

Complaint

15 F. T. C.

IN THE MATTER OF
KROMO PLATE CORPORATION

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

Docket 1891. Complaint, Jan. 5, 1931—Order, Apr. 6, 1931

Consent order requiring respondent to desist from the use of the words chromium, chrome, chromo or any phonetic form thereof such as kromo, in labeling, advertisements, or representations in connection with sale of its compound, product, or plate to designate or describe the same, or the effect claimed to be produced thereby, and from instructing or advising agents or salesmen engaged in sale thereof to represent that use of compound or product on either certain automobile parts or other metal objects produces a chromium plate or other effect attributable to chromium, as in said order set forth and qualified.

Mr. Edward E. Reardon for the Commission.

Mr. William Thomas Jones and *Mr. Joseph L. Gould*, of New York City, for respondent.

COMPLAINT

Acting in the public interest, 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 charges that Kromo Plate Corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Kromo Plate Corporation, is a corporation organized and doing business under and by virtue of the laws of the State of New York, having its principal place of business in the City of New York, State of New York. It is now and for some months past has been engaged in the manufacture, sale and distribution in interstate commerce of a chemical compound in fluid form for producing a silver polish when applied to any metallic surface except iron or steel. Respondent causes its said product, when sold, to be shipped from its place of business in the State of New York to purchasers thereof in various other States of the United States. In the course and conduct of its business, respondent has been, during the period above named, in competition with other corporations,

individuals, firms and partnerships likewise engaged in the sale and distribution of similar products in interstate commerce.

PAR. 2. From about the year 1926 there has been in use in this country, for giving metals a permanent silver luster, a process of electrical plating with the metal chromium. Patents have been issued for aforesaid process by the United States Patent Office and the owners of said patents have sold and sell the rights to use such process to manufacturers in various States of the United States who use such permanent chromium plating on their products, such as automobiles, cutlery, kitchen utensils, plumbing, etc. Respondent's product contains no chromium and is not applied by electrolysis but by a cloth by spreading or rubbing on a metal surface. It is not permanent but lasts ordinarily at most six or eight weeks.

PAR. 3. In the conduct of its business as aforesaid, respondent has caused advertisements to be inserted in newspapers having interstate circulation, soliciting the services of agents to demonstrate and sell its product above described. To prospective agents, answering said newspaper advertisements, respondent has sent circulars representing in part: "This secret formula polish triple-plates as it polishes, leaving a clean high luster like genuine chromium," "Throughout the entire country the popularity of chromium sales has grown with unprecedented speed. The agent who takes advantage of this unforeseen popularity will ride the crest of the wave to a sure source of profit." "You can emphasize the fact that chromium has leaped into popularity overnight. It has taken the place of inferior plating on metal objects in the home and for chemical uses. You can call attention to the fact that manufacturers of high-priced automobiles, expensive plumbing fixtures and exquisite silverware in hundreds of industries have turned to chromium plate as the perfect finish possessing greater durability and lasting beauty and now—at last this superior finishing process has progressed from the hands of a few exclusive specialists and has been made available to everyone—through YOU, as the agent for Kromo Plate." Respondent's circulars represented that by an investment of \$5 agents would make \$13 profit. Respondent's agents in various States have been supplied by it with circulars, leaflets and printed matter for distribution among the public, containing such statements as, "Chromium plating has become popular overnight," "Manufacturers have turned quickly to chromium plate," "In the past, chromium plating has been a costly process. Now Kromo-Plating, which is a similar process, can be done easily and inexpensively by anyone in a few moments' time"; also other statements of like purport. Labels affixed to the containers of respondent's product bore the words, "Kromo Plate, a Plat-

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ing Compound," and below, the statement, "Chromo Plates silver, nickel, brass, etc." The product sold by respondent as aforesaid is not a compound containing chromium as an ingredient and does not, when used, deposit any chromium or produce a chromium plate and will not produce a finish like that of chromium.

PAR. 4. The acts and representations by respondent described in the preceding paragraphs have the capacity and tendency to, and do deceive and mislead the public into the belief and understanding that respondent's product is similar to and a substitute for chromium plating and by said deception to lessen the value of the rights held by patentees of chromium plating and their licensees, and divert sales from manufacturers and vendors of chromium plated wares and from manufacturers and vendors of metal polishes who truthfully represent the nature and ingredients thereof.

PAR. 5. The above alleged acts and practices of respondent are all to the prejudice of the public and 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," approved September 26, 1914.

ORDER TO CEASE AND DESIST

Pursuant to the provisions of an act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission on the 5th day of January, 1931, issued its complaint against the respondent, Kromo Plate Corporation, and caused the same to be duly served upon said respondent, as required by law, on the 7th day of January, 1931, in which complaint it is charged that the respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

On January 26, 1931, the respondent, by its attorney, filed its answer in writing to said complaint, wherein respondent stated that it refrains from contesting this proceeding, and the Commission having accepted and considered such pleading and being fully advised in the premises,

It is ordered, That the respondent, Kromo Plate Corporation, its officers, agents and employees, in connection with the sale or offering for sale in interstate commerce of any compound or product for use in the plating of metals, do cease and desist from:

1. Using the words Chromium, Chrome or Chromo or any phonetic form of any of them, such as "Kromo," either alone or in con-

nection with the words plate, plating, polish, or polishing on labels on containers in or from which said compound or product is sold, to designate or to describe either the said compound or product or the plate, plating, or other effect claimed to be produced on metal objects by means of the application of the said compound or product, unless or until chromium metal is a substantial constituent in the composition of such compound or product, or unless or until the plate, plating, or said other effect claimed to be produced by said compound or product is substantially of chromium metal or substantially derived therefrom;

2. Using the words Chromium, Chrome, or Chromo or any phonetic form of any of them, such as the word "Kromo," either alone or in connection with the words plate, plating, polish, or polishing; in letters or in circulars caused to be sent by respondent to agents or salesmen engaged in the sale of said compound or product, or to prospective agents or salesmen; or in newspapers or other advertising mediums, to designate or to describe either the said compound or product or the plate, plating, or other effect claimed to be produced by means of the application of said compound or product to metal objects, unless or until chromium metal is a substantial constituent in the composition of such compound or product, or unless or until the plate, plating, or said other effect is substantially of chromium metal or is substantially derived therefrom;

3. Instructing or advising agents or salesmen engaged in the sale of said compound or product, or prospective agents or salesmen, either orally or in writing, to represent to members of the public, directly, or indirectly by suggestion based on any of the various uses of chromium, or otherwise, that the use or application of said compound or product on certain automobile parts or other metal objects produces chromium plate or chromium plating thereon or any other effect attributable to chromium, unless or until chromium metal is a substantial constituent in the composition of such compound or product, or unless or until the plate, plating or said other effect is substantially of chromium or is substantially derived therefrom.

It is further ordered, That the respondent, Kromo Plate Corporation, shall, within 30 days after the service upon it of this order, file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which it has complied with the above order to cease and desist.

IN THE MATTER OF
BRADLEY-BOSTON, INCORPORATED

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

Docket 1847. Complaint, June 16, 1930—Decision, Apr. 13, 1931

Where a corporation engaged in the sale by mail order of various merchandise; in its advertisements thereof in magazines and other periodicals and in catalogues published and distributed by it,

- (a) Described certain articles of jewelry as "richly carved", "Richly engraved", "Richly carved, hand engraved" "ruby gem", "fiery, flashing gem", "blue sapphire colored gem", "sapphire crown jewel", "sparkling garnet", "blue-white perfect gem" and "sapphire jewel pendant", facts being that the articles in question were neither carved nor engraved nor set with precious stones, as the case might be;
- (b) Described a certain article advertised and pictured as a "ring watch" and certain necklaces as "Concha pearls", "Princess pearls" or "American Beauty pearls", facts being article first referred to was not timepiece and necklaces were not made of pearl;
- (c) Described certain tableware as "silver ware", and "Gentlemen's Traveling Sets" as contained in a rich art leather case, facts being tableware contained no silver and cases referred to were not made of leather; and
- (d) Represented itself on letterheads as manufacturers, fact being it made none of its merchandise;

With capacity and tendency to mislead purchasing public into believing its merchandise and status to be as above set forth, and with effect of inducing purchase of its products in reliance on such erroneous belief and of diverting trade from and otherwise injuring its competitors:

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.

Greer, Johnson & North, of Boston, Mass., 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 Massachusetts corporation engaged in the sale by mail order of various articles of merchandise direct to purchasers in States other than Massachusetts, and with principal office and place of business in Newton, Mass., with misrepresenting business status, and advertising falsely or misleadingly in said respect and as to nature and composition of products, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce,