

Complaint.

8 F. T. C.

IN THE MATTER OF
DAVID BERNSTEEN AND REPUBLIC PRODUCTS
COMPANY.

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

Docket 1093—July 24, 1924.

SYLLABUS.

Where a concern acquired through a receiver's sale the right to the trade name or brand "Paramount Pennsylvania Auto Oil," under which there had theretofore been sold an extensively advertised, well and favorably known automobile lubricating oil, together with the business concerned and trade name and good will thereof; and thereafter the former owner of said business, acting in behalf of a corporation managed and controlled by him, used a list of names of former customers turned over to him by said receiver for his use during the period of the receivership, to send to such customers circulars captioned "To Our Old Customers Only," inviting them to purchase an automobile lubricating oil therein designated as "Paramount Pennsylvania Automobile Oil"; with the capacity and tendency to mislead and deceive customers of the old business in reference to the identity or source of the oil so advertised and offered to them, and with the effect of enabling said corporation to sell said Paramount Pennsylvania Automobile Oil as and for the Paramount Pennsylvania Auto Oil of said concern, which was practically forced to discontinue its efforts to sell the same:

Held. That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. O. R. Stites for the Commission.

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 David Bernstein and Republic Products Company, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent Bernstein for some time prior and up to the incorporation of respondent Republic Products Company, as hereinafter set out, was engaged in the business of selling lubricating oils and allied commodities under the trade name and style Great Lakes Refining Company, and was also further engaged in the sale

of paints, and ingredients entering into the same, and allied products under the name and style Republic Paint and Lead Works. With regard to both said enterprises, respondent Bernstein had his principal place of business in the city of Cleveland, State of Ohio. He sold said products to purchasers located at points in various States of the United States and caused said products when so sold to be transported from his said principal place of business in the city of Cleveland, Ohio, into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of his said business enterprises said respondent was in competition with other individuals, partnerships and corporations similarly engaged in the sale of like products in interstate commerce. In the year 1921 certain creditors of respondent Bernstein procured the appointment by the District Court of the United States for the Northern District of Ohio, of a receiver for respondent Bernstein doing business under his aforesaid several trade names, and thereafter said receiver under due authorization by said court and for a good and sufficient consideration sold to the Klein Manufacturing Company, a corporation organized under the laws of the State of Ohio, with its principal place of business in the city of Cleveland, in said State, all of the property and assets belonging and appertaining to the business of said Bernstein done under the trade name and style Great Lakes Refining Company, and under the trade name and style Republic Paint and Lead Works, including the good will thereof. Upon said sale being consummated and completed, said Klein Manufacturing Company proceeded to continue aforesaid business enterprise of respondent Bernstein, and in the course thereof has ever since said time sold in interstate commerce the products formerly sold by said Bernstein under said trade names as hereinbefore referred to, in like manner as said Bernstein, before said receivership, had done. During the pendency of said receivership respondent Bernstein, together with others, caused to be incorporated respondent Republic Products Company, a corporation organized under the laws of the State of Ohio with its principal place of business in the city of Cleveland, in said State. Said Bernstein was one of the incorporators of respondent company and became and still is its secretary, in which capacity said Bernstein conducts and manages the business and affairs and dictates and directs the policies of respondent company. Ever since its said organization respondent company under the direction and control of respondent Bernstein, as above set out, has engaged in the sale of lubricating oils and other products to customers located at points in the various States of

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