

Complaint

IN THE MATTER OF

G. H. KOPPEL, DOING BUSINESS UNDER THE TRADE
NAME AND STYLE CUBAN-AMERICAN SPONGE COM-
PANY

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

Docket 1267—September 25, 1926

SYLLABUS.

Where an individual engaged in the purchase of chamois leather from the manufacturers and tanners, and of sponges from fishers and producers, and in the sale thereof to wholesalers, retailers and consumers, and neither owning, interested in nor operating any boats, or plant for the manufacture of chamois leather, and in no sense a tanner thereof, nor a fisher or producer of sponges, used such legends and statements on his letterheads, invoices, salesmen's cards, billheads and other business stationery as "Chamois Tanners," "Chamois Manufacturers," "Chamois Manufacturers and Importers," "Sponge Fishers," together with purely fictitious addresses purporting to represent his places of business such as "Chamois Tanneries; Gretna, La.," "Operators of the famous Spanish Main and Treasure Trove Sponge Fishing Fleets, 17 The Prado, Havana, Cuba," and "Sponge Ports; Batabano, Cuba, Tarpon Springs, Fla." and similarly misrepresented the nature of his business orally; with the effect of inducing those whose policy it was to purchase only from manufacturers and tanners of chamois, and fishers and producers of sponges, to trade with and purchase from him in the mistaken belief thereby induced, and with the effect of diverting business from competing jobbers who did not misrepresent the nature of their businesses and from bona fide manufacturers and tanners and importers:

Held, That such misrepresentations of business, under the circumstances set forth, constituted an unfair method of competition.

Mr. Charles Melvin Neff for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, an individual, engaged in the purchase of chamois leather and sponges from manufacturers and producers, and in the sale thereof to retail dealers and consumers in various States, and with place of business in New Orleans, with advertising falsely or misleadingly in misrepresenting business status, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that, neither owning nor operating any manufacturing plant whatsoever for the manufacture

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of chamois leather, nor any vessel engaged in the sponge fishery, and in nowise engaged therein, and with no branch places of business or depots in connection therewith, respondent, for about four years preceding the complaint, printed and set forth upon his letterheads, billheads, invoices, salesmen's cards and other business stationery and literature such false statements and legends as, "Chamois Tanners," "Chamois Manufacturers," "Chamois Tanneries; Gretna, La., Chalmette, La.," "Sponge Fishers," "Operators of the famous Spanish Main and Treasure Trove Sponge Fishing Fleets," "17 The Prado, Havana, Cuba," and "Sponge Ports: Batabano, Cuba, Tarpon Springs, Fla.," with the tendency to mislead and deceive the trade and consuming public into the belief that persons dealing with him obtained better advantages in quality and price than could be obtained from dealers purchasing the chamois leather and sponges which they sell, and with the effect of diverting business from and otherwise injuring competitor manufacturers and producers selling such articles to retail dealers and the consuming public, and competitor dealers purchasing such articles from others and so selling the same without misrepresenting themselves as manufacturers and producers; all to the prejudice of the public and respondent's competitors.

Upon the foregoing complaint, the Commission made the following

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, George Harwood Koppel, an individual doing business under the trade name and style of the Cuban-American Sponge Co., charging him with the use of unfair methods of competition in interstate commerce in violation of the fifth section of said act.

The respondent having entered his appearance in person, however, without having filed an answer, and hearings having been had before a trial examiner of the Commission theretofore duly appointed and designated to hear and receive evidence offered, which evidence was duly recorded, certified and transmitted to the Commission.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, George Harwood Koppel, is an individual who has been since 1921, and is now, engaged in business under the trade name and style of "Cuban-American Sponge Co.,"

within his principal office and place of business at 313-317 Gravier Street, New Orleans, La. During said time he has been and is now engaged in the business of buying chamois leather and sponges and in the sale of such commodities to wholesalers, retailers, and consumers in many of the States of the United States, to the purchasers thereof at their several places of business.

In the course and conduct of his business, respondent has been and is now in competition with other persons, partnerships, and corporations likewise engaged in the business of selling and transporting chamois leather and sponges in interstate commerce between and among the various States of the United States. In the sale of his commodities he uses traveling salesmen who travel in respondent's interests, and call on his customers throughout the various States of the United States.

PAR. 2. Respondent, in the course of his business, caused to be printed and set forth on his letterheads, invoices, salesmen's cards, billheads and other business stationery, the following statements: "Chamois Tanners," "Chamois Manufacturers," "Chamois Tanneries; Gretna, La.," "Sponge Fishers," "Operators of the famous Spanish Main and Treasure Trove Sponge Fishing Fleets, 17 The Prado, Havana, Cuba," and "Sponge Ports: Batabano, Cuba, Tarpon Springs, Fla.," and other such statements.

PAR. 3. Respondent, since he has been in business, beginning 1921, has never owned, leased, operated, or had any interest in any boat, ship or fishing fleet for the purpose of fishing for sponges, nor has he ever been, nor is he now a fisher or producer of sponges, and respondent during the time he has been in business as aforesaid, has never owned or operated any manufacturing plant whatsoever for the manufacture of chamois leather, and is in no sense of the word a tanner of chamois leather. Respondent's custom has always been, and still is, to purchase his chamois leather from the manufacturers and tanners, thereof, and his sponges from fishers and producers of sponges.

PAR. 4. The statement above concerning "Chamois Tanners" and the statement that respondent has chamois tanneries at "Gretna, La.," and "Chalmette, La.," is not true. Respondent never had any chamois tanneries. Gretna, La., is on the west bank of the Mississippi River across from New Orleans, and Chalmette, La., is just below New Orleans, La., and there are no chamois tanneries there and never have been. The respondent never has been nor is he now a chamois manufacturer. Indeed he has never at any time even had any financial interest in any manufacturing plant where chamois leather is tanned or prepared for sale. Again, the respondent's state-

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ment, "Operators of the Spanish Main and Treasure Trove Sponge Fishing Fleets" is not true and never has been. In the lower left-hand corner of Com. Ex. No. 1 are the words "Sponge Ports: Batabano, Cuba, Tarpon Springs, Fla." The respondent owns no business establishment in either place. The words "17 The Prado, Havana," which are found in the lower left-hand corner of the respondent's business card, is an address in Havana, Cuba, about which the respondent knows nothing. He does not even own or maintain any bona fide branch office at 17 The Prado, Havana. He did not know what was existing there. "It might have been a Government palace. We call ourselves 'Cuban-American Sponge Company.' It was simply to give us a Cuban address, that was all."

PAR. 5. Respondent, as set forth in paragraph 1 above, furnished his salesmen with business cards on which cards appeared the words: "Chamois Manufacturers and Importers" and "Chamois Tanners." Such cards, when handed to respondent's customers by said salesmen, had the capacity and tendency to make respondent's customers believe that respondent was a bona fide manufacturer and tanner of chamois leather, and an importer of sponges, whereas in truth and in fact respondent had no tannery manufacturing plant and purchased his commodities from the manufacturers thereof in various places in the United States. Respondent in this manner diverted business from and injured competitors of his who were real, bona fide manufacturers and tanners of chamois leather and importers of sponges.

PAR. 6. Many of the persons who buy chamois and sponges from the respondent had a policy in their business of buying only from manufacturers and tanners of chamois and fishers and producers of sponges and not from jobbers thereof. That the false statements made orally to those persons by the traveling salesmen of the respondent and by the respondent himself, and those statements appearing on the business cards of the respondent furnished by him to his salesmen for their use in soliciting trade for him, or given by himself to those purchasers, and those statements appearing on the respondent's letterheads, invoices, and statements of account caused these purchasers to believe the said untrue representations of respondent that he was a manufacturer and tanner of chamois and fisher and producer of sponges and not merely a jobber thereof, and thereby induced them to trade with and purchase from the respondent rather than from competitors of respondent who are in fact merely jobbers of these commodities, and furthermore thereby diverted trade from those of respondent's competitors who actually are manufacturers and producers of said commodities.

PAR. 7. There are among the competitors of respondent, manufacturers and producers of chamois leather and fishers and producers of sponges who sell said commodities to retail dealers and to the consuming public. There are others of said competitors who purchase said commodities from others and sell the same to retail dealers and to the consuming public and who in nowise represent that they are manufacturers and producers of said commodities.

CONCLUSION

That the acts, practices, and activities of the respondent, George Harwood Koppel, trading as an individual under the trade name and style of the Cuban-American Sponge Co., as hereinabove set forth, and under these conditions and in the circumstances set forth in the foregoing findings, are to the injury and prejudice of the public and respondent's competitors, are unfair methods of competition in interstate 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 without an answer having been filed by the respondent, the testimony and documentary evidence and the brief and oral argument of counsel for the Commission and the Commission being fully advised in the premises, 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, G. H. Koppel, doing business under the trade name and style Cuban-American Sponge Co., its officers, agents, representatives, servants, and employees, cease and desist—

From representing to the trade or to customers, or to prospective customers, that his business is that of a manufacturer or tanner of chamois leather or fisher or producer of sponges, when such is not the fact;

From representing to the trade or to customers, or to prospective customers, that his business is that of "chamois tanners", "chamois

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manufacturers", "sponge fishers", or "operators of sponge fishing fleets", when such is not the fact;

From representing to the trade or to customers or to prospective customers that he has places of business in Cuba, in Florida, or other places, when such is not the fact;

From otherwise misrepresenting the nature and kind of business which he conducts, and the place or places where such business is conducted.

It is further ordered, That the respondent, Cuban-American Sponge Co., shall within thirty 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 they have complied with the order to cease and desist hereinbefore set forth.

Complaint

IN THE MATTER OF
NANYANG BROTHERS, INCORPORATED

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

Docket 1270—September 25, 1926

SYLLABUS.

Where lace made in Ireland had long enjoyed a widespread popularity, demand and reputation among manufacturers, tradesmen and the consuming public in the United States, and brought a price considerably higher than lace made in China; and thereafter a firm engaged in the importation of said last named lace and sale thereof to garment manufacturers, designated such lace as Irish lace in its price lists, circulars and invoices, and so sold the same; with the result that garments made by the aforesaid manufacturers were by them represented to their retail dealer customers, and by the latter to the purchasing or consuming public, as trimmed or decorated with Irish lace, and many of such garments were purchased in the erroneous belief thereby induced as and for garments trimmed with the more expensive lace made in Ireland:

Held, That such misleading designation of product, under the circumstances set forth, constituted an unfair method of competition.

Mr. A. R. Brindley for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in importing from China lace there made, which closely resembled in pattern, design and general appearance the long-popular, superior, and more expensive Irish lace, and in selling the same to garment manufacturers for their use in trimming garments, and with principal office and place of business in New York City, with naming product misleadingly and advertising falsely or misleadingly, in violation of the provisions of section 5 of said act, prohibiting the use of unfair methods of competition in interstate commerce, in that it designated, offered and sold said lace as "Irish lace" in the course of its business, and in and upon its price lists, circulars, invoices and other trade stationery and literature; with the effect of placing in the hands of its vendees the means of committing a fraud upon retail dealers and eventually the consuming public, by enabling such vendees to represent and sell garments with such lace as and for garments trimmed and decorated with Irish lace, and with the result that many of respondent's manufacturer-vendees did in fact represent respondent's lace as Irish lace, to retail dealers,