

Modified order

IN THE MATTER OF
THE GOOD GRAPE COMPANY

MODIFIED ORDER TO CEASE AND DESIST¹

Docket 1186. February 27, 1928

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, the testimony in support of the complaint and in opposition thereto, and on brief and argument of counsel, and the Commission having made its findings as to the facts, with its conclusion that the respondent has and is violating 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 ordered, That the respondent, The Good-Grape Co., its officers, representatives, agents, servants, and employees, cease and desist from—

(1) Using or authorizing the use by others, in interstate commerce, of "Good-Grape," the phrase or slogan "Fruit of the Vine," or the

¹ The complaint, findings and original order in this matter, relating to the use of the words "Good Grape," and such phrases as "Fruit of the Vine" in connection with the sale of an imitation grape beverage product, containing substantially less than 1 per cent of the product of the grape, but with a pronounced grape flavor, color and odor, artificially derived and a concentrate for use of bottling plants in the manufacture of such beverage, are reported in 10 F. T. C. 99.

The original order, Commissioner Thompson dissenting, required respondent, its officers, etc., to cease and desist from—

(1) Using or authorizing the use of the name "Good-Grape" whether on advertising matter relating to the concentrate "Good-Grape" or the beverage "Good-Grape" or on bottles or other containers thereof, or on labels, or crowns, or stoppers of such bottles or containers, or otherwise, unless and until the name "Good-Grape" is in every instance accompanied with an explanation in close proximity to the name "Good-Grape" in letters at least one-half as high and one-half as wide as the letters used in the accompanying name "Good-Grape," and of heaviness of color and style of lettering which will render them at least equally as conspicuous in proportion to their height and width as the letters in the accompanying name "Good-Grape," which explanation shall contain the statement that the concentrate "Good-Grape" or the beverage "Good-Grape" is an imitation and is not grape juice. The following may be used for this explanation: "Imitation Grape—Not Grape Juice."

(2) Using or authorizing the use by others in advertising or upon business stationery or on bottles or other containers or on labels, crowns, stoppers, or otherwise, or at all, the phrase or slogan "Fruit of the Vine," in connection with the sale of (a) a concentrate or concentrates not made from grapes and not containing the juice from the natural fruit of grapes from which a beverage is made, or (b) a beverage, not made from grapes and not containing juice from the natural fruit of grapes.

(3) Using or authorizing the use by others in advertising or upon business stationery or on bottles or other containers or on labels, crowns, stoppers, or otherwise, or at all, any word or words, pictures or symbols falsely representing or suggesting (a) that a concentrate or concentrates from which a beverage is made, is made from grapes and contains the juice from the natural fruit of grapes, or (b) that a beverage, is made from grapes and contains the juice from the natural fruit of grapes.

Modified order

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word "Grape" either alone or in conjunction or combination with any other word or words, letter or letters, as a corporate or trade name, or as a trade brand or designation in advertising, or on business stationery, or on labels or bottles or other containers, or the caps, crowns, or stoppers thereof, in connection with the sale or distribution of a product which is not composed wholly of the natural juice or fruit of grapes, except and unless such product is composed in substantial part of the natural juice or fruit of grapes, and "Good-Grape," "Fruit of the Vine," or the word "Grape," wherever used as above described, is accompanied with a word or words, equally conspicuous with it in characters or type, clearly indicating that such product is composed in part of material or materials other than the natural juice or fruit of grapes.

(2) Using or authorizing the use by others, in interstate commerce, in advertising or upon business stationery or on bottles or other containers or on labels, crowns, stoppers, or otherwise, of any word or words, picture or symbol falsely representing or suggesting that a product is made from or contains the natural juice or fruit of grapes.

It is further ordered, That respondent, The Good-Grape Co., pursuant to the provisions of Rule XVI of the Commission's rules of practice, shall, within 60 days after service upon it of a copy of the order hereinbefore set forth, file with the Commission a report in writing, setting forth in detail the manner and form in which the said order has been complied with.

Syllabus

IN THE MATTER OF
ROBERT M. LEASE COMPANY, INC., ET AL.¹

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914,
AS EXTENDED BY AN ACT OF CONGRESS APPROVED APR. 10, 1918

Docket 1276. Complaint, Feb. 4, 1925—Decision, Mar. 3, 1928

Where several corporations, engaged in the manufacture, sale and shipment of automobile trucks, chassis and auto parts, and directed and controlled by the same general officers; and said officers;

- (a) Shipped to foreign purchasers who had placed orders with them for new trucks, chassis and parts, complete with standard new factory equipment and right-hand drive, in reliance upon their advertisements and representations holding themselves out as willing and able to furnish the same promptly, in desired quantities, and so equipped, machines and parts which were neither new, complete nor equipped as desired and required, but were either incomplete, or old and rusty or rebuilt used or salvaged war equipment machines, and not fully equipped with standard parts, or with right-hand drive, or suited for the purposes for which purchased;
- (b) Accepted orders and payments on automobile trucks and a large number of chassis in utter disregard of their ability to furnish said chassis in the time and quantities ordered and without so furnishing the same;
- (c) Handled billing, payment and delivery to steamship companies, and loading in such a manner that export purchasers of machines were deprived of inspection before shipment, and forced to pay entirely in reliance upon their false representations and promises as to the character and completeness of the articles shipped; and
- (d) Failed to ship missing machines or parts to replace those which were non-standard and not desired, or to replace with machines so ordered and promised those not in accordance with their promise and undertaking, or to make satisfactory adjustment for their delinquencies, although repeatedly promising so to do and at times asserting that they had done so;

With the effect of bringing discredit and loss of business to all manufacturers and business concerns engaged in and/or seeking to engage in export trade, and with the capacity and tendency so to do, to the injury and prejudice of the public, and their export trade competitors:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition in violation of section 5 of the Federal Trade Commission Act, and of said act as extended by the Export Trade Act.

Mr. Charles Melvin Neff and *Mr. W. T. Chantland* for the Commission.

Mr. H. Howard Babcock, of New York City, for Exporters and Importers Association of the World, and *John P. Agnew*.

¹ There is also included herewith (see page 99) order of dismissal in this case as to certain respondents, made as of Feb. 10, 1928.