

Complaint

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

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efficient in the aforesaid respects than gasoline of similar kind and quality to which said product had not been added.¹

The representations made by respondent, as alleged, "of his product called Motor-Snap or Motor-Snap-Gas-Garets in soliciting the sale of and selling his aforesaid product in the manner heretofore set out has the capacity and tendency to mislead and deceive and to confuse the purchasing public into the belief that respondent's said product when added to gasoline burning motors, causes the gasoline to which it is added to produce more power, to give 30 per cent more mileage and to remove carbon, when in truth and in fact gasoline to which respondent's product has been added in the quantity specified does not give more mileage per gallon and does not dissolve or remove carbon from gasoline engine cylinders, and is no more efficient in said respects than gasoline of similar kind and quality to which respondent's product has not been added"; all to the prejudice of the public and of respondent's competitors.

¹ Excerpts from respondent's advertising as set forth in the complaint follow:

"MOTOR SNAP

AMERICA'S STANDARD

CARBON REMOVER

AND POWER PRODUCER

Removes carbon—Gives more power and smooth easy-running engine with 30 per cent more mileage

DROP MOTOR SNAP INTO YOUR GASOLINE."

"GASOLINE ECONOMY AND EFFICIENCY

"Do you realize that you are spending too much money on your motive power, and did you ever think there was a way out of cutting down the fuel bills?

"MOTOR SNAP

"America's Standard Carbon Remover and Power Producer Guaranteed to give 30 per cent more mileage and power.

"An oil therefore absolutely noninjurious to the finest motor. Easily applied.

"WHAT MOTOR SNAP WILL DO

Dissolves and Removes Your Carbon

"Therefore it gives you an easier hill-climbing car, better sparking motor, more power, car will run better in cold weather, prevents carbon, will not injure your motor, faster ignition. By keeping your car clean on the inside, Motor Snap makes your car 100 per cent efficient, improves the fuel and carburation to the motor, improves lubrication, lessens odor and smoke; gives uniform combustion, perfect ignition, easier starting, quicker 'pick up' and a quicker acting motor. Drop tablets directly in your gasoline. Dissolves readily.

"Can be used in gasoline for automobiles, stationary gasoline engines, motor boats, motor cycles and tractors."

"TO THE AUTOMOBILIST

"Scientific efficiency is the order of the day.

"How can a motorist expect engine efficiency if it's wheezed to the gills with the black plague of motordom, called carbon.

"Let science relieve your troubles. Old fogylism never gets anyone anywhere. Our magazines are busy advertising a way to handle a wonderful antiknox marvel called Deadethyl gas. Use with any grade of gasoline anywhere.

"A TABLET TO EACH GALLON OF GAS IS RIGHT

"BE SURE YOU'RE RIGHT, THEN GO AHEAD"

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 a complaint upon the respondent L. M. Whitney, individually and trading as Motor Snap Co., and as Whitney Sales Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having filed his answer herein, hearings were had and evidence was thereupon introduced on behalf of the Commission before an examiner of the Federal Trade Commission duly appointed. The respondent appeared through his counsel and stated that he did not desire to contest the proceedings. Thereupon this proceeding came on for final hearing on the brief of counsel for the Commission, and the Commission having duly considered the record and being fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, L. M. Whitney, is an individual doing business as the Motor Snap Co., and as the Whitney Sales Co., with his office and place of business at his residence at 293 Indiana Avenue, Providence, R. I.

PAR. 2. For several years last past and at all times herein mentioned respondent has been engaged in the sale of a product known as Motor Snap Gas-Garets, or Motor Snap, which product is in the form of small tablets to be placed in the gasoline tanks of automobiles and other motor vehicles in the proportion of one tablet per gallon of gasoline to promote engine efficiency and increase mileage, and has caused said tablets, when sold, to be transported from his place of business located in the State of Rhode Island to purchasers located in other States of the United States. In the course and conduct of his said business respondent is and has been in competition in commerce in the sale of his said product with other individuals, firms and corporations engaged in the manufacture, sale, and distribution of specially treated gasoline or other motor fuels.

PAR. 3. Respondent, in the course of his business, as set out in paragraph 2 hereof, causes to be manufactured for him and thereafter sells and causes to be transported packages containing 100 tablets each of tablets described as Motor Snap Gas-Garets, or Motor

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Snap, which said tablets are composed essentially of naphthaline, the active ingredient of moth balls; and in the sale and distribution of said tablets, the respondent by means of pamphlets, leaflets, labels, letters, and other forms of advertising matter, which respondent has caused to be distributed among prospective customers in various States of the United States other than the State of Rhode Island, has represented that the said tablets when placed in gasoline in the proportion of one tablet per gallon of gasoline will remove carbon, give 30 per cent more mileage and, when added to gasoline as stated, will lessen odor and smoke and engine knocking, and will promote higher engine efficiency generally.

PAR. 4. The addition of the product of respondent, described as Motor Snap Gas-Garets or Motor Snap to gasoline does not cause said gasoline to which it is added to give more power or to give more mileage per gallon, and does not dissolve or remove carbon from gas engine cylinders; and the addition of respondent's said product to commercial gasoline has no antiknock value or tendency to remove the knock caused by gasoline combustion in gasoline engine cylinders.

PAR. 5. The representations made by respondent of his product called Motor Snap or Motor Snap Gas-Garets in soliciting the sale of and selling the aforesaid product in the manner heretofore set out has the capacity and tendency to mislead and deceive and to confuse the purchasing public into the belief that respondent's said product, when added to gasoline burning motors, causes the gasoline to which it is added to produce more power, to give 30 per cent more mileage, to remove carbon and to lessen knocking, when in truth and in fact gasoline to which respondent's said product has been added in the proportion specified does not give more power, does not give more mileage per gallon, does not dissolve or remove carbon from gasoline engine cylinders or lessen knocking, and is no more efficient in said respects than gasoline of similar kind and quality to which respondent's said product has not been added.

CONCLUSION

The practices of the respondent, 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 commerce and constitute a violation of section 5 of an act of Congress approved September 28, 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 upon the answer of the respondent filed herein, 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 above named, L. M. Whitney, his agents, representatives, and employees, in connection with the sale or distribution in interstate commerce of his product described as Motor Snap or Motor Snap Gas-Garets, do cease and desist from making any assertion, representation, claim, or statement that the said tablets described as Motor Snap or Motor Snap Gas-Garets when added to gasoline cause said gasoline to which they have been added to produce more power, or to give more mileage per gallon, or to dissolve or remove carbon from gasoline engine cylinders, or to remove the knock caused by gasoline combustion in gasoline engine cylinders.

It is further ordered, That the respondent, L. M. Whitney, shall within 60 days after the service upon him of this order, file with the Federal Trade Commission a report in writing, setting forth in detail the manner and form in which he has complied with the above order to cease and desist.

IN THE MATTER OF
H. L. LOMAX, DOING BUSINESS UNDER THE TRADE
NAME OF LOMAX RUG MILLS

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

Docket 1715. Complaint, Oct. 29, 1929—Decision, July 26, 1930.

Where an individual engaged in the sale of rugs to retail dealers and, largely, direct to the consumer, included the words "rug mills" in his trade name and featured and employed the same and such slogans, statements, and representations in his advertisements in daily papers, circulars, and mailing cards as "Buy direct from the mills and save", "Eight years ago we originated the plan of direct selling from the mill to the consumer. * * * The best brains * * * were trying to devise ways and means of reducing the high cost of living. Our method * * * was just the thing. We eliminated the middleman and his profits. * * * We saved the buyers of rugs many thousands of dollars. We raised the quality of our product; * * *," "Just off the looms", "Buy direct at mill prices", "Factory to you", "The only firm which can show you the looms weaving"; notwithstanding the fact that said individual had no looms and manufactured none of the rugs dealt in by him, but fabricated 10 per cent thereof from standard carpet material and purchased the balance, chiefly trade-marked, from leading manufacturers, and from his father's separate and distinct carpet mill business or enterprise, which he managed and had come to be financially interested in, and which was conducted in the same building as his own, under certain mutual arrangements; with capacity and tendency to mislead and deceive the purchasing public into buying rugs and carpets from said dealer as from the manufacturer, with a supposed saving of the middleman's profit, and at a price supposedly lower than if bought from the retailer, all to the prejudice of the public and competitors:
Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. G. Ed. Rowland for the Commission.

Mr. Albert T. Bauerle, of Philadelphia, Pa., 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 individual, engaged as Lomax Rug Mills in the sale of rugs and carpets to purchasers in various States, and with principal place of business in Philadelphia, with using misleading trade name, and advertising falsely or misleadingly as to business status, in vio-