

Complaint

12 F. T. C.

IN THE MATTER OF
THE LIGHT HOUSE RUG COMPANY, INC.

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1924

Docket 1468. Complaint, July 12, 1927—Decision, July 24, 1928

Where the words "light house" had come to be used in connection with institutions for the blind, and as applied to such articles as rugs and other woven fabrics had come to connote articles made by the blind, and where a trade school for the blind known as The Chicago Lighthouse taught its pupils or employees the art of weaving rugs upon hand looms, labeled the rugs there made "woven by the blind of The Chicago Lighthouse," and adopted and used the words "light house," and the picture of a lighthouse on folders and other advertising matter as a trade name and symbol to describe and designate its workshops and rugs; and thereafter a company incorporated by an individual employed by said Chicago Lighthouse to market its output of rugs,

- (a) Adopted and used as a corporate name a name which included the words "light house," and used the same and the picture of a lighthouse on the label on its rugs, whether made by the blind or otherwise, and in the advertising matter used by it in connection with the sale thereof;
- (b) Described rugs offered and sold by it, whether made by the blind or made by other than blind employees in its establishment, on power looms, and closely resembling those made by blind employees on hand looms, representing only a small portion of its total sales as "light house rugs";
- (c) Issued circulars containing the words "light house rugs," its corporate name, and a picture of a lighthouse, and reproductions of newspaper articles concerning said Chicago Lighthouse, and its work for the blind, and pictures of the blind weaving rugs, and distributed said circulars among its sales people, who exhibited the same to purchasers and prospective purchasers;
- (d) Placed the words "light house" on its order blanks and letters, together with the picture of a lighthouse, its corporate name, and the statement "sole distributors of The Chicago Lighthouse, an institution for the blind," which statement it continued even after said institution discontinued production; and
- (e) Tagged its rugs with either the words "Woven by the blind of The Chicago Lighthouse," or "light house rugs," and the aforesaid picture or symbol, and sold the same, without distinction or disclosure as to their method of manufacture, at the same price, through stores regularly dealing in rugs, in which demonstrations of rug-weaving by blind weavers from The Chicago Lighthouse upon hand looms were held in the show windows, and represented through salesmen in various localities that the rugs generally were the product of local institutions for the blind;

With the capacity and tendency to mislead and deceive the purchasing public into believing that said rugs were the products of the institution first named, that it was the sole distributor thereof, and/or that they were the products of institutions maintained and operated for the blind and that in purchasing the same, they were buying the output of blind people, instead of promoting a private enterprise, and of making it more difficult to secure a market for the product of the blind, to the prejudice of institutions for the blind, and of the workers therein, and of manufacturers selling their rugs on merit and without misrepresentation as to their origin, nature and character, from whom business was thereby diverted:

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

Mr. William A. Sweet for the Commission.

Samuels, Lawton & Wittelle, of Chicago, Ill., for respondent.

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 Illinois corporation engaged in the manufacture of rugs, and sale and distribution thereof through dealers supplying the ultimate users, and also through its own salesmen and agents soliciting orders from the purchasing public, and with principal office and place of business in Chicago, with misbranding or mislabeling and advertising falsely or misleadingly 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, engaged as above set forth, and formerly purchasing and distributing the entire output of rugs made by the training school for blind people, known as "The Chicago Lighthouse",¹ following its own employment of the 16 blind people there-

¹ The complaint alleges the following facts relative to said school and the "lighthouses" established and operated for blind people, and the meaning which has come to attach to the word lighthouse in connection with rugs or other like items.

The Improvement Association For Blind People is a corporation incorporated under the not for profit act of the State of Illinois, on May 31, 1910, and has its principal place of business in the city of Chicago in said State. It has conducted for more than four years last past, and still conducts in said city of Chicago, a trade school for training blind people, designated and known as The Chicago Lighthouse.

In the year 1922, it began, at The Chicago Lighthouse, aforesaid, the making of rugs woven on looms operated by blind people, and continued the making of said rugs up to October, 1926. It employed 16 blind people as weavers, and the output of rugs made by said blind people was approximately 250 per week. These rugs varied in size from 24 by 48 inches to 36 by 72 inches.

Similar training schools for blind people, designated and known as lighthouses are established and operated in other cities of the United States, including the cities of Duluth and Minneapolis, Minn., New Orleans, La., Syracuse and New York City, N. Y., and Seattle, Wash., in which rugs and other articles made by blind people are produced, and the word lighthouse when used in connection with rugs or other articles is understood by a substantial portion of the public to indicate that they were produced by the work of blind people.

tofore employed at said lighthouse and their former superintendent, to make rugs in its own place of business, along with other rugs similar in composition, design, appearance and size, but made on power looms by other employees of it, in possession of their sight, labeled or tagged all its said rugs "light house rugs", together with a depiction of a lighthouse, and in its folders or circulars distributed to customers and agents used the words "sole distributors of The Chicago Lighthouse, an institution for the blind", together with a cut of a lighthouse, photographs of scenes showing blind people weaving rugs, and in other printed matter referred to said rugs as having been made by the blind, thereby falsely representing and implying that the rugs made by it upon power looms were produced by the labor of blind people.

Said use by respondent, as alleged, of the labels or tags upon the rugs manufactured by it upon looms operated by people who are not blind, and of said folders or circulars, has the capacity and tendency to, and does deceive a substantial portion of the purchasing public into the erroneous belief that said rugs manufactured by the respondent as aforesaid are produced by the labor of blind people, to induce purchasers thereof to purchase the same in that belief, and to divert trade from the producers of truthfully marked rugs, all to the prejudice of the public and of 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 (38 Stat. 717), the Federal Trade Commission issued and served its complaint upon respondent, The Light House Rug Co. (Inc.), charging it with the use of unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

Respondent having entered its appearance and filed its answer to the complaint herein, hearings were had and evidence was introduced on behalf of the Commission and of the respondent before a trial examiner of the Commission theretofore duly appointed. The trial examiner filed his report upon the facts and the respondent filed exceptions thereto. Briefs and oral arguments were filed and made on behalf of the Commission and of the respondent.

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 conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, The Light House Rug Co., Inc., is a corporation organized and existing under and by virtue of the laws of the State of Illinois with its principal office and place of business in the city of Chicago, in said State. It was incorporated in 1923 by Morris Kline and others with a capital stock of \$5,000 which was increased about a year later to \$20,000. It is engaged in the manufacture and sale in commerce of rugs and causes said rugs when sold to be transported from its place of business in the city of Chicago in the State of Illinois into and through other States of the United States to the purchasers thereof located in such States and is in competition in commerce with other manufacturers of rugs including institutions or workshops for the blind located in various States of the United States.

PAR. 2. The Improvement Association for Blind People is a corporation incorporated under the not for profit act of the State of Illinois in the year 1910 and its principal place of business is located in the city of Chicago in said State. For more than four years prior to July 12, 1917, it has conducted in the city of Chicago a trade school or workshop for training blind people, designated and known as The Chicago Lighthouse. Among the occupations which were taught to blind people at The Chicago Lighthouse aforesaid, was the art of weaving rugs upon hand looms. Rug weaving has been found one of the most practicable occupations for blind persons. Rug weaving at The Chicago Lighthouse on looms operated by blind people began sometime prior to 1922 and continued up to and including October, 1926. The number of blind people employed at The Chicago Lighthouse varied from time to time and the production of rugs also varied until in October, 1926, approximately 16 blind people were engaged in rug weaving and the output amounted to approximately 250 rugs per week. The usual size of these rugs was 24 by 48 inches. The material used was cotton warp and a jute filler. The rugs were made after designs prepared by a Miss Olga Olsen who had been engaged by the association to train blind people in the art of rug weaving at The Chicago Lighthouse. Prior to 1922 these rugs were sold from time to time through private sales or through some of the department stores located in the city of Chicago. These rugs bore a label on which were printed the words "Woven by the blind of The Chicago Lighthouse". The word "lighthouse" and a picture of a lighthouse were adopted and used on folders and other advertising matter as a trade name and symbol to describe and designate said workshops and the rugs made by the blind employed therein.

PAR. 3. In March, 1922, in order to dispose of its rugs and keep the blind rug weavers steadily at work, The Chicago Lighthouse made an arrangement with said Morris Kline to sell its entire output of rugs. This arrangement continued until October, 1926. Soon after this arrangement was made said Morris Kline incorporated the respondent and adopted the words "light house" in its corporate name, and used the said words and the symbol, consisting of a picture of a lighthouse, on the labels on said rugs and in advertising matter used in connection with the sale of the same. The respondent within about 60 days after the said arrangement with Kline had been made secured a factory or workshop not connected with The Chicago Lighthouse and installed therein power looms operated by sighted persons to supplement the production of the hand woven rugs made by blind people at The Chicago Lighthouse. The rugs made upon these power looms by sighted persons were of exactly the same material, design and size as the rugs made by the blind people at The Chicago Lighthouse. Only experts were able to distinguish between the hand loom product made by the blind and the power loom product made by sighted persons. A blind person can produce 8 or 10 rugs a day while a sighted worker can produce about 40 rugs a day upon a power loom. Both the rugs made upon hand looms by the blind persons at The Chicago Lighthouse and the rugs made upon power looms by sighted persons at the respondent's place of business were sold by the respondent through the same channels and at the same prices for the same sizes. At first the rugs were sold through stores regularly dealing in rugs in various cities throughout the United States. In connection with these sales blind weavers from The Chicago Lighthouse demonstrated the weaving of rugs upon hand looms installed in the show windows of the stores in which the hand loom product and the power loom product were sold. Demonstrations of this kind were made over a period of more than a year in the cities of Chicago, Ill., Detroit, Mich., Milwaukee, Sheboygan, Madison, Wis., Gary, Valparaiso and Hammond, Ind., Kankakee and Peoria, Ill., and St. Joseph, Mo. Later the respondent appointed in several States agents to sell these rugs and house to house sales forces were organized. In connection with the sale of both the hand loom product and the power loom product respondent issued circulars bearing the names "Light House Rugs" and "The Light House Rug Co. (Inc.)", and also bearing a picture of a lighthouse, the trade-mark or emblem of The Chicago Lighthouse. These circulars contained reproductions of extended newspaper articles concerning The Chicago Lighthouse and its work for the blind as well as pictures of blind people weaving rugs. These circulars were placed in the hands of its sales force by respondent

and were exhibited to purchasers and prospective purchasers of rugs. The order blanks used by respondent bore the words "Light House" in prominent letters and the picture of a lighthouse, the trade mark or emblem of The Chicago Lighthouse. These circulars also bore the name Light House Rug Co. (Inc.), and the statement "Sole distributors of The Chicago Lighthouse, an institution for the blind". This statement was used upon circulars issued by respondent even after October, 1926, when the production of rugs at The Chicago Lighthouse was discontinued entirely. The rugs bore tags upon which were either the words "Woven by the blind of The Chicago Lighthouse" or the words "light house rugs" and the symbol consisting of a picture of a lighthouse. Salesmen of respondent sold both the hand loom product and the power loom product indiscriminately without any attempt to distinguish between them. In 1927 the respondent sold approximately 82,000 rugs of which less than one-third was produced by the labor of blind people. Between 50,000 and 60,000 of these rugs were made on power looms by sighted persons either at the respondent's place of business in Chicago or for his account in a factory located in Philadelphia, Pa.

In October, 1926, the respondent took into its employ the superintendent of The Chicago Lighthouse and all of the blind weavers employed there and continued the production of rugs upon hand looms operated by blind weavers at its own place of business in addition to the rugs woven upon power looms there. The weaving of rugs at The Chicago Lighthouse was thereupon discontinued.

PAR. 4. The use by the respondent of the words "Light House" in its corporate name and on labels, circulars, and other advertising matter used in connection with the sale of its product is misleading and deceptive and has the capacity and tendency to mislead and deceive the purchasing public into the belief that its rugs are the product of The Chicago Lighthouse. The use by the respondent of the aforesaid statement "Sole distributors of The Chicago Lighthouse, an institution for the blind" is false and misleading and has the capacity and tendency to mislead and deceive the purchasing public into the belief that the respondent is the sole distributor of the products made by the blind at The Chicago Lighthouse aforesaid.

PAR. 5. The Minneapolis Society for the Blind maintains and operates in the city of Minneapolis, Minn., a workshop in which rugs woven by blind people are made. These rugs are made of materials similar to the material in the rugs made by respondent; are of approximately the same size and are used for the same purposes. Most of these rugs are sold locally in the city of Minneapolis, while others are made for out of town shipment. Respondent sells its rugs in the

Findings

12 F. T. C.

city of Minneapolis and through the use of its aforesaid circulars and by oral representations of its salesmen gives the false impression to customers and prospective customers that its rugs are made by the blind at the workshop situated in Minneapolis.

The St. Louis County Association for the Blind, Inc., maintains and operates a workshop for blind persons in the city of Duluth, Minn., under the name of Duluth Lighthouse for the Blind. One of the industries for the blind conducted at this shop is rug weaving. Approximately seven blind people are employed there in making woven rugs. These rugs are sold locally in the city of Duluth and in the States of Michigan and Wisconsin. They are made of similar material, are of the same size and are used for the same purposes as respondent's rugs. They bear tags containing the word "lighthouse". Respondent's salesmen sell its rugs in the city of Duluth, and in the sale of said rugs respondent through its said circulars and the oral representations of its salesmen gives to customers and prospective customers the false impression that its rugs are made by the blind at the Duluth Lighthouse for the Blind.

The New York Institute for the Blind was established in 1906. In 1910 it adopted the word "lighthouse" and since that date has used the word "lighthouse" upon its stationery, counter signs, tags, and circulars used in designating and selling its products. It also adopted and continues the use of the picture of a lighthouse as a trade-mark or symbol for its products. Hand woven rugs made by the blind are among the articles made at the New York Lighthouse and the yearly output is valued at approximately \$20,000. These rugs are sold and transported throughout the United States. They are made of similar material, are of similar size and are devoted to the same uses as are respondent's rugs. Approximately 14 hand looms operated by blind women are employed in making these rugs at the New York Lighthouse. Respondent through its salesmen sells its rugs in the city of New York and through its said circulars and the oral representations of its salesmen gives the false impression to customers and prospective customers that its rugs are made by blind people at the New York Lighthouse.

Similar workshops for the blind are maintained in the cities of Rochester, Syracuse, Elmira, Glens Falls, Watertown, Albany, Brooklyn, and Buffalo in the State of New York. The institution in the city of Buffalo, as well as the one in Syracuse, is designated and described as a "Lighthouse". These institutions, with the exception of the one in New York City, are under the general supervision of the New York State Commission for the Blind. There are approximately 93 blind rug weavers either in shops or in homes

in New York State engaged in the production of woven rugs similar to those sold by respondent. Competition of respondent's machine rugs woven by sighted persons under actual or implied representation that they are made by the blind makes it more difficult to secure a market for rugs made by blind persons.

PAR. 6. The word "lighthouse" or words "light house", used in connection with institutions or with articles such as rugs and other woven fabrics known extensively to be articles which can be made and are made by blind people carries with it a connotation or implication that the articles are made by blind people. Sympathy for blind persons and the desire of the public to help them is an element in finding a market for rugs of the character made in institutions operated for the benefit of blind people.

The use by respondent of the words "light house" as hereinbefore set forth is misleading and deceptive and has the capacity and tendency to mislead and deceive the purchasing public into the belief that respondent's rugs are the product of institutions which maintain and operate workshops for blind people and which are known and designated as "Lighthouses".

PAR. 7. The labels, tags, advertising circulars, and literature used by respondent in connection with the sale of its rugs; the use of the words "light house" in its corporate name, the use of the said words and the emblem consisting of a picture of a lighthouse upon the tags and labels and advertising matter used in connection with the sale of its rugs; the practice of respondent of selling rugs made by the blind and rugs made by sighted persons under the common name of "light house rugs"; the representation indiscriminately by its salesmen that the rugs offered for sale are made by the blind whether they are made by blind people or by sighted persons; and the false impression or implication left with customers or prospective customers that respondent's said rugs are made by the blind persons in the locality have a tendency and capacity to mislead and deceive purchasers and prospective purchasers into the belief that they are purchasing the product of blind people rather than that they are promoting a private enterprise and causes confusion and makes it more difficult for blind rug weavers to find a market for their product.

The practices of the respondent and its agents as above set forth are unfair to the institutions which produce rugs by the labor of blind people and sell them in competition with the rugs of respondent and to the blind workers in these institutions, and are unfair to the manufacturers of rugs who sell their product on

Order

12 F. T. C.

their merits rather than upon the basis of sympathy for the blind in competition with respondent.

PAR. 8. There are among the competitors of respondent those who in no wise misrepresent the origin, nature and character of the rugs made by them and respondent's acts and practices as above set forth tend to and do divert business from and otherwise injure and prejudice said competitors.

CONCLUSION

The above alleged acts and practices of respondent are all to the prejudice of the public and of respondent's 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".

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 the testimony in support of the charges in said complaint and in opposition thereto, and the briefs and argument of counsel for the Commission and counsel for the respondent, 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 respondents, The Light House Rug Co., Inc., its representatives, agents, servants, employees, and successors cease and desist from:

(1) Using or authorizing the use by others in interstate commerce of the word "lighthouse" or the words "Light House" either independently 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 labels, circulars, or other advertising matter in connection with the sales or distribution in interstate commerce of its products.

(2) Using or authorizing the use by others in interstate commerce in advertising matter, circulars or otherwise of the words "Sole distributors of The Chicago Lighthouse, an institution for the blind", so as to confuse or mislead the purchasing public as to the origin of its products or so as to import or imply that it is the sole distributor

192

Order

of the products made at The Chicago Lighthouse when such is not the fact.

(3) Using or authorizing the use by others in interstate commerce in advertising or upon business stationery or on labels, or otherwise, a pictorial representation of a lighthouse which simulates the emblem or symbol adopted and used by The Chicago Lighthouse to designate its product.

(4) Using or authorizing the use by others in connection with the sale and distribution of its products in interstate commerce any designation, representation or description on labels or in advertising matter, or otherwise so as to import or imply that its products are made by blind people when such is not the fact.

It is further ordered, That respondent, The Light House Rug Co., Inc., pursuant to the provisions of Rule XVI of the Commission's Rules of Practice shall within 60 days after the 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 said order has been complied with.

Complaint

12 F. T. C.

IN THE MATTER OF
SCOTT & BOWNE

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

Docket 1470. Complaint, July 20, 1927—Decision, July 26, 1928

Where a corporation engaged in the manufacture of various products including a medicine sold and distributed under a trade name in large quantities to wholesale and retail dealers throughout the United States; in pursuance of a plan and policy adopted by it for the maintenance of suggested resale prices on its goods,

- (a) Issued and sent out a list of selected wholesale distributors, following announcements of its aforesaid plan and policy, with request for adherence thereto in the matter of suggested minimum prices, from which were omitted names of many concerns who had theretofore long handled its goods without question as to dealings or credit, and to which it restored concerns thus omitted only after receipt of satisfactory assurances of conformance to its policy and suggestion in the matter of the maintenance of its minimum resale prices; and
- (b) Generally refused to sell at wholesale prices to those of its prior distributors who failed or refused to give it the requested assurance in proper form and advised the same that they could buy from its approved distributors at retail buying prices, including in those thus demoted to the status of retailers, compelled to pay retailers' prices, the so-called cooperative wholesalers, who paid their members discounts based on purchases rather than on total business transacted,

With the result of securing the substantial maintenance of its suggested minimum prices by its vendees, and of lessening and suppressing competition in the sale and distribution of its products and particularly of the medicine above referred to, and of thereby preventing said vendees from selling its said products at such different or less price as they might desire, and depriving them and their purchasers of the advantages of free competition in the sale and purchase thereof:

Held, That such a plan of resale price maintenance, under the circumstances set forth, constituted an unfair method of competition.

Mr. W. T. Chantland for the Commission.

Mr. John Walsh, of Washington, D. C., for respondent.

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, among other things, of a medicine known as "Scott's Emulsion" and in the sale thereof to purchasers in other States, and with principal office and place of business at Bloomfield, N. J., with maintaining