

IN THE MATTER OF
BONI & LIVERIGHT, INCORPORATED.

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

Docket 1277—April 23, 1925.

SYLLABUS.

Where a corporation engaged in the publication and sale of books, including a series bound in a cloth binding containing no leather but so finished that it closely simulated the appearance and texture thereof, and by it published and sold under the name of the "Modern Library" in competition with concerns engaged in the sale of similar books bound in leather and with concerns engaged in the sale of books not so bound or represented as so being;

- (a) Printed the words "Limp Croftleather" on the back of each of the paper wrappers of the books in the aforesaid series; and
- (b) Used such statements in describing the same in its catalogues, leaflets, price lists and other trade literature as "Modern Library Volumes are bound by hand of limp leather," and "All the books in the modern library are hand bound in flexible style";

With the effect of misleading and deceiving the purchasing public in reference to the binding of said books and thereby causing them to purchase the same, and of diverting business from and otherwise injuring competitors:
Held, That such mislabeling, and such false and misleading advertising, under the circumstances set forth, constituted unfair methods of competition.

Mr. Robert O. Brownell for the Commission.

Hays, St. John & Buckley, of New York City, 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 Boni & Liveright, Incorporated, 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 a corporation organized under the laws of the State of New York with its principal office and place of business in the City of New York, in said State. It is engaged in the publication of books and the sale thereof to retail dealers located at points in various States of the United States. It causes its said

books when so sold to be transported from its said place of business in the City and State of New York into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of its said business respondent is in competition with other individuals, partnerships and corporations engaged in the sale of books in commerce between and among various States of the United States.

PAR. 2. In the course and conduct of its aforesaid business respondent publishes and sells to retail dealers a certain series and set of books under the name "Modern Library," which said books are by said retail dealers resold to the consuming public. Respondent causes each said book to be bound in a cloth binding simulating leather in texture and appearance but containing no leather whatsoever, and issues and supplies to the consuming public and to retail dealers for distribution among the consuming public, certain catalogues, price lists, leaflets and other trade literature in which respondent causes statements to be set forth directly and indirectly representing that respondent's said books are bound in leather. Among said statements are the following: "Modern Library volumes are bound by hand in limp leather," and "All the books in the Modern Library are hand bound in flexible style." Respondent causes its said books to be advertised in sundry periodicals and other publications of general circulation throughout the United States, in which advertisements respondent causes to be set forth representations similar to those above set forth. Further, respondent causes each of its said books to be covered with a paper wrapper upon which wrapper respondent causes to be conspicuously printed and displayed the words "Limp Croftleather."

PAR. 3. Aforesaid statements and representations published and made by respondent, all as in paragraph 2 hereof set out, are false and misleading and have the capacity and tendency to mislead and deceive the trade and consuming public into the belief that respondent's said books are bound in leather and to cause many of the trade and consuming public to purchase respondent's said books in that belief.

PAR. 4. There are among the competitors of respondent referred to in paragraph 1 hereof many who sell books bound in leather, said books being of the same general kind and class as, and being sold and offered for sale in competition with, respondent's said books, and respondent's above alleged acts and practices tend to and do divert business from and otherwise injure said competitors.

PAR. 5. The above alleged acts and practices of respondent are all to the prejudice of the public and respondent's competitors, and con-

Findings.

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stitute 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 upon the respondent, Boni & Liveright, Incorporated, charging it with the use of unfair methods of competition in violation of the provisions of said act.

The respondents, having entered their appearance, a statement of facts was agreed upon by counsel for the Commission and by the respondent, to be taken in lieu of evidence.

And thereupon this proceeding came on for final decision, and the Commission having duly considered the record and being fully advised in the premises makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Boni & Liveright, Incorporated, is a corporation organized under the laws of the State of New York, with its principal office and place of business in the City of New York in said State. It is engaged in the publication of books and the sale thereof to retail dealers located at points in various States of the United States. It causes its said books, when so sold, to be transported from its said place of business in the City and State of New York, into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of its said business, respondent competes with other corporations, partnerships and individuals engaged in the sale of books in commerce between and among various States of the United States.

PAR. 2. In the regular course of its aforesaid business, respondent publishes and sells a certain series and set of books under the name of the "Modern Library." These books are sold by respondent to dealers and by them resold to the public generally. Respondent causes said books to be bound in a cloth binding which is so finished that it closely simulates the appearance and texture of leather, but which contains no leather whatsoever. Respondent also causes each of the said books to be covered with a paper wrapper, upon which is printed the name of the book and of the author,

and a brief description of the contents. On the back of each of these paper wrappers, in conspicuous type, respondent has caused to be printed the words "Limp Croftleather." When the said books are placed on end on a shelf, as they are commonly kept by dealers for display to the purchasing public, the words "Limp Croftleather" are conspicuous and prominent.

PAR. 3. In the regular course of its business as aforesaid, and particularly as an aid to the sale of the books in the said "Modern Library," the respondent has caused to be published catalogues, leaflets, price lists, and other trade literature, in which respondent causes to be set forth statements concerning the character of the bindings of the said books, among which statements are the following:

Modern Library Volumes are bound by hand of limp leather,
and

All the books in the modern library are hand bound in flexible style.

PAR. 4. The use by respondent of the words "Limp Croftleather," as set out in paragraph 2 herein, and of the statement that "Modern library volumes are bound by hand in limp leather," as set out in paragraph 3, and of the statement that "All the books in the modern library are hand bound in flexible style" when used with and concerning either of the two preceding quoted phrases, has the tendency and capacity to, and does, mislead and deceive the purchasing public by causing many of the said purchasing public to believe that the said books sold by respondent are bound in leather, and to cause them to purchase said books in that belief.

PAR. 5. There are several concerns among competitors of respondent referred to in paragraph 1 herein which sell books bound in leather, said books being of the same general kind and class as, and sold in competition with, the said books sold by respondent. There are other concerns among the said competitors of respondent which sell books bound in cloth, said books being of the same general kind and class, and sold in competition with, the said books sold by respondent, which concerns do not advertise or represent that their books are bound in leather. The said practices of respondent, as set out heretofore, tend to and do divert business from and otherwise injure said competitors.

CONCLUSION.

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

Order.

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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 by counsel for the Commission, and the Commission having made its findings as to the facts with 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, Boni & Liveright, Incorporated, its agents, employees and representatives do cease and desist from—

1. Using or employing the words "Limp Leather" or "Limp Croftleather," in advertising literature catalogues, pamphlets, or otherwise, to describe the binding of books which are bound with any material other than leather; or

2. Using or employing the words "Limp Croftleather" upon the covers of books which are bound in materials other than leather; or

3. Using or employing the word "Leather," either alone or in combination with any other word or words; except the words "Imitation," "Artificial," or "Substitute," to describe the bindings of books which are bound in material other than leather.

And it is further ordered, That the respondent, within 30 days after the receipt of the order contained herein, shall file with the Commission a report in writing setting out the manner and form in which it has complied with the order set out herein.

Syllabus.

IN THE MATTER OF

**WISCONSIN COOPERATIVE CREAMERY ASSOCIATION,
ITS OFFICERS, DIRECTORS AND MEMBERS, ET AL.**

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

Docket 1080—April 25, 1925.

SYLLABUS.

Where a membership corporation which had for its purpose the fostering and promoting of cooperative dairying; members thereof consisting of cooperative creameries engaged in the sale of butter to retail dealers, meat markets, and individual consumers in a certain county in competition with manufacturers of a competitive product recognized as a legitimate article of commerce as a food product for human consumption; and officials of said creameries; in pursuance of a conspiracy and combination between and among themselves and with others to obstruct and prevent the sale of such product in said county,

- (a) Passed a resolution at a meeting of said corporation, calling upon the merchants and meat markets of said county to discontinue the sale of such competitive product as detrimental to the prosperity of the farmers and hence to their own, and calling upon the citizens thereof to eliminate such product for the same reason and for its alleged injurious effect upon the public health, which resolution was published in all the newspapers of the county; and

Where one of said creameries,

- (b) Entered into an agreement with the dealers and meat markets in one of the towns of such county whereby it undertook to cease selling butter to consumers at dealer prices in consideration of the former undertaking to discontinue handling said competitive product and maintain the price of butter;

With the result that the sale of such product through dealers and meat markets in said town was completely eliminated and sales thereof throughout the county greatly decreased:

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

Mr. M. Markham Flannery for the Commission.

Mr. Philip F. La Follette of Madison, Wis., for Wisconsin Cooperative Creamery Association.

Mitchell, Doherty, Rumble, Bunn & Butler of St. Paul, Minn., for other respondents.