

Complaint.

IN THE MATTER OF

EDWIN E. ELLIS COMPANY, INCORPORATED.

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

Docket 1016—August 6, 1924.

SYLLABUS.

Where a corporation engaged in the printing of social and business stationery through the use of a process which involved the application to type printing while the ink was still wet of a chemical followed by a subsequent baking and resulted in a raised letter effect resembling in appearance the impression made from engraved plates, commonly and long known and understood as "engraving," and in the sale thereof, designated said stationery offered and sold by it in its advertising and advertising matter, order blanks, bill heads, etc., as "Process Engraved" or "Process Engraving," with the capacity and tendency to mislead and deceive the purchaser into believing said products to be the results of genuine engraving: *Held*, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. William C. Reeves for the Commission.

Mr. Royal M. Bates of Jamestown, N. Y., 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 Edwin E. Ellis Company, Incorporated, more particularly hereinafter described and hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act, and issues this complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Edwin E. Ellis Company, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business in the city of Buffalo, in said State. Respondent is engaged in the business of printing and selling stationery for social and business purposes, including invitations, announcements, calling cards, letter heads, envelopes and social and business stationery, and causes said stationery so produced when sold, to be transported from its place of business in the State of New York to purchasers located in other States of the United States, and there is now, and was at all times hereinafter mentioned, a constant

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current of trade and commerce in said product manufactured by said respondent between and among the various States of the United States. In the course and conduct of its said business, respondent continuously has been, and is now, in competition with other individuals, partnerships and corporations similarly engaged in commerce among the States of the United States.

PAR. 2. Respondent, in the course of its business as described in paragraph 1 hereof, prints invitations, announcements, calling cards, letter heads, envelopes and social and business stationery by a process which it designates as "Process Engraving," although such process is not the process used in engraving, and in no way includes the process of producing an impression on such stationery from engraved plates; that the product manufactured and sold in commerce by respondent is the result of the use of a chemical in powdered form which is applied to such printing from type while the ink is still wet; this chemical adheres to the wet ink and in passing through a baking process, the heat causes it to fuse and present a raised letter effect so as to resemble in appearance or simulate, the impression made from engraved plates, known as engraving.

PAR. 3. The word "engraving," particularly when applied to invitations, announcements, calling cards, letter heads, envelopes and social and business stationery, has been well known and understood by the public for a long period of years to include only such products as result from the impression made from an engraved plate in which has been stamped, cut or carved letters, sketches, designs or inscriptions from which the reproduction is made; that the process used by respondent as set out in paragraph 2 hereof, so simulates engraving in appearance and finish that the same is calculated and has the capacity and tendency to mislead and deceive the purchaser into the erroneous belief that such product was the result of an impression made from an engraved plate commonly known to the public as engraving.

PAR. 4. That respondent as a means of inducing the public to purchase invitations, announcements, calling cards, letter heads, envelopes and social and business stationery, causes advertisements to be inserted in trade publications having general circulation through the several States of the United States and distributes circulars and other advertising matter to customers and prospective customers in various States of the United States in which advertisements and advertising matter respondent describes his product as "Process Engraving"; that the words "process" and "engraving," when so used by the said respondent in conjunction each with the other, and when such products are finished to resemble engraving,

ing in appearance and so printed as to simulate engraving in relief, were and are intended by respondent, and are calculated and have the capacity and tendency to mislead and deceive the purchaser into the erroneous belief that such products were the result of an impression made from an engraved plate commonly known to the public as engraving.

PAR. 5. There are a considerable number of competitors of respondent who are manufacturing engraved invitations, announcements, calling cards, letterheads, envelopes and social and business stationery, which said products are made from engraved plates in which have been stamped, cut or carved letters, sketches, designs or inscriptions from which the reproduction is made, which is known to the trade and consuming public as engraving, which said products are sold in competition with the products of respondent.

PAR. 6. That the above alleged acts and things done by respondent are all to the prejudice of the public, and of respondent's 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, 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 respondent, Edwin E. Ellis Company, Incorporated, charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

The respondent having filed its answer, the testimony of witnesses was taken and evidence received in support of the charges stated in the complaint before an examiner of the Federal Trade Commission theretofore duly appointed, and the respondent having waived its right to introduce testimony in its own behalf, thereupon the trial examiner made his report upon the facts, to which report no exceptions have been filed either by respondent or counsel for the Commission.

Thereupon the matter came on for final hearing before the Commission, upon the complaint, the answer thereto, the evidence adduced and the report of the trial examiner; and the Commission having duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

Findings.

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FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent, Edwin E. Ellis Company, Inc., is a corporation organized under the laws of the State of New York on or about the 8th day of January in the year 1921. Its principal place of business and executive offices are located in the city of Buffalo, in the State of New York.

PAR. 2. The respondent is now and has been since the date of its organization engaged in the business of printing and selling stationery for social and business purposes, including invitations, announcements, calling cards, letterheads, envelopes and other items of social and business stationery, and said respondent causes said stationery so produced, when sold, to be transported from its place of business in the State of New York to purchasers located in other States of the United States. Its said business has been and is being conducted by respondent in direct, active competition with other persons, partnerships and corporations likewise engaged in the business of printing and selling stationery for social and business purposes in interstate commerce, and particularly with individuals, firms, partnerships and corporations engaged in the business of engraving and selling engraved stationery for social and business purposes between and among the various States of the United States.

PAR. 3. The respondent, Edwin E. Ellis Company, Inc., in the course and conduct of its business as described in paragraph 2 hereof, prints invitations, announcements, calling cards, letterheads, envelopes and social and business stationery, by a process which, previous to March 15, 1924, it designated as "Process Engraving," although such process is not the process used in engraving, and in no way includes the process of producing an impression on paper from engraved plates; that the product manufactured and sold in commerce by respondent is the result of the use of a chemical in powdered form which is applied to type printing while the ink is still wet; this chemical adheres to the wet ink and in passing through a baking process the heat causes it to fuse and present a raised letter effect, so as to resemble in appearance or simulate the impression made from engraved plates, known as "Engraving."

PAR. 4. Respondent, in the course and conduct of its business as described in paragraphs 2 and 3 herein, has caused advertisements to be inserted in trade publications having general circulation throughout the several States of the United States, and has published circulars and other advertising matter, and has caused the same to be distributed to customers and prospective customers in the several States of the United States, in which advertisements and

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advertising matter respondent has designated stationery produced and sold by it and printed from type as described in paragraph 3 herein, as "Process Engraved," or "Process Engraving," and the said respondent, on its letterheads, billheads, order blanks and invoices, used in the course and conduct of its said business and circulated in commerce, has also described its product as "Process Engraving" and its business as "Process Engravers."

PAR. 5. The word "Engraving," particularly when applied to invitations, announcements, calling cards, letterheads, envelopes and other items of social and business stationery, has been well known and understood by the public for a very long period of years to include only such products as result from the impression made from an engraved plate on which has been stamped, cut or carved, letters, sketches, designs or inscriptions from which the reproduction is made.

PAR. 6. The use by respondent of the terms "Process Engraved," or "Process Engraving," or the words "Process" and "Engraved" or "Engraving," used in conjunction each with the other in designating stationery sold by it and produced by the process described in paragraph 3 herein, finished to resemble engraved stationery in appearance and so printed as to simulate engraving in relief, has the capacity and tendency to mislead and deceive the purchaser into the erroneous belief that such products were the result of an impression made from an engraved plate, commonly known to the public as "Engraving."

CONCLUSION.

That the practices of the respondent, as set forth in the foregoing findings as to the facts, are, in the circumstances therein set forth, unfair methods of competition in interstate commerce, in violation of 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."

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 respondent, the testimony and the evidence, and the trial examiner's report upon the facts, and 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,"

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Now, therefore, it is ordered, that the respondent, Edwin E. Ellis Company, Incorporated, its officers, directors, representatives, agents and employees, cease and desist—

From using the words "Process Engraved" or "Process Engraving" in the business, signs or advertisements and advertising matter, [in connection with the] offer for sale or sale of stationery and as descriptive of such stationery, the words, letters, figures and designs upon which have not produced from metal plates into which such words, letters and designs have been cut.

It is further ordered, that the respondent shall file with the Federal Trade Commission, within ninety days from the date of this order, its report in writing, stating the manner and form in which this order has been conformed to, and shall attach to such report two copies of all circulars, advertisements, devices or labels distributed or displayed to the public by the respondent in connection with the sale of its product in interstate commerce subsequent to the date of this order.

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IN THE MATTER OF
H. F. FLIEGELMAN.

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

Docket 1139—August 6, 1924.

SYLLABUS.

Where an individual engaged in the sale at retail of furniture which he purchased from manufacturers and resold at substantially prevailing retail prices for comparable furniture, made and featured the statement and slogan "Direct from Factory to You" in advertising his said furniture, with the capacity and tendency thereby to mislead and deceive many among 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 furniture so offered for sale was made, and in so doing were saving the profits of middlemen, and to induce them to purchase such furniture in that belief:

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

Mr. Alfred M. Craven for the Commission.

Sundheim, Folz & Kun 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 H. F. Fliegelman, 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 has been engaged in the sale of furniture at retail to purchasers located at points in various States of the United States. He causes said furniture 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 furniture in interstate commerce and with the trade generally.

PAR. 2. For more than a year last past in the course of his aforesaid business, respondent has caused advertisements offering his