

Complaint.

IN THE MATTER OF
WALDES & 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 947—January 3, 1925.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of snap fasteners, exchanged its own fasteners for those of its competitors and resold the fasteners so acquired at prices far below regular prices therefor; with the result that competitors suffered in loss of customers and in reputation of their goods, had their markets generally demoralized, and were put to heavy expense:

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

Mr. Robert O. Brownell for the Commission.

Mr. Charles S. Moore of Taylor, Caskey & Moore, of Washington, D. C., 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 Waldes & Company, Inc., 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 states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Waldes & Company, Inc., is a corporation organized under the laws of the State of New York in 1919, with an outstanding capitalization of \$1,000,000, with its principal office and place of business in Long Island City in that State. It is, and at all times hereinafter mentioned, has been engaged in the manufacture and sale of dress snap fasteners; and in the conduct of its business causes said snap fasteners made and sold by it to be transported to purchasers thereof from the State of New York through and into other States of the United States. In the course of said business respondent continuously has been and now is in competition with other persons, partnerships and corporations engaged in a similar business in interstate commerce.

PAR. 2. Said respondent was organized by one Jinrich Waldes, a native of Czechoslovakia, who is the principal stockholder of

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Waldes & Company, of Prague, Czechoslovakia, which concern is also engaged in the business of manufacturing snap fasteners, and which concern began the sale of said snap fasteners in the United States of America in 1911 under the brands "Kohinoor" and "Revol." Said Waldes & Company of Prague, Czechoslovakia, continued the sale of its snap fasteners in the United States of America until the outbreak of the World War at which time the importation of products from Austria was discontinued by the American trade. At that time the said Waldes & Company of Prague, Czechoslovakia, sold about 80 per cent of the snap fasteners that were sold in the United States of America, there being very few American manufacturers of that product. During the World War, from 1914 to 1919, many American corporations were organized and began the manufacture and sale of snap fasteners in the United States.

PAR. 3. After the World War was over and the Armistice had been signed, the said Jinrich Waldes came to the United States and organized the respondent corporation which erected a factory in Long Island City, importing machinery to be used therein from Prague, and began on a large scale the manufacture and sale of snap fasteners under the brands of "Kohinoor," "Revol" and "Twinity," in competition with the American concerns which had been organized during the World War as aforesaid.

PAR. 4. Upon or shortly after said respondent began to engage in its business of manufacturing and selling snap fasteners as set forth in the foregoing paragraphs in the year 1919, with the intent, purpose and effect of driving the American manufacturers of snap fasteners from the competitive field, and to create a monopoly in the manufacture and sale of dress snap fasteners formerly enjoyed by Waldes & Company of Prague, Czechoslovakia, the respondent adopted and put into effect the following practices:

(a) The respondent has bought up large quantities of snap fasteners manufactured by competitors which it found on the shelves of the larger jobbers of snap fasteners, as well as large retail department stores, and exchanged therefor its own products, thereby securing the business of such jobbers and department stores.

(b) The respondent, after having purchased said snap fasteners manufactured by competitors from jobbers and department stores as aforesaid, caused said snap fasteners to be transported to other cities and States where they were sold by respondent to other jobbers and department stores at extremely low prices, in some instances below cost to the respondent, thus enabling said jobbers and department stores to sell the snap

fasteners so purchased to the consuming trade at extremely low prices, and thus compelling the jobbers and department stores which had purchased their supplies of snap fasteners direct from competitors of respondent to sell their snap fasteners to the consuming trade at a loss or to discount the purchase and sale of said snap fasteners manufactured by respondent's competitors with the result that many of the jobber and department store customers of said competitors discontinued purchasing snap fasteners from said competitors and began to purchase said respondent's snap fasteners.

(c) Said respondent reduced its prices on certain brands of its own snap fasteners from time to time to certain large jobbers and department stores, regardless of the cost to respondent of manufacture and transportation thereof, said prices being first quoted just below competitors' quoted prices on similar brands, and when said competitors met respondent's prices the respondent quoted prices lower and still lower until it eventually secured the business of said large jobbers and retail department stores. The said respondent in carrying out this practice sold certain brands of its snap fasteners below cost of production.

PAR. 5. The above alleged acts and things done by 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, the Federal Trade Commission issued and served its complaint as required by law upon the respondent, Walde & Company, Inc., charging said respondent with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered its appearance and filed its answer to said complaint, hearings were held and evidence introduced in support of the complaint and in opposition thereto, and briefs were filed and oral argument made by counsel for the respondent and for the Commission.

And thereupon this proceeding came on for final hearing, and the Commission having duly considered the record and being fully ad-

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vised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Waldes & Company, Inc., is a corporation organized under the laws of the State of New York in 1919, and has its principal office and place of business in Long Island City in the same State. It is, and at all times hereinafter mentioned has been, engaged in the manufacture, sale and distribution of dress snap fasteners. In the regular course and conduct of its said business it causes the said dress fasteners to be transported from its said place of business in the State of New York into and through other States of the United States to the purchasers thereof. In the course of its said business, respondent continuously has been and now is in competition with other persons, partnerships, and corporations likewise engaged in selling dress fasteners in interstate commerce.

PAR. 2. The sale of the modern type of snap-fastener was begun on a large scale in the United States in the year 1911 by two companies, Waldes & Company—a partnership located in Prague, Czechoslovakia—and a German concern. At the outbreak of the World War in 1914, these two companies were the only ones selling snap-fasteners in the United States, and Waldes & Company was selling about 80 per cent of the entire amount.

As a result of war conditions, both Waldes & Company and the German concern were cut off from their markets in the United States, and there were a number of American companies organized to manufacture and sell snap-fasteners. They were soon supplying more than the number of snaps that the users thereof needed. These snaps were of all qualities, some good, serviceable articles and some of poorer design.

PAR. 3. In 1919, Waldes & Company of Prague, Czechoslovakia, procured the organization of the respondent corporation, Waldes & Company, Inc., which began the manufacture and sale of the same styles and designs of fasteners which had been made and sold by the parent company. It found that the market was stocked with the goods of the American companies which had sprung up during the war years, and was unable to sell its snaps as fast as it could turn them out. To relieve this situation it did the following acts and things:

(a) Offered to exchange and did exchange with a substantial number of jobbers, its snap-fasteners for those of its competitors which were in the jobbers' hands, such exchanges being made on different terms, sometimes gross for gross. Respondent

instructed its salesmen not to make such exchanges with all the jobbers but only with the leaders in the trade. The respondent lost a considerable amount of money in these deals with jobbers, and accumulated a stock of competitors' fasteners.

(b) Offered to sell and did sell the stock of competitors' snaps so accumulated to customers of such competitors, at prices which were far below the regular prices at which its competitors sold to dealers. These sales were made for the double purpose of getting rid of the snap-fasteners and demoralizing the market of competitors, and salesmen were instructed to offer competitors snaps in such a way and at such places and prices as were best calculated to injure competitors.

PAR. 4. As a result of the acts and things done by respondent as hereinabove set out, competitors of respondent lost some of their best customers and the reputation of their goods among the trade suffered by reason of the extremely low prices quoted by respondent and by those to whom it sold such goods. The markets of such competitors were greatly demoralized thereby and they were put to great expense to replace their goods with those jobbers with whom respondent had made exchanges as set out in paragraph 3 herein.

PAR. 5. There is no trade practice among manufacturers of snap-fasteners in the United States according to which they exchange their goods for those of competitors; on the contrary, competitors of respondent generally refuse to make such exchanges.

PAR. 6. The acts and practices of respondent, as set out herein, have the capacity and tendency to hinder and embarrass the business of competitors, and hence to hinder and suppress open and fair competition, and eventually to drive out competition and create a monopoly in respondent.

PAR. 7. The charge in the complaint that respondent sold its own fasteners below cost of production is not supported by proof.

CONCLUSION.

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods of competition in 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, the answer of

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vised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Waldes & Company, Inc., is a corporation organized under the laws of the State of New York in 1919, and has its principal office and place of business in Long Island City in the same State. It is, and at all times hereinafter mentioned has been, engaged in the manufacture, sale and distribution of dress snap fasteners. In the regular course and conduct of its said business it causes the said dress fasteners to be transported from its said place of business in the State of New York into and through other States of the United States to the purchasers thereof. In the course of its said business, respondent continuously has been and now is in competition with other persons, partnerships, and corporations likewise engaged in selling dress fasteners in interstate commerce.

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As a result of war conditions, both Waldes & Company and the German concern were cut off from their markets in the United States, and there were a number of American companies organized to manufacture and sell snap-fasteners. They were soon supplying more than the number of snaps that the users thereof needed. These snaps were of all qualities, some good, serviceable articles and some of poorer design.

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PAR. 4. As a result of the acts and things done by respondent as hereinabove set out, competitors of respondent lost some of their best customers and the reputation of their goods among the trade suffered by reason of the extremely low prices quoted by respondent and by those to whom it sold such goods. The markets of such competitors were greatly demoralized thereby and they were put to great expense to replace their goods with those jobbers with whom respondent had made exchanges as set out in paragraph 3 herein.

PAR. 5. There is no trade practice among manufacturers of snap-fasteners in the United States according to which they exchange their goods for those of competitors; on the contrary, competitors of respondent generally refuse to make such exchanges.

PAR. 6. The acts and practices of respondent, as set out herein, have the capacity and tendency to hinder and embarrass the business of competitors, and hence to hinder and suppress open and fair competition, and eventually to drive out competition and create a monopoly in respondent.

PAR. 7. The charge in the complaint that respondent sold its own fasteners below cost of production is not supported by proof.

CONCLUSION.

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods of competition in 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."

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FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Waldes & Company, Inc., is a corporation organized under the laws of the State of New York in 1919, and has its principal office and place of business in Long Island City in the same State. It is, and at all times hereinafter mentioned has been, engaged in the manufacture, sale and distribution of dress snap fasteners. In the regular course and conduct of its said business it causes the said dress fasteners to be transported from its said place of business in the State of New York into and through other States of the United States to the purchasers thereof. In the course of its said business, respondent continuously has been and now is in competition with other persons, partnerships, and corporations likewise engaged in selling dress fasteners in interstate commerce.

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As a result of war conditions, both Waldes & Company and the German concern were cut off from their markets in the United States, and there were a number of American companies organized to manufacture and sell snap-fasteners. They were soon supplying more than the number of snaps that the users thereof needed. These snaps were of all qualities, some good, serviceable articles and some of poorer design.

PAR. 3. In 1919, Waldes & Company of Prague, Czechoslovakia, procured the organization of the respondent corporation, Waldes & Company, Inc., which began the manufacture and sale of the same styles and designs of fasteners which had been made and sold by the parent company. It found that the market was stocked with the goods of the American companies which had sprung up during the war years, and was unable to sell its snaps as fast as it could turn them out. To relieve this situation it did the following acts and things:

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PAR. 4. As a result of the acts and things done by respondent as hereinabove set out, competitors of respondent lost some of their best customers and the reputation of their goods among the trade suffered by reason of the extremely low prices quoted by respondent and by those to whom it sold such goods. The markets of such competitors were greatly demoralized thereby and they were put to great expense to replace their goods with those jobbers with whom respondent had made exchanges as set out in paragraph 3 herein.

PAR. 5. There is no trade practice among manufacturers of snap-fasteners in the United States according to which they exchange their goods for those of competitors; on the contrary, competitors of respondent generally refuse to make such exchanges.

PAR. 6. The acts and practices of respondent, as set out herein, have the capacity and tendency to hinder and embarrass the business of competitors, and hence to hinder and suppress open and fair competition, and eventually to drive out competition and create a monopoly in respondent.

PAR. 7. The charge in the complaint that respondent sold its own fasteners below cost of production is not supported by proof.

CONCLUSION.

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods of competition in 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, the answer of

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respondent, the testimony and exhibits, and the arguments of counsel for the respective parties hereto, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated 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," therefore,

It is now ordered, That the respondent, Waldes & Company, Incorporated, its officers and directors, agents, representatives, and employees, do cease and desist:

1. From exchanging or offering to exchange with jobbers or retail dealers the snap fasteners made by respondent for other snap fasteners made by competitors of respondent; and

2. From selling or offering to sell snap fasteners made by competitors, now in respondent's possession, obtained by exchanges or by any other method, unless the offer to sell is accompanied by a statement clearly setting out the fact that the goods so offered are second-hand, and that any prices which may be quoted below the price at which such goods are sold by respondent's competitors are attributable to that fact.

It is further ordered, That the said respondent shall within thirty days after the date of service of this order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with the order of the Commission herein set forth.

Complaint.

IN THE MATTER OF
TOLEDO PIPE THREADING MACHINE COMPANY.

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

Docket 1018—January 13, 1925.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of threading, boring and cutting tools, and other similar products; in pursuance of a policy directed to the maintenance of definite resale prices on its products, which policy it defended, and observance of which it insisted upon in letters and circular bulletins to its dealer customers;

- (a) Required assurances from dealers generally that they would observe the resale prices which it suggested, under threat of discontinuance of further relations;
- (b) Made the giving of such assurances in connection with the disposal of stocks previously purchased, and in connection with those ordered, a condition precedent to further sales, or acceptance of such orders, respectively; and
- (c) Sought the cooperation of dealers in making effective its said resale price maintenance plan or policy, and in so doing
- (1) Sought the advice of dealers as to the location of a selling territorial division line for the stated purpose of eliminating price competition among them;
- (2) Manifested to them an intention to act upon all reports they sent in of variations from the resale discounts specified by it, by the elimination of the price cutters;
- (3) Informed them that price cutters reported who would not give assurance of adherence to the suggested resale discounts, had been or would be refused further sales; and
- (4) Employed its salesmen to investigate charges of price cutting by them and advised them thereof:

Held, That such a system of resale price maintenance, under the circumstances set forth, constituted an unfair method of competition.

Mr. Alfred M. Craven for the Commission.

Mr. George P. Hahn of Brown, Hahn & Sanger of Toledo, Ohio, 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