

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,

Respondent, as charged, engaged, as above set forth, makes false and misleading statements in describing, referring to and advertising its products in magazines, other periodicals and catalogues, as follows:

Certain articles of jewelry as being "richly carved", "richly engraved", "richly carved, hand engraved", or a "ring watch", or as being "set with 'ruby gem'; 'red ruby gem'; 'ruby and emerald gem'; 'diamond cut gem'; 'fiery, flashing gem'; 'blue sapphire colored gem'; 'magnificent center gem'; brilliant blue sapphire gems'; 'sapphire crown jewel'; 'sparkling garnet'; 'blue white perfect gem'; and/or 'sapphire jeweled pendant'; facts being articles in question are not carved nor engraved, nor a timepiece, nor watch, nor set with precious stones, as the case may be.

Certain necklaces as "Concha pearls", "princess pearls", and/or "American beauty pearls", and certain tableware as "silverware"; facts being necklaces are not made from pearls and tableware is composed of substances other than silver.

Certain "gentlemen's traveling sets" as contained in a "rich art leather case" and certain toilet articles as "ivorette"; facts being cases are not made of leather but of products simulating leather in appearance or finish, and toilet articles are made of substances other than ivory.

Respondent, further, as charged, in the course and conduct of its business, in its various catalogues describes itself as "wholesale jewelers", and on its letterheads also sets forth the representations "We are manufacturers", "We sell dealers everywhere"; facts being respondent is a retail mail order house manufacturing none of the merchandise dealt in by it, and soliciting no business from nor making sales to, retail stores.

Aforesaid acts and things done by respondent, as alleged, in connection "with the representation, designation and description of its merchandise and status, as hereinbefore set out, have the capacity and tendency to mislead and deceive the purchasing public into the belief that respondent's merchandise and status are as represented, designated and described in respondent's catalogues, letterheads or other advertising matter", and said acts and things, as charged, "are to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition."

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

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and served a complaint upon the respondent, Bradley-Boston, Inc., 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 answer to the complaint herein, hearings were had and evidence was introduced upon behalf of the Commission and of respondent before a trial examiner of the Commission duly appointed thereto. Thereupon, this proceeding came on for final hearing on the brief and oral argument of counsel for the Commission, counsel for respondent not having filed any brief herein and not presenting oral argument to 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 its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Bradley-Boston, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal place of business in the city of Newton, in said State. It is now, and for more than one year last past has been, engaged in a mail order business, selling various articles of merchandise direct to purchasers thereof located in a State or States of the United States other than the State of Massachusetts, and caused and causes its said merchandise, when so sold, to be transported from its said place of business in the State of Massachusetts into and through other States of the United States to the purchasers thereof located in a State or States of the United States other than the State of Massachusetts. In the course and conduct of its said business respondent was and is in competition with other corporations, partnerships, firms and individuals engaged in the sale and distribution of similar articles of merchandise in commerce between and among various States of the United States.

PAR. 2. In the course and conduct of its said business as described in paragraph 1 hereof, the respondent has been and now is soliciting the sale of, selling and transporting in commerce certain articles of jewelry described, referred to and advertised in advertisements inserted in magazines and other periodicals sold and distributed in various States of the United States. The descriptive matter in such advertisements advertising said articles of jewelry contains the representations that certain of the articles of jewelry are "richly carved", "richly engraved", "Richly carved, hand engraved". In truth and in fact, the articles of jewelry so described are not carved and are not engraved.

PAR. 3. In the course and conduct of its said business as described in paragraph 1 hereof, the respondent has been and now is soliciting the sale of, selling, and transporting in commerce, certain articles of jewelry described, referred to and advertised in advertisements inserted by it in magazines and other periodicals sold and distributed in various States of the United States. The descriptive matter in said advertisements advertising said articles of jewelry contains the representation that a certain article therein advertised and pictured is a "ring watch". In truth and in fact the said article is not a timepiece or watch.

PAR. 4. In the course and conduct of its said business as described in paragraph 1 hereof, respondent has been and now is soliciting the sale of, selling and transporting in commerce certain articles of jewelry described, referred to and advertised in catalogues published and issued by it and distributed to its customers and prospective customers located in various States of the United States. The descriptive matter in said catalogues advertising said articles of jewelry contains the representations that the articles of jewelry are set with "ruby gem", "red ruby gem", "ruby and emerald gem", "diamond cut gem", "fiery, flashing gem", "blue sapphire colored gem", "magnificent center gem", "brilliant blue sapphire gem", "sapphire crown jewel", "sparkling garnet", "blue-white perfect gem", or "sapphire jewel pendant". In truth and in fact, the articles of jewelry so represented, designated, described and referred to are not set with precious stones.

PAR. 5. In the course and conduct of its business as described in paragraph 1 hereof, the respondent has been and now is soliciting the sale of, selling and transporting in commerce certain necklaces described, referred to and advertised in catalogues published and issued by it and distributed to its customers and prospective customers in various States of the United States. The descriptive matter in said catalogues advertising the said necklaces contains the representations that the said necklaces are "Concha pearls", "Princess pearls", or "American Beauty pearls". In truth and in fact the necklaces so represented, designated, described and referred to are not made of pearls.

PAR. 6. In the course and conduct of its business as described in paragraph 1 hereof, respondent has been and now is soliciting the sale of, selling and transporting in commerce certain tableware described, referred to and advertised in catalogues published and issued by it and distributed to its customers and prospective customers located in various States of the United States. The descriptive matter in said catalogues advertising said tableware contains the representation that the said tableware is "silverware". In

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truth and in fact, the tableware so designated, represented, described and referred to is neither composed of, nor does it contain, any silver.

PAR. 7. In the course and conduct of its business as described in paragraph 1 hereof, respondent has been and now is soliciting the sale of, selling and transporting in commerce certain "Gentlemen's Traveling Sets", described, referred to and advertised in catalogues published and issued by it and distributed to its customers and prospective customers located in various States of the United States. The descriptive matter in said catalogues advertising the said "Gentlemen's Traveling Sets", contains the representation that the said "Gentlemen's Traveling Sets" are contained in a "rich art leather case". In truth and in fact the said cases are not made of leather.

PAR. 8. In the course and conduct of its business as described in paragraph 1 hereof, respondent has been and now is describing itself on its letterheads by the following representation: "We are manufacturers." In truth and in fact, respondent manufactures none of the items of merchandise which it sells.

PAR. 9. The acts and things done by respondent in representing, designating and describing its merchandise and status as hereinbefore set out have the capacity and tendency to mislead and deceive the purchasing public into the erroneous belief that respondent's merchandise and status are as represented, designated and described in respondent's catalogues, letterheads or other advertising matter, and have induced the purchase of respondent's products in reliance on such erroneous belief and have diverted trade from and otherwise injured competitors of respondent.

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 are unfair methods of competition in interstate commerce and constitute a violation 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 considered by the Federal Trade Commission on the complaint of the Commission, the answer of respondent thereto, the testimony and evidence, and brief and oral argument of counsel for the Commission, no brief having been sub-

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mitted nor oral argument made by counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that respondent has been using unfair methods of competition in interstate commerce in violation of the provisions 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",

It is now ordered, That the respondent, Bradley-Boston, Inc., its officers, agents, representatives and employees, in connection with the advertising and offering for sale and sale in commerce between and among various States of the United States and in the District of Columbia of the various articles of jewelry, toilet articles and tableware offered for sale and sold by respondent, do cease and desist from, directly or indirectly—

(1) Representing to purchasers or prospective purchasers that certain articles of jewelry are carved or engraved, when such is not the fact.

(2) Representing to purchasers or prospective purchasers that certain articles of jewelry are "ring watches", when the said articles of jewelry are not timepieces or watches.

(3) Representing to purchasers or prospective purchasers that certain articles of jewelry are set with gems, jewels, or precious stones, when such is not the fact.

(4) Representing to purchasers or prospective purchasers that certain necklaces are made of pearls, when such is not the fact.

(5) Representing to purchasers or prospective purchasers that certain articles of tableware are silverware, when the said articles of tableware are not composed of silver, but are composed of a product or products other than silver.

(6) Representing to purchasers or prospective purchasers that cases are made of art leather when the said cases are not made of leather.

(7) Representing to purchasers or prospective purchasers that respondent manufactures the products which it sells, or any of them, when such is not the fact.

It is further ordered, That the respondent, Bradley-Boston, Inc., shall, within 60 days after 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.

Complaint

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IN THE MATTER OF

H. JOSEPHINE PETERSON DOING BUSINESS AS
PETERSON INSTITUTE OF DIETCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1671. Complaint, May 20, 1929—Decision, Apr. 14, 1931*

Where an individual engaged in treating patients at her "Institute of Diet", carried on by her with no other assistance than that of a part-time employee, and without drugs, blood tests, employment or consultations with doctors (other than for death certificates) or ever having taken any prescribed course in medicine, or nursing, or having received any diploma or certificate therein, and in conducting similar treatments, through diet, by mail, made such false and misleading representations in printed circulars and pamphlets sent to inquirers responding to her advertisements in the papers and magazines, as that "Cancer is the result of imperfect nutrition", "Food taken one way brings on a cancer but used another way it cures a cancer", "Deafness is entirely due to nutrition", and "To make a strong statement, no matter what your disease, it can be cured through proper nourishment of the body", and that her treatment, based on principles set forth, would cure the patient; with capacity and tendency to induce sufferers from various diseases to undergo and pay for such treatment and with effect of so doing and thereby depriving physicians and dietitians of business:

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

Mr. James T. Clark for the Commission.

Mr. Aubrey B. Fennell and *Mr. Lucius Q. C. Lamar*, 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 individual, engaged at Washington, D. C., in conducting a business purporting to afford cures for various human diseases through dietary treatment, with 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.

Respondent, as charged, engaged as above set forth, in advertising her aforesaid business in printed circulars, pamphlets, and magazines, made such false statements and representations as that "The cause and cure of cancer are absolutely matters of nourishment", "Deafness is entirely due to nutrition", and "To make a strong