

Complaint.

9 F. T. C.

IN THE MATTER OF

LOUIS SHAPIRO, BARNEY SHAPIRO, AND FRANK B. SHAPIRO, DOING BUSINESS UNDER THE NAME AND STYLE OF L. SHAPIRO & SONS.

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

Docket 1318—September 30, 1925.

SYLLABUS.

Where a firm engaged in the manufacture and sale of men's clothing, represented in circulars advertising the aforesaid clothing and consisting of samples of cloth and descriptive matter, that the fabric of which the said clothing was made, was "all wool," the fact being that 35 per cent thereof was cotton; with the tendency to mislead the trade and purchasing public in reference to the composition of said garments, and with the effect of causing a substantial portion thereof to purchase the same in the erroneous belief thereby induced, and with the tendency to divert trade from competitors manufacturing and selling clothing truthfully designated and described in reference to the composition of the fabric thereof, whether all wool or wool and cotton mixed:

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

Mr. Robert O. Brownell for the Commission.

Mr. B. H. Hartogensis of Baltimore, Md., for respondents.

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 Louis Shapiro, Barney Shapiro, and Frank B. Shapiro, partners, doing business under the trade name and style of Shapiro & Sons, hereinafter designated as respondents, have been and are 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. Respondents, Louis Shapiro, Barney Shapiro, and Frank B. Shapiro, are now, and at all times hereinafter mentioned were, partners, doing business under the trade name and style of Shapiro & Sons, with place of business in the city of Baltimore, in the State of Maryland, engaged in the manufacture of men's clothing and its sale, and transportation when sold to purchasers in the various States of the United States, in competition with other per-

sons, partnerships, and corporations, likewise engaged in the manufacture and sale of men's clothes in interstate commerce.

PAR. 2. In the course and conduct of their said business, respondents, during the two years last past, have offered for sale, and sold from their said place of business to purchasers in the various States of the United States their men's clothing, by means and as the result of circulars distributed by them among said purchasers and prospective purchasers, in which respondents have represented, that the garments therein described and offered for sale would be or were made from an all-wool fabric, whereas in truth and in fact the garments so advertised and sold by respondents were not made from an all-wool fabric, but from a fabric containing a substantial amount of material other than wool.

PAR. 3. The representation that the garments advertised and offered for sale in said circulars were or would be made from an all-wool fabric had the capacity and tendency to mislead and deceive, and did mislead and deceive the trade and the general public into the belief that the clothing so advertised and offered for sale was or would be made from a fabric composed wholly of wool.

PAR. 4. There are competitors of respondents in interstate commerce who manufacture men's clothing from all-woolen fabric and properly advertise and sell their product as so composed, and others who manufacture men's clothing from cloth consisting of both wool and cotton material or chiefly of cotton who likewise truthfully advertise, represent and sell their product, and the acts and practices of respondents in advertising and offering their men's clothing for sale and selling the same by means of the false and misleading representation that it was or would be made from an all-wool fabric, has had and has the capacity and tendency and effect of diverting business from and otherwise injuring aforesaid competitors.

PAR. 5. Above alleged acts and things done by respondents are all to the prejudice of the public and respondents' 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 upon the respondents, Louis Shapiro, Barney Shapiro, and Frank B. Shapiro, trading as L. Shapiro & Sons, charging them with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act.

Findings.

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The respondents duly entered their appearances by their attorney and filed their answers to the said complaint. Thereafter an agreed statement of the facts was signed by respondents and by the chief counsel of the Commission, and it was stipulated that the said agreed statement of the facts should be taken in lieu of testimony in this proceeding. Oral argument was heard by the Commission on the 14th day of September, 1925.

And thereupon this proceeding came on for 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 conclusions drawn therefrom:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondents Louis Shapiro, Barney Shapiro, and Frank B. Shapiro are now, and at all times mentioned hereinafter have been, partners, doing business under the name and style of L. Shapiro & Sons, with their place of business in the city of Baltimore, State of Maryland. They are engaged in the manufacture of men's clothing and the sale and distribution thereof to the purchasers located in the various States of the United States. In the regular course of their said business, respondents are in competition with other persons, partnerships, and corporations likewise engaged in the manufacture and sale of men's clothing in interstate commerce.

PAR. 2. About September 1, 1924, respondents prepared and sent to their customers and prospective customers, located in several different States of the United States, advertising circulars consisting of two parts. One part was made up of five samples of cloth of different patterns. The other part was descriptive matter concerning the men's clothing to be made from the said cloth. Part of the said descriptive matter was as follows:

This garment is made up from an all-wool fabric.

The circulars also contained a picturization of the style in which the said suits were to be made.

The cloth so described was actually composed of wool and cotton, in the proportions of about 35 per cent cotton and 65 per cent wool. As a result of the advertisements sent out as aforesaid, respondent received and filled orders for 150 suits made from the said cloth and shipped same to not more than 20 customers located in several different States of the United States.

PAR. 3. On or about November 1, 1924, upon being advised by a Government inspector that an investigation had been made and that the cloth so advertised had been found to contain a large percentage of cotton, respondents ceased from sending out any more of the said

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advertising circulars, and did not thereafter ship any more of said goods to customers solicited by the said advertisements.

PAR. 4. The said representations by respondents in the said circulars that the garments offered for sale were or would be made from an "all-wool fabric" had the tendency to cause the trade and the purchasing public to believe that the garments so offered for sale were or would be made from wool, and caused a substantial portion of the said trade and purchasing public to purchase same in that belief.

PAR. 5. There are a number of concerns among the competitors of respondents mentioned in paragraph 1 hereof which manufacture and sell men's clothing composed of fabric which is made from wool unmixed with cotton, and which concerns so designate and describe their products. There are other concerns among said competitors which manufacture and sell men's clothing composed of fabric which is made from wool mixed with cotton, and which concerns so designate and describe their products. The acts and practices of respondents as set out in paragraph 2 hereof had the tendency to divert trade from both types of respondents' said competitors.

CONCLUSION.

The practices of the said respondents, 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 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, the answer of respondents, and an agreed statement of the facts signed by respondents and by counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion drawn therefrom that respondents have 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,"

It is now ordered, That the respondents Louis Shapiro, Barney Shapiro, and Frank B. Shapiro, their agents, representatives, servants, and employees, do cease and desist from—

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Representing in any manner to the trade or to the purchasing public that cloth or clothing offered for sale or sold by them is all wool, or wool, or otherwise suggesting that such cloth or clothing is composed wholly of wool when in fact it is not.

It is further ordered, That the respondents, within thirty days after the date of service upon them of a copy of this order, file with the Secretary of the Commission a report in writing, stating the manner and form in which they have complied with the order herein set forth.

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IN THE MATTER OF

• FURNITURE MANUFACTURERS SHOW ROOMS, INC.

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

Docket 1191—October 2, 1925.

SYLLABUS.

Where a corporation engaged in the sale at retail in and from Philadelphia of furniture which it purchased from the manufacturers and resold at a profit, and neither owning, nor operating any furniture factory nor representing any furniture manufacturer, used and featured such statements and slogans in advertising its aforesaid furniture as "Direct from the Factory," "Buy Furniture at Factory Prices," and "Six Big Factory Floors Crowded," together with depictions of a factory building, and featured the statement and slogan "Direct Factory Representatives" upon its letterheads, bill heads, business cards and other business stationery; with the effect of misleading and deceiving a substantial part of the purchasing public into believing that persons buying from it were dealing directly with the manufacturer and thereby saving the middleman's profit, and with the capacity and tendency to divert trade from and otherwise injure competitors who as manufacturers sold their products direct to the consumer and competitors who neither manufactured the furniture dealt in by them nor represented themselves as so doing:

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

Mr. Morgan J. Doyle for the Commission.

Mr. Jacob Rosen 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 the Furniture Manufacturers' Show Rooms, Inc., 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:

Charge I.

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Pennsylvania with its principal office and place