

Complaint

14 F. T. C.

IN THE MATTER OF
PHILADELPHIA LEATHER HOUSE, A CORPORATION,
TRADING AS WESTERN TANNING COMPANY

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 1835. Complaint, May 21, 1930—Decision, July 7, 1930

Where a corporation engaged in the sale of leather of different kinds, shoe findings, shoe machinery, and shoe-store supplies to retailers in various States, and neither owning, controlling, nor operating any tanning plant, or factory tanning the leather dealt in by it, used and featured in its mail-order business in different leathers a trade name including the word "tanning" and displayed said name in printed circulars, handbills, price lists, and on letterheads, billheads, etc., together with such statements in its advertising as "Buy direct from us for cash," "We sell our leather direct to the man who uses it", "Buy direct from us and save the difference"; with capacity and tendency to mislead and deceive the public and retail dealers and to cause a substantial number thereof to purchase leather from it as and from a tannery, with cost or profit of the middleman eliminated, and to divert trade from and otherwise injure competitors:

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

Mr. James W. Nichol for the Commission.

Mr. Benjamin S. Baker, of Omaha, Nebr., 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 Nebraska corporation engaged as a jobber in the sale and distribution of leather of different kinds, shoe findings, shoe machinery, and shoe-store supplies, to retailers in various States, and with its principal office and place of business in Omaha, with using misleading trade names and with advertising falsely or misleadingly as to business status, 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, in carrying on a part of its business, to wit, a mail-order business in leather of different kinds, with retail dealers, adopted the trade name "Western Tanning Company" and featured said name in its circulars and bills, price lists, and other similar literature, and on letterheads, billheads, envelopes, and other stationery, and made such statements therein as "Buy direct from us for cash"; "We sell our

leather direct to the man who uses it—the shoemaker and harness maker”; “Buy direct from us and save the difference”; “Western Tanning Company—Sole and harness leather—Buy your leather now”, etc., notwithstanding the fact that said corporation neither owned, controlled, nor operated any tanning plant or factory, but purchased the leather sold and distributed by it from tanneries which it neither owned, controlled, nor operated.¹

The adoption and use by respondent, as alleged, of the aforesaid trade name, with or without the statements and representations made in its advertising, as above set forth, is calculated to and has had and has the capacity and tendency to mislead and deceive the public and retail dealers, and/or does mislead and deceive the public and retail dealers, and to cause a substantial number thereof to purchase leather from respondent under the erroneous belief that in so doing they the purchasing leather direct from a tannery, without the intervention of a middleman or any element of cost and/or profit of such middleman, and the aforesaid false, misleading, and deceptive acts and practices of respondent, under the circumstances and conditions set forth, have, and had, as charged, the capacity, tendency, and effect of unfairly diverting trade from and otherwise injuring the business of respondent's competitors, are to the prejudice and injury of the public, and constitute 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 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 said respondent, Philadelphia Leather House, a corporation, trading as Western Tanning Co., charging said respondent with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act. The respondent having entered its appearance and filed its answer herein, pursuant to section 2 of Rule III of the Commission's Rules of Practice, and stating that it refrained from contesting said proceeding.

¹ As alleged in the complaint, the word “tanning” in the mind of the public and the leather trade, signifies a process by which hides or skins are converted into leather and the use by respondent of said word as a part of its said trade name Western Tanning Co., as hereinbefore set forth, signifies in the mind of the public and the leather trade that said Western Tanning Co. is a concern which owns, operates, or controls a tanning plant or factory where hides or skins are converted into leather.

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Thereupon, this case came on for decision, and the Federal Trade Commission, having duly considered the record, and having been fully advised in the premises, now makes this its findings of the facts, as stated in the complaint, and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Philadelphia Leather House, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business in the city of Omaha, in said State. It is now and has been engaged as a jobber, in the business of selling and distributing leather of different kinds, shoe findings, shoe machinery and shoe-store supplies, to retail dealers located in various States of the United States. It causes its merchandise, when so sold, to be transported from its said place of business in the city of Omaha, in the State of Nebraska, into and through other States of the United States to said vendees at their respective points of location. In the course and conduct of its said business, respondent is in competition with individuals, partnerships, and other corporations engaged in the sale and distribution of like articles of merchandise in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, respondent adopted the trade name and style of Western Tanning Co., and carried on and conducted a part of its said business, to wit, a mail-order business in leather of different kinds, with retail dealers, under said trade name and style. Under said trade name and style, prominently displayed, it caused advertising matter in the form of printed circulars, handbills, price lists, and other similar literature to be circulated in interstate commerce among customers and prospective customers, and also used said trade name on letterheads, billheads, envelopes, and other stationery; and in such advertising matter—in which said trade name Western Tanning Co. was prominently displayed—made the following and other similar statements and representations:

- (a) Buy direct from us for cash;
- (b) Direct to you;
- (c) We sell our leather direct to the man who uses it—the shoemaker and harness maker;
- (d) Buy direct from us and save the difference;
- (e) Western Tanning Co.—Sole and harness leather—Buy your leather now—Whether you buy your leather from us or from your jobber, buy it now;
- (f) We sell our leather direct to the shoemaker or harness maker by mail, not through a salesman;
- (g) Buy western oak sole and harness leather direct from us and save the difference;

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when, in truth and in fact, said Philadelphia Leather House was, at the times herein referred to, and now is, a jobber of such leather, and did not and does not now own, control, or operate a tanning plant or factory where the leather sold and distributed by said corporation under the trade name Western Tanning Co., or otherwise, was and is tanned, but purchased, and now purchases said leather which it sold and distributed, and now sells and distributes, as set forth above, from tanneries which it did not now own, control, or operate.

PAR. 3. The word "tanning" in the mind of the public and the leather trade, signifies a process by which hides or skins are converted into leather, and the use by respondent of said word as a part of its said trade name Western Tanning Co., as hereinbefore set forth, signified in the mind of the public and the leather trade that said Western Tanning Co. was a concern which owned, operated, or controlled a tanning plant or factory where hides or skins were converted into leather.

PAR. 4. The adoption and use by respondent of the trade name Western Tanning Co., with or without the statements and representations made in its advertising matter, all as hereinbefore set forth, was calculated to and had the capacity and tendency; (a) to mislead and deceive the public and retail dealers, and to cause a substantial number thereof to purchase leather from respondent under the erroneous belief that in so doing they were purchasing leather direct from a tannery, without the intervention of a middleman or any element of cost or profit of such middleman; and (b) to divert trade from and otherwise injure the business of respondent's competitors.

CONCLUSION

The practices of said respondent, Philadelphia Leather House, under the conditions and circumstances set forth in the foregoing findings, are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in interstate commerce, and constitute a violation of section 5 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 answer of the respondent filed under the provisions of section 2 of Rule III of the Commission's Rules of Practice, in which respondent stated that it refrained from contesting this proceeding—as fully appears from

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the record herein; and the Commission, having made its report stating its findings as to the facts, with the conclusion that the respondent Philadelphia Leather House has violated the provisions 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", approved September 26, 1914,

It is now ordered, That the respondent, Philadelphia Leather House, its officers, directors, agents, servants, employees, and successors, cease and desist, in connection with the sale and distribution of leather in interstate commerce between and among the various States of the United States, from the use of the word "tanning" or a word or words of like import, either independently or in connection with any other word or words, as a part of the trade name and style of any business conducted by it as a jobber of leather, on circulars, handbills, price lists, letterheads, billheads, envelopes, and other business stationery and advertising matter, or otherwise; and from the use, in its advertising matter, or otherwise, of any statement or representation, direct or implied, to the effect that respondent is a tanner of the leather sold and distributed by it, and that purchases of leather made directly from it will eliminate the profit of the jobber or middleman—unless and until said respondent actually owns and operates, or directly and absolutely controls a tanning plant or factory where the leather sold and distributed by it is tanned.

And it is further ordered, That the respondent, Philadelphia Leather House, shall, within 60 days from the date of 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.

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IN THE MATTER OF

L. M. WHITNEY, INDIVIDUALLY, AND TRADING AS
MOTOR SNAP COMPANY AND AS WHITNEY SALES
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 1759. Complaint, Feb. 10, 1930—Decision, July 8, 1930

Where an individual dealing in "Motor Snap Gas-Garets" or "Motor Snap" tablets, composed of naphthaline, active ingredients of moth balls, represented through pamphlets, leaflets, labels, letters, and other advertising matter that said tablets, added to gasoline in the proportion of one to the gallon, would remove carbon, give 30 per cent more mileage, lessen odor, smoke, and engine knocking and generally promote higher engine efficiency, the facts being that they did not cause gasoline to which added to give more power or mileage, dissolve or remove carbon or have an antiknock value; with capacity and tendency to mislead, deceive, and confuse the purchasing public in reference to the qualities thereof, as above set forth: *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. Richard P. Whiteley for the Commission.

Mr. Emile H. Ruch, of Providence, R. I., 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 individual engaged in the sale and distribution of a product known as "Motor Snap-Gas-Garets", in the form of small tablets for placing in gasoline tanks of automobiles and other motor vehicles, to promote higher engine efficiency, and with principal place of business in Providence, R. I., with advertising falsely or misleadingly as to results or characteristics of product dealt in, 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, falsely represented in his advertisements of his product in circulars, form letters, pamphlets, magazines or newspapers that his product, added to gasoline, would give more power, more mileage per gallon, greater economy, dissolve or remove carbon from cylinders, and result in a smoother motor, the fact being that gasoline so treated was not more