

Complaint.

8 F. T. C.

IN THE MATTER OF
ALFRED PEATS COMPANY.

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

Docket 883—February 3, 1925.

SYLLABUS.

Where a corporation engaged in the sale and distribution of a ready-mixed paint, the vehicle of which contained 36 per cent volatile content, and the pigment of which consisted of 55 per cent white lead and zinc oxide and 45 per cent of calcium carbonate and siliceous matter; made such statements in describing the same in its catalogues, pamphlets, and other trade literature as "exceptionally high grade paint * * * has never failed to give * * * the best satisfaction * * * unequaled for use where durability and high class finish are desired * * *," " * * * contains pure lead, pure zinc, and pure linseed oil, together with other raw materials * * * the result is the best paint that can be made— * * *," and guaranteed to " * * * wear longer, look better and cover more surface than any other paint on the market * * *," and used the last stated quoted matter also as a part of the labeling of such paint; with the effect of misleading and deceiving the trade and general public into believing the pigment content of such paint exclusive of necessary coloring matter to be composed principally of white lead and zinc oxide, and such paint to be the best and highest quality, grade and standard of paint for exterior use:

Held, That such false and misleading advertising and such mislabeling, under the circumstances set forth, constituted unfair methods of competition.

Mr. George E. Wallace for the Commission.

Mr. Victor Eltinge of Chicago, Ill., 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 the Alfred Peats Company, 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 is a corporation organized under the laws of the State of Illinois with its principal place of business in the city of Chicago, in said State. It was at all times hereinafter mentioned and still is engaged in the business of selling paints and painters' supplies to painters, painting contractors and dealers throughout the United States. Its method of doing business is

as follows: It sends catalogues, pamphlets and other literature describing, and setting forth the prices fixed by it for, the paints in which it deals, to customers and prospective customers throughout the United States. Upon receiving orders for paints through said means, respondent causes the paints so ordered to be shipped from its said place of business in the city of Chicago to said purchasers at points in various States of the United States. In the course and conduct of its said business, respondent is in competition with other individuals, partnerships and corporations similarly engaged in selling paints in interstate commerce, and with the trade generally.

PAR. 2. For more than one year last past respondent has caused and still causes to be inserted in its aforesaid catalogues, pamphlets and other literature, false and misleading assertions concerning the nature, quality and ingredients of its aforesaid paints among which are assertions to the effect that the paints comprised in one of respondent's brands named "Clover Leaf Paint" consist of the purest grades of white lead, zinc, linseed oil, Japan drier, etc., and are exceptionally high grade paints which have never failed to give the best satisfaction. The truth and fact as to the paints comprising said brand is, that over one-half of the solid ingredients therein consists of adulterants and fillers substituted for and inferior to white lead and zinc oxide and that the volatile constituents of the vehicle in said paints consist of mineral spirits and that the oil ingredient of said vehicle is not pure linseed oil.

PAR. 3. Aforesaid false and misleading statements had and have the capacity and tendency to mislead and deceive the aforesaid purchasers, and through said dealer-purchasers the consuming public, into the belief that the paints sold by respondent and comprised in said Clover Leaf Brand are composed of the purest grades of white lead, zinc oxide, linseed oil and Japan drier, and to purchase said paints in that belief.

PAR. 4. 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 a complaint upon the respondent, Alfred Peats Company, charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Findings.

8 F. T. C.

Respondent having entered its appearance herein and having made, executed and filed an agreed statement of facts in which it is stipulated and agreed by respondent 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 conclusion and such order as it may deem proper to enter therein, without the introduction of testimony or the presentation of argument in support of same or in opposition thereto, 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. Respondent is a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal place of business in the city of Chicago, in said State. It is and for more than five years last past has been engaged in the business of selling and distributing ready-mixed paints and painters' supplies to painters, painting contractors and retail dealers located at points in various States of the United States. Respondent delivered said products when sold by causing them to be transported from its place of business in the city of Chicago, Ill., to purchasers at points in various States of the United States. In the course and conduct of its business, respondent was and still is in competition with other individuals, partnerships and corporations likewise engaged in the sale and distribution of ready-mixed paints and painters' supplies among the various States of the United States.

PAR. 2. The ready-mixed paints dealt in by the respondent are put up in commercial containers of assorted sizes on which are printed the respective brand names of the paints contained therein. In connection with the sale of said ready-mixed paints, the respondent sends catalogues, pamphlets, circulars, color cards and price lists to its customers and prospective customers, advertising, describing and quoting prices for said ready-mixed paints.

PAR. 3. Among the paints dealt in by respondent is a ready-mixed paint named by respondent "Clover Leaf Brand." For more than one year last past the respondent has sold "Clover Leaf Brand" paint, and offered the same for sale to its trade under the said brand name, during all of which time said paint has been manufactured in accordance with the same formula. Respondent, in the course and conduct of its business, as aforesaid, made various representations in said catalogues, pamphlets, circulars, color cards, and price lists as to the goods and quality of said "Clover Leaf Brand" paint. In the

issues of its catalogues for September, 1921, and April, 1922, appear the following statements:

Peats' Clover Leaf Brand House Paint. Made right—sold right—guaranteed. An exceptionally high grade paint which has been carried in our line for a number of years and has never failed to give our customers the best satisfaction. * * * unequaled for use in every class of work where durability and high class finish are desired. * * *

In the color cards distributed by said respondent appear the following statements with reference to "Clover Leaf Brand" paint:

Clover Leaf Brand of Paint

A Linseed Oil Paint Mixed Ready for use

The Clover Leaf Brand of Paint contains pure lead, pure zinc, and pure linseed oil, together with other raw materials which are thoroughly combined by means of the most improved machinery under the personal supervision of experienced paint experts—men who do nothing else but make good paint. The result is the best paint that can be made—a paint that has the greatest covering capacity, wears longest, and gives the best finish, and is therefore the most economical to use, * * *

We absolutely guarantee that this paint (when used on surfaces that are in the right condition to receive paint of any kind) will not chalk, flake, nor crack off. It will wear longer, look better and cover more surface than any other paint on the market, white lead and oil are not excepted.

Alfred Peats Co.

Most Durable and Economical.

The quotation last above given also appears on the label on cans in which "Clover Leaf Brand" paint is sold to the trade and public.

PAR. 4. The said "Clover Leaf Brand" paint sold and distributed by respondent is not the best paint that can be made. The vehicle of said paint contains 36 per cent volatile matter, which is excessive, and the paint hides poorly. Only 55 per cent of the pigment content of said paint consists of white lead and zinc oxide, the remainder being calcium carbonate and siliceous matter, which, when used in as large quantities as in said paint, are inferior to white lead and zinc oxide, and have the effect of reducing, and do in fact reduce, the quality and value of the paint.

PAR. 5. There are many companies which manufacture and/or sell and distribute ready-mixed paints to the trade and purchasing public, which companies truthfully represent the quality and ingredients of the paints they sell.

Order.

8 F. T. C.

PAR. 6. The said representations made by the respondent, as set forth in paragraph 3 hereof, are deceptive and misleading, and have and had the capacity and tendency to and do mislead and deceive the trade and the general public into believing (1) that the pigment content of said paint exclusive of necessary coloring matter is composed principally of white lead and zinc oxide; and (2) that said paint is the best and highest quality, grade and standard of paint, for exterior use.

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 the 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 statement of facts agreed upon by the respondent and counsel for the Commission, filed herein, and the Commission having made its findings as to the facts and its conclusion that the respondent has 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 respondent, Alfred Peats Company, its officers, agents, representatives, servants and employees cease and desist from:

(1) Falsely representing that the pigment content of paint is composed principally of white lead and zinc oxide.

(2) Representing paint which contains not more than 55 per cent white lead and zinc oxide pigment as the best paint for outside use or the best quality, grade and standard of paint for such use.

(3) Representing paint which contains as much as 36 per cent volatile matter as the best paint for outside use or the best quality, grade and standard of paint for such use.

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

Complaint.

IN THE MATTER OF
HENRY BOSCH COMPANY.

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

Docket 884—February 3, 1925.

SYLLABUS.

Where a corporation engaged in the sale and distribution of a ready-mixed paint, the vehicle of which contained 35 per cent volatile matter and the pigment of which consisted of less than 50 per cent of white lead and zinc oxide, with the balance composed of lithopone, calcium carbonate and siliceous matter; made such statements in describing the same in its catalogues, pamphlets, and other trade literature as " * * * impossible to produce anything better * * *", guaranteed to "wear longer and permanently look better than any other paint including pure white lead and oil", " * * * more durable, gives better finish and is far more economical than any other paint" contains "the best quality of white lead, zinc, and linseed oil", and guaranteed to "cover more surface, work better, wear longer, and permanently look better than other paint including pure white lead and oil", and used the last stated quoted matter also as a part of the label thereof; with the effect of misleading and deceiving the trade and general public into believing the pigment content of such paint to be composed principally of white lead and zinc oxide, and said paint to be the best and highest quality, grade and standard of paint for exterior use:

Held, That such false and misleading advertising, and such mislabeling, under the circumstances set forth, constituted unfair methods of competition.

Mr. George E. Wallace for the Commission.

Mr. Victor Eltinge of Chicago, Ill., 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 the Henry Bosch Company, 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 is a corporation organized under the laws of the State of Illinois with its principal place of business in the city of Chicago in said State. It was at all times hereinafter mentioned and still is engaged in the business of selling paints and painters' supplies to painters and painting contractors throughout the United States. Its method of doing business is as follows: It sends catalogues, pamphlets and other literature describing, and