

Complaint

IN THE MATTER OF
GREEN RIVER MALT COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1975. Complaint, Oct. 20, 1931—Order, May 16, 1932*

Consent order requiring respondent corporation, its agents, etc., in connection with sale or offer of any domestic malt extract, sirup, or product in interstate commerce, to cease and desist designations, descriptions, brands, or labels "Canadian Crown", "Canadian Style", "Pride of Quebec", "Berliner" or "Faterland", or labels depicting scenes or illustrations suggestive of Canada, Germany, or any foreign country; all as in said order set forth and qualified.

Mr. James M. Brinson for the Commission.

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 Green River Malt Co., a corporation, hereinafter called 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, Green River Malt Co., is, and for more than a year last past, has been a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business in the city of Boston, in said State. It has been and is engaged in offering for sale and selling in commerce, among and between the various States of the United States, malt extracts, malt sirup, and malt sirup products in competition with individuals, partnerships, and corporations engaged in the distribution and sale of similar products in interstate commerce. It sells its products at wholesale and retail, and when sold, causes them to be transported either from its place of business aforesaid or from Newark, N. J., where it has been and is manufactured for it, to purchasers located in other States than the State or States from which the shipments originate.

PAR. 2. It has been and is the practice of respondent to cause its malt or malt sirup products to be manufactured for it in the State of New Jersey. Certain products so manufactured it has offered

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for sale and sold, branded or labeled "Canadian Crown" and others as "Canadian Style". The brands or labels on containers in which such products have been and are sold have contained pictorial representations of scenes, emblems, and insignia characteristic of and associated in the public mind with Canada or the British Empire.

The respondent has offered for sale and sold other products branded or labeled "Pride of Quebec Type", with the words "Pride of Quebec" in large and conspicuous letters and the word "type" in letters relatively small and inconspicuous.

There have appeared in some instances on the aforesaid brands or labels certain descriptions of, or references to, such products in the French language, which is the language of a substantial proportion of the population of Quebec in the Dominion of Canada. In such instances the labels have been so arranged that when affixed to containers of its product the French words have appeared in a column adjoining and parallel with a column containing a translation of the French words into English words.

In truth and in fact the products offered for sale and sold by respondent, branded and labeled "Canadian Crown", "Canadian Style", and "Pride of Quebec" have not been, were not, and are not, manufactured in Canada, or any part thereof or from or out of Canadian ingredients or materials but have been, were, and are manufactured in the United States of domestic material entirely.

PAR. 3. The acts and practices of respondents described in paragraph 2 hereof have had and have the capacity and tendency to mislead and deceive, and have furnished and furnish dealers with the means to mislead and deceive, the public into the belief that the products so labeled and described have been either manufactured in Canada or from and out of Canadian ingredients, and to induce the purchase of the products so branded or labeled in reliance on such erroneous belief and thereby to divert trade to respondent from competitors selling in interstate commerce malt sirup and malt products.

PAR. 4. It has been and is the practice of respondent Green River Malt Co. to offer for sale and sell in commerce among and between the various States of the United States certain products manufactured for it as aforesaid, in containers with labels affixed thereto so arranged that on one side of the container have appeared the word "Berliner" in large and conspicuous letters on the upper portion of the label and on the lower portion thereof have appeared the following:

Hopfen Geschmack
MALZ EXTRACT
Nur Fur Lebensmittel

Between the word "Berliner" on the upper portion of the label and the German words on the lower portion have appeared a pictorial scene, design, or illustration typical and suggestive of Germany, presenting a structure supported by columns through which people appear to be passing. There are at the lowest part of the picture the words "Brandenburger Tor". On the opposite side of the container there appears on the label the same word "Berliner" above the same pictorial presentation with the following below it or on the lower part of the label:

Hop flavored

Malt Extract

For Food Purposes Only

Respondent Green River Malt Co. has offered for sale and sold in such commerce other products in containers with labels so arranged that on opposite sides of the container and on the upper portion of the label appear the word "Faterland" in large and conspicuous letters with the word "type" in small letters immediately below it. A pictorial representation of a scene typical and suggestive of Germany appears below Faterland on both sides of the container. Below the pictures on one side are the same German words as on the label affixed to the container of the product branded "Berliner", while below the picture on the other side is a translation of such German words into the English words. In truth and in fact the products sold by respondent branded or labeled Berliner and Faterland have not been, were not, and are not, manufactured in Berlin or in Germany or in any foreign country or from or out of German or other foreign material. Such products have been, were, and are manufactured in the United States out of domestic material only.

PAR. 5. Hops grown in Germany have been for a long period of time, and now are, widely, popularly, and favorably known in the United States, and they command a higher price than domestic hops, and malt sirups flavored with German hops are more popular and command a higher price than malt sirup flavored with domestic hops.

PAR. 6. The acts and practices of respondent described in paragraph 4 hereof have had and have the capacity and tendency to mislead and deceive, and they have furnished and furnish dealers with the means to mislead and deceive, the public into the purchase of such products in reliance on the erroneous belief that such products have been imported from Germany or flavored with imported hops, and thereby to divert trade to respondent from competitors selling in interstate commerce malt sirup and malt products.

PAR. 7. The above and foregoing practices of respondent have been and are all to the prejudice of the public and of respondent's competitors and have been and are unfair methods of competition 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".

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 13th day of October, 1931, issued its complaint against the respondent Green River Malt Co., a corporation, and caused the same to be duly served upon said respondent as required by law, 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 November 14, 1931, the respondent filed its answer in writing to said complaint, wherein it consented that the Commission may make, enter, and serve upon it an order to cease and desist from the violation of the law alleged in the complaint, and the Commission having accepted and considered such answer, and being fully advised in the premises,

It is ordered, That the respondent Green River Malt Co., a corporation, cease and desist directly or indirectly from offering for sale or selling, in interstate commerce, any malt extract, malt sirup, or malt sirup product manufactured in the United States of domestic ingredients, designated, described, branded, or labeled as Canadian Crown, Canadian Style, Pride of Quebec, Berliner, or Faterland, or with labels containing pictorial scenes or illustrations suggestive of Canada, Germany, or any foreign country, unless accompanied by apt and adequate words clearly showing that the product or products so designated, described, branded, or labeled have been or are manufactured in the United States of domestic ingredients. Such words must conspicuously appear on the same side or part of the side of the container of such product or products as, and so that they may be read in connection with, the words "Canadian Crown", "Canadian Style", "Pride of Quebec", "Berliner", or "Faterland", and such pictorial scenes or illustrations suggestive of Canada, Germany, or other foreign country.

It is further ordered, That the respondent shall file, within 60 days from and after the service of this order, a report in writing, setting forth in detail the manner and form of its compliance therewith.

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IN THE MATTER OF
PERFOLASTIC, INCORPORATEDCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2010. Complaint, Feb. 12, 1932—Order, May 16, 1932*

Consent order requiring respondent corporation, its agents, etc., in connection with sale in interstate commerce of corsets and abdominal girdles, to cease and desist from representing (1) that the figure of the wearer takes on, instantly, youthful lines, use of corset or girdle breaks down the fat cells or takes years off the appearance of the wearer; or (2) that there is a special reduced price offer good for 10 days only, opportunity exists to make a purchase at a lower price than ever asked before, or than will ever be asked again, or that the price is special or reduced or article is sent on free trial, when such is not the fact; all as in said order set forth and qualified.

Mr. Richard P. Whiteley for the Commission.

Kaplan, Kosman & Streusand, 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 Perfolastic, Inc., a corporation, hereinafter referred to as respondent, has been and is now 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. That the respondent, Perfolastic, Inc., 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 said State. It is now and for more than two years last past has been engaged in the manufacture of corsets and abdominal girdles and in the sale and distribution of such products in commerce between and among various States of the United States, has caused said products, when sold, to be shipped from its place of business in the State of New York, to purchasers thereof located in a State or States of the United States other than the State of New York. In the course and conduct of its busi-