

Complaint

IN THE MATTER OF

ROLLER OIL & REFINING COMPANY, INC., H. C. ROLLER,
G. F. GIBBONS, PERCY C. WILIE AND E. H. DOUD

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

Docket 963. Complaint, Feb. 1, 1923—Decision, Aug. 19, 1927

Where several individuals, in selling stock in a corporation organized by them, falsely represented in prospectuses, pamphlets, circulars and circular letters that the corporation owned and controlled oil and gas leases on some 1,600 acres of land in McLennan County, Tex., on which it was drilling a well which was then 2,600 feet in depth, that it enjoyed an income of \$3,000 a day from wells situated on land owned by it, and that it was on a dividend paying basis, the fact being that it had no interest in such land or in any well being drilled thereon, except the right to acquire it on terms, which it neither fulfilled nor attempted to fulfill, owned no land, but merely a royalty interest in producing wells developed on certain land, averaging as income therefrom only \$4,000 a month instead of \$3,000 a day, and that it was at all times indebted to one of such individuals, its president, in the sum of \$600,000 or the major portion thereof, for and on account of certain royalty interests transferred by him to the company, and at no time was on a dividend paying basis or possessed of money applicable to such purpose; with the effect of inducing many persons to whom such representations were made, to purchase the corporation's stock in the belief that it owned the property so described, had an income of \$3,000 a day, and was on a dividend basis:

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

Mr. James M. Brinson for the Commission.

Mr. C. S. Bradley, of Groesbeck, Tex., and *Mr. A. B. Rennolds*, of Mexia, Tex., for H. C. Roller.

Mr. Joseph W. Bailey, jr., of Bailey, Nichols & Bailey, of Dallas, Tex., for Percy C. Wilie.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent company, a Delaware corporation with principal office and place of business in Mexia, Tex., and respondents Roller, Gibbons, Wilie, and Doud, its directors, and its president, vice president,

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treasurer, and auditor, respectively, with misrepresenting offers and advertising falsely or misleadingly, in offering and selling shares of stock in respondent company to the general purchasing public, acting individually and in their official capacities, and in collusion with one another, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondents, as charged, in their advertising in newspapers of general circulation, in prospectuses, etc., and through agents, salesmen and brokers, made "numerous false, misleading and deceptive statements and other representations of and concerning the business, financing, management, operations, properties, productions, earnings, prospects, etc., of respondent company, and concerning the value of said shares of stock of respondent company, all of which statements and other representations, and each of them, were calculated, have and had the capacity and tendency to, and did mislead and deceive the said purchasers, prospective purchasers and the public, and thereby respondents induced large numbers of said purchasers to purchase said shares of stock of respondent company."

Among the aforesaid false, misleading and deceptive statements and other representations, set forth in the complaint, the following may be mentioned as illustrative:

That the company owns and controls oil and gas leases on 1,604 acres of land in McLennan County, Tex., on which it is building a deep test well, which was false in every respect.

That the company's income was approximately \$3,000 a day derived solely from its royalty interests in oil produced from lands to which it held the title direct from H. C. Roller, former owner, the fact being that it had at no time held title to any such land but had acquired from Roller, subject to a vendor's lien for \$600,000, his royalty interest in a certain oil and gas lease, respondents' sole producing property, and from which it at no period derived in excess of \$5,000 a month;

That it was on a dividend paying basis, and had sufficient production from its own properties to pay large monthly dividends for many months to come, the fact being that from its organization it was heavily indebted on the purchase price of its only producing property, and did not have production from its property or earnings or profits from which to pay any dividends at all, and did not declare or pay any regular monthly dividends.

The practices, acts and things done by respondents, as charged, were all to the prejudice of the public and respondents' competitors,

and constituted unfair methods of competition in commerce within the intent and meaning of section 5.

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 (Federal Trade Commission Act) approved September 26, 1914, the Federal Trade Commission issued and served upon all of the respondents except G. F. Gibbons, who could not be located, its complaint charging them with the use of unfair methods of competition in commerce in violation of said act.

Thereupon, respondents, H. C. Roller, Percy C. Wilie and E. H. Doud, entered appearance and filed answer. Hearing was duly had, briefs submitted and the matter having come on regularly for decision, and the Commission having considered the record and being advised in the premises, makes this its report, stating its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. On February 7, 1922, respondent, H. C. Roller, G. F. Gibbons, Percy C. Wilie, and one L. W. Hagg, caused to be organized under the laws of Delaware, respondent Roller Oil & Refining Co., Inc., with an authorized capital of \$3,000,000 divided into 3,000,000 shares of the par value of \$1 each, for the declared purpose of developing leases for oil and engaging in the oil business generally. It had a statutory office at Wilmington in said State, and its principal office and place of business at Mexia, Tex. Respondent, H. C. Roller, became, and during the time hereinafter mentioned was, president of respondent company, respondent G. F. Gibbons, vice president, respondent Percy C. Wilie, treasurer, and said L. W. Hagg, secretary. On March 15, 1922, respondent E. H. Doud became auditor of respondent Roller Oil & Refining Co., Inc.

PAR. 2. After its organization, respondents H. C. Roller, G. F. Gibbons, Percy C. Wilie and said L. W. Hagg, as its officers and directors, caused respondent Roller Oil & Refining Co., Inc., to authorize its stock to be offered for sale, and in its name, and ostensibly at the instance and on behalf of said respondent company, the individual respondents, acting in conjunction with each other, offered for sale, and sold, such stock and transported and delivered the certificates therefor, when sold, to purchasers in various States of the United States, in competition with persons, partnerships and corporations engaged in the sale of stocks and securities in interstate commerce.

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PAR. 3. Said respondents offered for sale, and sold, said stock by means of advertisements in newspapers of general circulation, prospectuses, pamphlets, circulars and circular letters, which they caused to be transported into the various States of the United States and distributed among purchasers and prospective purchasers of stocks and securities, containing certain false representations, to wit: That the respondent Roller Oil & Refining Co., Inc., owned and controlled oil and gas leases on 1,604 acres of land in McLennan County, Tex., on which the company was drilling a well which was then 2,600 feet in depth; that said company enjoyed an income of \$3,000 per day from wells situated on land owned by it; and that it was on a dividend paying basis; whereas in truth and in fact respondent Roller Oil & Refining Co., Inc., had no interest in such land or in any well being drilled thereon, except the right to acquire it on terms which it neither fulfilled nor attempted to fulfill. It owned no land, but merely the royalty interest in producing wells developed on certain land, and averaged as income from such source only \$4,000 per month instead of \$3,000 per day. Respondent, Roller Oil & Refining Co., Inc., was at all times indebted to respondent, H. C. Roller, in the sum of \$600,000 or the major portion thereof, for and on account of certain royalty interests transferred by him to the company, and at no time was it on a dividend paying basis or possessed of money applicable to such purpose.

PAR. 4. The above and foregoing false and misleading representations had the capacity and tendency to induce and did induce many persons to whom they were so made by said respondents to purchase the stock of respondent, Roller Oil & Refining Co., Inc., in the belief that it owned the property described in paragraph 3 hereof, had an income of \$3,000 per day, and was on a dividend basis.

CONCLUSION

The acts and practices set forth in the foregoing findings as to the facts constitute under the circumstances therein stated unfair methods of competition in interstate commerce, in violation of 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents, H. C. Roller, Percy C. Wilie and E. H. Doud, testimony

and evidence, and briefs of counsel, and the Commission having made its report in writing stating its findings as to the facts, with its conclusion that the said respondents have 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, Roller Oil & Refining Co., Inc., and respondents, H. C. Roller and Percy C. Wilie, as officers, shareholders or agents of said respondent Roller Oil & Refining Co., Inc., or as officers, shareholders or agents in any other corporation, association or partnership, or as individuals, do cease and desist from directly or indirectly publishing, circulating or distributing or causing to be published or distributed in connection with the sale or offering for sale in interstate commerce, stocks or securities of said respondent, Roller Oil & Refining Co., Inc., or any other corporation or association, any magazine, newspaper, pamphlet, prospectus, circular, circular letter, advertisement or any other printed or written matter whatsoever containing any false or misleading statement or representation concerning the organization, character, history, operation, management, resources, production, assets, earnings or income, dividends or prospect of said Roller Oil & Refining Co., Inc., or of any other corporation, association, partnership, or person the stock or securities of which they, or either of them, are selling or offering for sale in interstate commerce.

It is further ordered, That the proceeding be dismissed as to respondents, G. F. Gibbons and E. H. Doud, and that respondents, Roller Oil & Refining Co., Inc., H. C. Roller and Percy C. Wilie, shall within 60 days from the date of service 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 herein set forth.

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IN THE MATTER OF

C. A. LEITCH MANUFACTURING COMPANY

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

Docket 1386. Complaint, May 13, 1926—Decision, Sept. 26, 1927

Where the words "Natural Lake Asphalt" had for many years come to signify and to be understood by the purchasing public as meaning natural asphalt obtained from Trinidad Lake in the British West Indies; and thereafter a corporation engaged in the manufacture of a roofing paint or "fluid cement," containing no Natural Lake Asphalt, and in the sale thereof, labeled its said product as "prepared from a mixture of Natural Lake Asphalt and Gilsonite Asphalt * * *," with the capacity and tendency to mislead and deceive the purchasing public in respect of the composition thereof, and thereby to divert trade from competitors truthfully representing their products:

Held, That the sale of products labeled as above set forth, constituted an unfair method of competition.

Mr. Alfred M. Craven 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 Jersey corporation, engaged in the manufacture and sale of roofing paint and other roofing materials, with factory and principal place of business at Lincoln, N. J., with misrepresenting product, and misbranding or mislabeling, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that respondent falsely described and offered a so-called fluid cement made by it for roofing purposes, as and for a composition of natural or Trinidad Lake asphalt and Gilsonite, with other substances, and falsely so labeled the containers thereof in which it delivered the same to its purchasers, and, when so requested, to the customers of said purchasers, who in turn so advertised, described, designated, offered, and sold the same, with the capacity and tendency to mislead and deceive and with the effect of misleading and deceiving a portion of the purchasing public into believing the product in question to consist of material of higher quality and greater value than the actual ingredients, i. e., that it consisted of the "Natural Asphalt" obtained from Trini-