

Complaint

13 F. T. C.

IN THE MATTER OF
PHILIP SHLANSKY & CO., INC.

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

Docket 1748. Complaint, Dec. 21, 1929—Decision, Mar. 3, 1930

Where a corporation engaged in the manufacture and sale of women's coats made entirely of material other than the pelt or skin of the lamb, represented and designated the same as "Silverlamb" and featured said word in its advertisements thereof and upon the labels attached thereto, with the capacity and tendency to mislead, deceive, and confuse the purchasing public as to the composition thereof:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Robert H. Winn 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 the manufacture and sale of women's coats, and with principal place of business in New York City, with naming product misleadingly, advertising falsely or misleadingly, and misbranding or mislabeling in regard thereto, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, represented, designated, and described its said women's coats as "Silverlamb," featured said word in the advertisements thereof, and so branded and labeled the same, notwithstanding the fact that the product in question was not made in whole or in part of wool or of the pelt or skin of the sheep but entirely of other material.

The use by respondent, as alleged, "of the word 'Silverlamb' to represent, designate, describe, and refer to its products in the manner hereinbefore set out has the capacity and tendency to mislead and deceive and to confuse the purchasing public into the belief that its said products so represented, designated, described, and referred to are made in whole or in part of the wool or of the pelt or skin of sheep"; 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 Philip Shlansky & Co., Inc., a corporation, charging it with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act.

Respondent having entered its appearance and filed its written return and answer to the complaint herein, admitted therein substantially all allegations of such complaint and alleged the cessation of the methods of competition charged in said complaint. In said answer respondent consented that the Commission should proceed upon such complaint and respondent's said written return and answer to make its findings as to the facts and such order as it may deem proper to enter therein, without the introduction of testimony or the presentation of argument in support of same. And the Federal Trade Commission being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business located in the city of New York, in the State of New York. It is now and for more than one year last past has been engaged in the manufacture of women's coats and in the sale and distribution of same in commerce between and among various States of the United States. It causes its products, when sold, to be shipped or transported from its place of business in the State of New York to purchasers thereof located in States of the United States other than the State of New York. In the course and conduct of its business respondent was at all times herein referred to in competition with other corporations, individuals, firms, and partnerships likewise engaged in the sale and distribution in interstate commerce of similar products.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, respondent, in soliciting the sale of and selling in interstate commerce women's coats, represented, designated, described, and referred to the same as "Silverlamb," and caused advertisements to be circulated in various States of the United States,

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in which advertisements the word "Silverlamb" was featured and prominently displayed as descriptive of the said women's coats. It attached a ticket to each of such garments made by it, which ticket bore the brand or label "Silverlamb," and, so branded and labeled, respondent sold and distributed such garments in interstate commerce; when in truth and in fact respondent's products so advertised, labeled, sold and distributed in interstate commerce under the trade name or brand "Silverlamb," were not made of the pelt or skin of the lamb, but were made entirely of other material.

PAR. 3. The use by respondent of the word "Silverlamb" to represent, designate, describe, and refer to its said products in the manner hereinbefore set out, has the capacity and tendency to mislead and deceive and to confuse the purchasing public into the belief that its said products so represented, designated, described, and referred to are made of the pelt or skin of the lamb.

CONCLUSION

The practices of the said respondent, under the conditions and circumstances described in the foregoing findings, are to the prejudice of the public and of respondent's competitors, and constitute a violation 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 and considered by the Federal Trade Commission, upon complaint of the Commission and the record, 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, Philip Shlansky & Co., Inc., a corporation, its officers, agents, and employees, do cease and desist from the use of the word "Silverlamb" in the designation of, or in the advertising, branding, or labeling of women's coats sold and distributed by it in interstate commerce, unless said women's coats be manufactured or fabricated from the pelt or skin of the lamb.

It is further ordered, That the respondent shall, within 60 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 it has complied with the order to cease and desist hereinbefore set forth.

Syllabus

IN THE MATTER OF

TEMPLE ANTHRACITE COAL CO.

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914

Docket 1537. Complaint, Oct. 11, 1928—Decision, Mar. 8, 1930

Where a corporation, shortly following its organization,

- (a) Acquired all the outstanding capital stock of a corporation theretofore engaged in commerce in anthracite coal between and among various States, which (1) was one of the largest anthracite coal mining companies, having theretofore acquired physical assets of various other anthracite coal-mining companies and all or a majority of the stock of two other similar companies, and had physical properties, including modern completely equipped collieries, necessary buildings and railroad connections, worth more than twelve and a half million dollars, and an annual output of about 1,250,000 tons of anthracite coal, (2) was, along with said acquired companies, in sound financial condition and free from funded debt, and (3) sold all but a small part of its output through or to a distributor with offices in Philadelphia, Buffalo, Chicago, Baltimore, and New York, and thus to customers in Canada, the District of Columbia, and some 22 eastern, southern, and western States; and
- (b) Acquired 98 per cent of the outstanding capital stock of a corporation theretofore engaged in commerce in anthracite coal between and among various States, which (1) had coal lands with a total recoverable tonnage of 4,700,000 tons, along with improvements and developments not susceptible of duplication for \$1,500,000, ample rail facilities, and a colliery completely and modernly equipped, with breaker capacity of 1,200 tons per day, (2) was in sound financial condition and free from funded debt, and (3) sold its output to or through a distributor with offices in Philadelphia, New York, Boston, and Washington, and thus to customers in Canada, the District of Columbia, and 15 eastern, southern, and western States, included, as to all but one, among those served by said first named distributor, and in competition therewith, through solicitation and filling of orders not only in the same territory and cities, but from and for the same dealers; and
- (c) Selected the officers and directors of the aforesaid various companies and controlled and dominated the management and operation of their properties and finances;

With the result that effect of said acquisition of stock of said two companies and use thereof by voting or granting of proxies or otherwise had been and was to substantially lessen competition in interstate commerce between said companies:

Held, That such acquisition and continued ownership of the stock of said companies, under the conditions and circumstances above set forth, constituted a violation of section 7 of the Clayton Act.