystown, in the State of Pennsylvania, in the business of manufacturing and selling cigars, and causes such cigars when sold to be transported from the State of Pennsylvania through and into other States of the United States to the purchasers thereof, and carries on said business in direct active competition with other individuals, partnerships, and corporations similarly engaged.

PAR. 2. In the course of said business carried on by him, as aforesaid, respondent has made a practice of placing on certain brands of cigars manufactured by him at McSherrystown, in the State of Pennsylvania, bands bearing the words "Tampa Florida," and on the paper lining of the boxes containing said cigars has placed the words "All Havana Hand Made." Cigars have for many years been manufactured in the city of Tampa, Florida, and in the territory immedi-

Order.

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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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Complaint.