

A. GREENBARG SONS.

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

Docket 1079—February 16, 1924.

SYLLABUS.

Where a firm engaged in the manufacture of overalls and trousers under the "open shop" plan, and in the sale thereof, branded and labeled the same with their registered brand or trade name and with the words "Union Made," in conspicuous type, with the capacity and tendency to deceive and mislead a substantial portion of the purchasing public, who preferred garments manufactured in a union shop by union workmen, and to divert trade from accurately marked goods:

Held, That the sale of goods labeled as above set forth constituted an unfair method of competition.

Mr. Morgan J. Doyle for the Commission.

Mr. Max Aron, of Philadelphia, Pa., 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 Joseph Greenbarg, Ben Greenbarg and Eva Greenbarg, copartners, trading as King Overall Company, Atlantic Overall Company and A. Greenbarg Sons, and more particularly hereinafter described and hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce in violation of the provisions of Section 5 of the said Act, issues this complaint and states its charges in that respect as follows:

PARAGRAPH 1. Respondents, Joseph Greenbarg, Ben Greenbarg and Eva Greenbarg, copartners, trading as King Overall Company, Atlantic Overall Company and A. Greenbarg Sons, with their principal office and place of business in the city of Philadelphia, State of Pennsylvania, are now and have been for more than one year last

past engaged in the business of manufacturing and selling overalls and trousers in wholesale and retail quantities; that said overalls and trousers so manufactured and sold by respondents, as aforesaid, were transported by said respondents and/or were caused to be transported by said respondents from the State of Pennsylvania to and into the States of Delaware, New Jersey, and various other States; that is to say, in interstate commerce. In the course of their business respondents were at all times hereinafter mentioned and still are in competition with other individuals, firms, partnerships and corporations similarly engaged in interstate commerce.

PAR. 2. Respondents, in the course and conduct of their business, as described in paragraph 1 hereof, in the manufacture of their products, as aforesaid, employ artisans or workmen who are not members of nor affiliated with associations or organizations generally known, recognized and referred to as unions; that said respondents sell and transport in interstate commerce, as aforesaid, their merchandise consisting of men's overalls and trousers, to each of which said garments is attached a brand or label containing respondents' registered trade brand, trade name, and in conspicuous type the words "Union Made."

PAR. 3. That the said brands or labels so attached to the said overalls and trousers and so containing the words "Union Made," as aforesaid, are false, deceptive and misleading and are designed to and/or do deceive and mislead the purchasers or prospective purchasers into the belief that said overalls and trousers so manufactured, sold and transported by said respondents, as aforesaid, and so containing the said "Union Made" labels, as aforesaid, are "Union-Made" overalls or trousers; that is to say, overalls or trousers manufactured, produced or fabricated by workmen or artisans who are members of or affiliated with associations or organizations generally known, recognized and referred to as unions; when in truth and in fact said overalls and trousers so manufactured, sold and transported from State to State, in interstate commerce, as aforesaid, by said respondents, as aforesaid, are not "Union Made" overalls or trousers as was and is represented and pretended by said respondents and represented and pretended by said brands or labels, but said overalls and trousers are "non-Union-Made"; that is to say, that said overalls and trousers are manufactured and fabricated by workmen and artisans who are not members of nor affiliated with any association or organization generally known, recognized and referred to as a "Union."

Findings.

7 F. T. C.

PAR. 4. That the use by respondents on their product of the said brands or labels containing the words "Union Made" has the tendency and capacity to mislead and deceive and/or does mislead and deceive a substantial part of the purchasing public who prefer merchandise or garments fabricated by artisans or workmen who are members of or affiliated with associations or organizations generally known, recognized and referred to as "unions," into the belief that said product is or was fabricated by artisans or workmen who are members of or affiliated with associations or organizations generally known, recognized and referred to as "unions"; that the use of the said false and misleading brand or label by respondents, containing the words "Union Made," has the further tendency and capacity to divert trade from truthfully marked goods.

PAR. 5. That the above alleged acts and things done by respondents are all to the prejudice of the public, and of respondents' competitors, and constitute unfair methods of competition in commerce within the intent and meaning 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."

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 respondents, Joseph Greenbarg, Ben Greenbarg, and Eva Greenbarg, copartners trading as Atlantic Overall Company, King Overall Company, and A. Greenbarg Sons, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Respondents entered their appearances on the 23rd day of October, 1923, and made answer in writing to said complaint. Respondents on January 9, 1924, made, executed and filed an agreed statement of facts in which it is stipulated and agreed by respondents 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 upon 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, and the Federal Trade Commission being now fully advised in the premises makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondents, Joseph Greenbarg, Ben Greenbarg and Eva Greenbarg, are copartners trading as Atlantic Overall Company, King Overall Company, and A. Greenbarg Sons, with

their principal office and place of business in the city of Philadelphia, in the State of Pennsylvania. Respondents have been and still are engaged in the business of manufacturing and selling overalls and trousers in wholesale and retail quantities. The said overalls and trousers, when so manufactured and sold by respondents, were transported at the request of respondents, from the State of Pennsylvania to and into other States of the United States, to wit, Delaware, New Jersey, and various other States. In the course of their business respondents were, and still are, in competition with other individuals, firms, partnerships and corporations likewise engaged in the sale and distribution of overalls and trousers in commerce.

PAR. 2. Respondents, in the manufacture of their said products, operated an "open shop"—that is to say, in the operation of their factory they employed artisans or workmen without regard to whether such person so employed were members of or affiliated with a "union." A large number of persons so employed by respondents were not members of any "union." Respondents' products, to wit, overalls and trousers, were manufactured and fabricated by the persons and workmen so employed. To the overalls and trousers so manufactured and sold by respondents there were attached brands and labels containing respondents' registered brand or trade name and, in conspicuous type, the words "Union Made." After the overalls and trousers were so manufactured and labeled, they were sold and shipped by respondents, some of them being sold and shipped to other States, in interstate commerce.

PAR. 3. The generally known and accepted meaning of the words "Union Made," when placed upon any brand or label attached to overalls or trousers sold and transported in interstate commerce is, that such overalls or trousers so bearing the words "Union Made" were manufactured or fabricated in a "union" shop by workmen or artisans who are members of or affiliated with a "Labor Union." The words "Union Made," when used by respondents as aforesaid, have the capacity and tendency to induce prospective purchasers of the garments so bearing such words to believe that the garments are "Union Made" according to the generally accepted usage of the term "Union Made." The words "Union Made," when used as aforesaid, have the tendency and capacity to deceive and mislead a substantial portion of the purchasing public, who prefer garments fabricated by artisans or workmen who are members of and affiliated with such a "union," into the belief that the garments bearing such words were fabricated and manufactured in a "union" shop by "union" workmen or artisans.

Order.

7 F. T. C.

PAR. 4. The use by respondents, in the manner aforesaid, of the brands and labels containing the words "Union Made," has the tendency and capacity to divert trade from accurately marked goods.

CONCLUSION.

The practices of said respondents under the conditions described in the foregoing findings are unfair methods of competition in commerce and constitute a violation 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."

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 and agreed statement of facts filed herein, and the Commission having made its findings as to the facts and 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 now ordered, That the respondents, Joseph Greenbarg, Benjamin Greenbarg and Eva Greenbarg, copartners, trading as Atlantic Overall Company, King Overall Company and A. Greenbarg Sons, do cease and desist from directly or indirectly selling in commerce among the States of the United States, overalls or trousers with the words "Union Made" stamped, imprinted or placed upon such garments or upon labels or cards attached thereto, unless and until such overalls or trousers are in fact manufactured, made or fabricated in a "Union" shop, by persons who are members of a labor union.

It is further ordered, That the respondents, within sixty (60) days after date of the services upon them of copies of this order, shall 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 hereinbefore set forth.

UNITED STATES PRODUCTS CO. ET AL.

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Syllabus.

FEDERAL TRADE COMMISSION

v.

UNITED STATES PRODUCTS COMPANY, CHARLES C.
BUTTENFIELD, AND HARRY C. HAGMAIER.