

Complaint.

IN THE MATTER OF
SAMUEL SELIGSOHN.

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

Docket 1135—August 5, 1924.

SYLLABUS.

Where an individual engaged in the sale at retail of men's clothing which he purchased from manufacturers and resold at substantially prevailing retail prices for comparable clothing, made and featured such statements in advertising his said clothing as "Buy from the Maker Direct and Save the Big Difference in Price," "Mr. Seligsohn Manufactures his Own Clothes—Sells Them to you Direct at a Small Overhead Expense," with the capacity and tendency thereby to mislead and deceive the purchasing public into believing that in buying of him they were purchasing directly from the owner, controller or operator of a factory in which the clothing so offered for sale was made, and that they were thereby saving the profits of middlemen:

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

Mr. Alfred M. Craven for the Commission.

Sachs & Sachs, of Philadelphia, Pa., for respondent.

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 Samuel Seligsohn, hereinafter referred to as respondent, has been and is 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 is an individual with his place of business in the city of Philadelphia, State of Pennsylvania. He is, and at all times hereinafter mentioned has been engaged in the sale of men's clothing at retail to purchasers located at points in various States of the United States. He causes said clothing when so sold to be transported, from his said place of business in the city of Philadelphia, Pa., 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 aforesaid business respondent is in competition with other individuals, partnerships, and corporations similarly and otherwise engaged in the sale of clothing in interstate commerce and with the trade generally.

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PAR. 2. For more than a year last past in the course of his aforesaid business respondent has caused advertisements offering his said clothing for sale to be inserted in newspapers of general circulation in the United States or in various sections thereof, in which advertisements respondent has caused to be prominently displayed various false statements and representations to the effect that respondent manufactures the clothing which he offers for sale and sells the same direct to the consumer. Among said statements and representations are the following: "Buy From the Maker Direct and save the Big Difference in Price" and "Mr. Seligsohn manufactures his own clothes—sells them to you direct at a small overhead expense."

PAR. 3. Said false and misleading statements and representations, as used by respondent in the manner set out in paragraph 2 hereof, signify to and are understood by a substantial part of the public to mean that respondent is a manufacturer of clothing selling direct to the consuming public, whereas in truth and fact respondent is not such a manufacturer but purchases the clothing in which he deals from others who manufacture same and resells said clothing to the consuming public at a profit and at prices substantially the same as the retail prices prevalent in the trade for clothing of kind and quality similar to the clothing sold by respondent. Said false and misleading statements have the capacity and tendency to mislead and deceive many among the consuming public to believe that respondent owns, controls or operates a clothing factory in which the manufactures the clothing which he offers for sale and that persons buying from respondent are buying direct from the manufacturer of said clothing thus saving the profits of middlemen, and to induce many of the consuming public to purchase the clothing of respondent in that belief.

PAR. 4. There are a number of manufacturers of clothing in competition with respondent in the sale of clothing in interstate commerce who sell the clothing which they manufacture direct to the consuming public. There are also a number of retail dealers in competition with respondent who do not in any manner hold out that they manufacture the clothing which they sell.

PAR. 5. The above alleged acts and practices of respondent are all to the prejudice of the public and 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 on the 20th day of March, 1924, issued and served its complaint upon your respondent, Samuel Seligsohn, charging him with unfair competition in violation of Section 5 of said Act.

The respondent having entered his appearance, and an agreed statement as to the facts having been made and filed, in which it is stipulated that the facts therein recited may be taken in lieu of the testimony in this proceeding, and that upon such facts the Commission may proceed further to make its report in said proceeding, stating its findings as to the facts and conclusion and enter its order disposing of the proceeding.

Thereupon this proceeding came on for final hearing without oral argument and the Commission having duly considered the record and having now been fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent is now and was at all times hereinafter mentioned engaged at the city of Philadelphia, State of Pennsylvania, in the sale of men's clothing at retail to purchasers located at points in various States of the United States. He causes and has caused said clothing when so sold to be transported from his said place of business in the city of Philadelphia, Pa., 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 aforesaid business respondent is in competition with other individuals, partnerships and corporations also engaged in the sale of clothing throughout the various States of the United States.

PAR. 2. For more than a year last past in the course and conduct of his aforesaid business, respondent has caused advertisements offering his said clothing for sale to be inserted in newspapers of general circulation in the United States, or in various sections thereof, in which advertisements respondent has caused to be prominently displayed various deceptive and misleading statements and representations to the effect that respondent manufactures the clothing which he offers for sale and sells the same direct to the purchaser. Among said statements and representations are the following: "Buy

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From the Maker Direct and save the Big Difference in Price" and "Mr. Seligsohn manufactures his own clothes—sells them to you direct at a small overhead expense."

PAR. 3. Said deceptive and misleading statements and misrepresentations as used by respondent in the manner set out in paragraph 2 hereof signify to and are understood by the public to mean that respondent is a manufacturer of clothing, selling some direct to the purchasing public. In truth and in fact, respondent is not now and was not at the time of making said representations and advertisements a manufacturer, but is and has been a retail clothing merchant purchasing his stock from manufacturers and selling clothing to the purchasing public at a profit and at prices substantially the same as the retail prices prevalent in the retail trade for clothing of like kind and quality. Said deceptive and misleading statements and advertisements have the capacity and tendency to mislead and deceive the purchasing public into the belief that respondent owns, controls, or operates a factory in which he manufactures the clothing which he offers for sale and that persons buying from respondent are buying direct from the manufacturer, thus saving the profits of middlemen.

PAR. 4. There are a number of manufacturers of clothing engaged in competition with respondent in the sale of clothing throughout the various States of the United States, who sell the clothing which they manufacture direct to the public. There are also a number of retail dealers in competition with respondent who do not in any manner hold out that they manufacture the clothing which they sell.

CONCLUSION.

That the practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods of competition in interstate commerce and constitute a violation 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and the agreed statement as to the facts made and filed herein, in lieu of the testimony and evidence, and the Commission having made its findings as to the facts, and its conclusion that the respondent has violated

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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 respondent, Samuel Seligsohn, do cease and desist from advertising or representing in any manner that he is a manufacturer of the articles offered by him for sale, unless and until respondent does actually manufacture such articles.

It is further ordered, That the respondent, Samuel Seligsohn, shall within sixty days after the service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinbefore set forth.

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IN THE MATTER OF
THE PROCTER & GAMBLE COMPANY AND THE PROCTER & GAMBLE DISTRIBUTING COMPANY.

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

Docket 852—August 6, 1924.

SYLLABUS.

Where a corporation and its sales subsidiary, engaged in the manufacture and sale of a certain soap, soap powder, and soap chips containing no naphtha but incorporating a petroleum distillate consisting of kerosene, which upon manufacture amounted to one half of one per cent by weight and one per cent, respectively, in the case of the two first named products, but was subject to complete or partial loss by volatilization subsequent to manufacture and prior to sale in the normal course of trade to the consuming public, and was not present in said three products in an amount sufficient substantially to enhance their value and cleansing power upon their use by such public,

- (a) Designated said products respectively "P. & G. The White Naphtha Soap," "Star Naphtha Washing Powder" and "P. & G. The White Naphtha Soap Chips" and so conspicuously branded the same and labeled the wrappers and containers thereof;
- (b) Made such statements in advertising the same on a nation wide scale as "It moves dirt in a flash because it contains naphtha, which cleanses at a touch," " * * * Saves your time and strength because the naphtha in it supplies the energy your arms must supply when you use ordinary soap," " * * * Contains naphtha which doubles its cleansing power" and (upon the container of said powder) "because of the naphtha in it, Star Naphtha Washing Powder will do better work in luke warm water than other soap will do in boiling water," etc.:

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

Mr. William C. Reeves for the Commission.

Mr. Frank F. Dinsmore and *Mr. Charles Sawyer* of Dinsmore, Shohl & Sawyer of Cincinnati, Ohio, for respondents.

COMPLAINT.¹

The Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that The Procter & Gamble Company and The Procter & Gamble Distributing Company, hereinafter referred to as the respondents, have been and are using unfair methods of competition in violation of 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

¹As amended January 11, 1923.