

Complaint.

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FEDERAL TRADE COMMISSION

v.

A. MORRISON AND L. MORRISON, PARTNERS, TRADING
AS MORRISON FOUNTAIN PEN COMPANY.COMPLAINT, FINDINGS AND ORDER IN THE MATTER OF THE ALLEGED
VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER
26, 1914.

Docket 1002—February 8, 1924.

SYLLABUS.

Where a firm engaged in the manufacture and sale of fountain pens, labeled pens, which usually retailed at two dollars each, and which were sold by them at \$12 a dozen to jobbers and were resold by said jobbers to retailers at from \$15 to \$18 a dozen, " * * * 14K gold mounted self-filling, \$10," with the effect of enabling retailers to defraud the purchasing public by representing said article as being of high grade and reasonably worth said exaggerated and fictitious prices, and of misleading and deceiving said public by inducing the purchase of said articles in the erroneous belief that said pretended prices were their usual prices, and with the intent so to do:

Held, That such mislabeling, or misrepresentation of price, under the circumstances set forth, constituted an unfair method of competition.

Mr. Alfred M. Craven for the Commission.

Mr. Joseph Strauss of New York City, for respondents.

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 A. Morrison and L. Morrison, partners, trading as the Morrison Fountain Pen Co., have been and are 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. Respondents, A. Morrison and L. Morrison are, and at the times hereinafter mentioned were, partners, trading under the name and style of Morrison Fountain Pen Co., and having their office and usual place of business in the city of New York, State of New York. They are engaged in the business of manufacturing fountain pens and pencils and the sale thereof to jobbers and retailers throughout the United States, and causing such articles so manufactured and sold by them to be transported to the purchasers thereof from their said place of business in the State of

New York through and into various states of the United States, in direct active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. In the course and conduct of their business as described in paragraph 1 herein, respondents sell, and for more than one year last past have sold, pencils and fountain pens manufactured by them, upon which they place labels conspicuously displaying excessive proposed resale prices which prices are not the real or actual retail prices at which such articles are resold, or are intended by the respondents, or their vendees, to be resold to the purchasing public. Said prices marked upon the articles as aforesaid are false and fictitious prices far in excess of the true values or usual retail selling prices of the articles and are placed upon such articles by the respondents with the intent and purpose of misleading and deceiving the purchasing public as to the true value and usual selling prices of said articles.

PAR. 3. The aforesaid resale prices placed on said articles enable retail dealers purchasing from respondents to defraud the purchasing public by representing that the said articles are of high grade and reasonably worth the false and fictitious prices marked thereon, and also have the tendency and capacity, in cases where the articles are offered for sale at the usual selling prices, which are substantially less than the marked prices, to mislead and deceive and do mislead and deceive the purchasing public by inducing buyers to purchase said articles in the erroneous belief that the marked prices are the usual selling prices.

PAR. 4. The above alleged acts and things done by respondents are all to the prejudice of the public and respondents' 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 a complaint upon the respondents A. Morrison and L. Morrison, partners doing business under the firm name and style of Morrison Fountain Pen Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said Act, and the respond-

Findings.

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ents having entered their appearance and filed their answer herein, hearings were had and evidence introduced on behalf of the Commission and the respondents before Edward M. Averill, an Examiner of the Federal Trade Commission theretofore duly appointed, and thereupon this proceeding came on for final hearing on briefs and oral argument, and the Commission having duly considered the record and being fully advised in the premises makes this its Findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondents A. Morrison and L. Morrison, are, and have been since the year 1918, partners doing business under the name and style of Morrison Fountain Pen Company, with their office and principal place of business in the City of New York, State of New York. They are, and have been engaged in the business of manufacturing fountain pens and pencils and selling same to jobbers and retailers thereof throughout the United States, and causing such articles so manufactured and sold by them to be transported to the purchasers thereof from their said place of business in the City of New York, through and into various States of the United States in direct competition with other persons, partnerships and corporations.

PAR. 2. The respondents in the course of their business described in paragraph 1, and for a period of two (2) years last past have manufactured and sold in interstate commerce a certain style or make of fountain pen upon which up to January 1, 1923, they placed a band or label as follows: "Morrison's No. 33 1/40—14K gold mounted self-filling \$10.00," and after January 1, 1923, the same label except that the figures "\$6.50" were substituted in lieu of "\$10.00."

PAR. 3. The respondents during the period of time mentioned in paragraph 2 sold the pens described in such paragraph in interstate commerce to jobbers at \$144.00 a gross, and said pens were in turn sold by such jobbers to retailers at prices varying from \$15.00 to \$18.00 per dozen, and sold to the purchasing public usually at the price of \$2.00 each, but occasionally the prices of \$2.50 and \$3.00 were obtained. The prices marked upon such pens by the respondents are false and fictitious prices far in excess of the usual retail selling prices, and were placed upon such articles by the respondents with the intent and purpose of misleading and deceiving the purchasing public as to the value and the usual selling prices of such pens.

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Order.

PAR. 4. The aforesaid resale prices placed on said articles enable retail dealers to defraud the purchasing public by representing that the said articles are of high grade and reasonably worth the false and fictitious prices marked thereon, and also have the tendency and capacity to mislead and deceive and do mislead and deceive the purchasing public by inducing buyers to purchase said articles in the erroneous belief that the marked prices are the usual selling prices.

CONCLUSION

That the practices of the respondents under the conditions and circumstances set forth in the foregoing Findings, are unfair methods of competition in 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 respondents, the testimony and evidence submitted, and the briefs and arguments of counsel, and the Commission having made its findings as to the facts, with its conclusion that the respondents 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 ordered, That the respondents, A. Morrison and L. Morrison do cease and desist from selling in interstate commerce fountain pens bearing upon them any band, label, or other mark indicating a false fictitious, exaggerated and misleading price, in excess of the price at which such pens are usually sold at retail.

It is further ordered, That the said respondents, A. Morrison and L. Morrison shall within thirty (30) days from the date of the service of this order file with the Commission a report in writing 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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FEDERAL TRADE COMMISSION DECISIONS.

Complaint.

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FEDERAL TRADE COMMISSION

v.

ALLIED GOLF COMPANY.