

Complaint

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IN THE MATTER OF  
ALBERT K. SHELDON COMPANY

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

*Docket 1828. Complaint, May 8, 1930—Order, June 21, 1932*

Consent order requiring respondent corporation, its agents, etc., in connection with sale in interstate commerce of a certain spirit varnish, to cease and desist from (1) using word "Shelco-Lac" to designate a product not pure shellac gum cut in alcohol; or (2) trade-mark "Shelco" or any coined word or similar phonetic notation or spelling, to designate quick dry spirit varnish composed principally of Manila gum, carnauba wax, and alcohol; as in said order set forth and qualified.

*Mr. PGad B. Morehouse* for the Commission.

*Mr. A. K. Cohen* and *Mr. Max E. Bernkopf*, of Boston, Mass., for respondent.

COMPLAINT

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that Albert K. Sheldon Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in 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", and it appearing to the Commission that a proceeding by it in respect thereof would be to the interest of the public, issues this its complaint and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Albert K. Sheldon Co., is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, having its principal office and place of business in the city of Boston in said State. It is and for more than one year last past has been engaged in the business of manufacturing, selling, and distributing to dealers, users, and consumers a certain varnish product named, designated and described by it as "Shelco-Lac", which business is carried on by respondent, in general competition and in commerce between and among various States of the United States, as in paragraph 2 hereinbelow alleged.

PAR. 2. Respondent manufactures said varnish product at its place of business in Boston, Mass., and causes same to be packed for sale and distribution in bottles, jars, tin cans, and other commercial containers of different sizes and capacities from four fluid ounces up-

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ward. On each of said containers respondent causes to be conspicuously displayed the brand "Shelco-Lac" as the name, designation and description of said product by affixing to such containers labels reading substantially as follows:

SHELDON'S  
100 per cent Quality  
Waterproof  
SHELCO-LAC  
Orange  
Manufactured by  
Albert K. Sheldon Co.

Cambridge Station, Boston, Mass., U. S. A.

Respondent offers for sale, sells and distributes said product in said containers and under said labels and brand to wholesale and retail dealers and to users and consumers throughout the United States and in various sections thereof; and in conformity with respondent's plan of marketing said product to the purchasing public, dealers also offer for sale, display and resell said product to the consuming public and to other dealers in said containers branded with said name Shelco-Lac. Respondent furthers, prompts and effects the sale of said product through (a) its officers, salesmen, and agents who, on its behalf, solicit and obtain purchase orders for said product from its customers and prospective customers; (b) through and by means of advertisements of said product which respondent publishes from time to time in newspapers, magazines, trade journals, and other publications circulating among the trade and consuming public throughout the United States and in various sections thereof; and (c) by means of certain trade promotional literature and communications, such as leaflets, circulars, pamphlets, and letters which it causes to be sent and distributed from time to time from its place of business in Boston, Mass., to customers and prospective customers and the trade in various States of the United States.

Throughout the course of said business many sales of said so-called Shelco-Lac have been and are made by respondent to a large or substantial number of dealers, users and consumers in various States of the United States; and in completing and consummating said sales and in distributing said product to its customers, respondent causes the several lots or parcels of said so-called Shelco-Lac purchased or ordered by its customers to be shipped and transported from its place of business in Boston, Mass., through and into other States of the United States to the respective purchasers thereof in

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such other States. Throughout the course of said business respondent has been and still is engaged in the sale and distribution of said so-called Shelco-Lac in commerce between and among various States of the United States, and in direct active competition with many individuals, partnerships, and other corporations also engaged in commerce between, among and within various States of the United States in the sale and distribution of shellac and of varnish products, some of which do and some of which do not contain the gum named lac and commonly referred to as Shellac gum or Shell-lac as hereinafter described.

PAR. 3. In the course and conduct of said business and in promoting and furthering the sale and distribution of its said product in commerce among the several States of the United States, as set forth in paragraph 1 hereof, respondent for more than one year last past has caused and continues to cause said product to be advertised, represented, described, offered for sale, sold and distributed as and for Shelco-Lac, and to be marketed by itself and by dealers to the purchasing and consuming public in aforesaid original containers, labeled and branded with said name Shelco-Lac.

PAR. 4. When formulating and adopting said name Shelco-Lac for use as the name, designation, and description of its product, respondent selected and used, as part of such name, the word lac which is the name of a gum secreted by insects cultivated in India and Tibet and prepared and imported into the United States in the form known as shell-lac, also spelled shellac, and commonly referred to as shellac gum. Said gum or lac is an important ingredient for lacquers, varnishes, and similar products, and when cut or dissolved in alcohol produces a type of varnish product which is and, for many years last past and prior to respondent's aforesaid adoption and use of said name Shelco-Lac, has been marketed and known commercially throughout the United States as shellac (otherwise spelled shell-lac) or as shellac varnish. Said so-called Shelco-Lac is neither shellac as commercially known, nor shellac varnish, and does not contain any of said gum named lac and commonly referred to as shellac gum or shell-lac.

PAR. 5. Said so-called Shelco-Lac is manufactured and marketed by respondent in the three several colors of orange, natural, and white; and as marketed by respondent and the trade is similar in general appearance of color and commercial packing, and also similar in the general methods of its application, or its uses and purposes, to shellac as commercially marketed, or to varnish products containing aforesaid gum named lac and commonly referred to as shell-lac or shellac gum.

PAR. 6. Respondent's brand name Shelco-Lac is a colorable imitation or simulation of said word shellac or, as otherwise spelled, shell-lac in the above alleged commercial usage of said name and words.

PAR. 7. Said brand name Shelco-Lac when applied to respondent's product as aforesaid is false, misleading, and deceptive. Respondent's use thereof as hereinabove set forth was and is calculated, has and had the capacity and tendency to and does mislead and deceive substantial parts of the purchasing and consuming public into, and to cause them to purchase said so-called Shelco-Lac in and because of, the erroneous beliefs that said product is aforesaid shellac as commercially known and/or contains said gum named lac and commonly referred to as shell-lac or shellac gum.

PAR. 8. The aforesaid use by respondent of said brand name Shelco-Lac places in the hands of dealers of said product a means or instrument by which they may commit a fraud upon the purchasing public; and such use of said brand name is calculated, has and had the capacity and tendency to, and does, aid or enable dealers in said product to pass off and sell the same to the consuming public at enhanced prices and as and for said shellac as commercially known, or as and for a varnish product containing said gum named lac and commonly referred to as shell-lac or shellac gum.

PAR. 9. The above alleged false, misleading, and deceptive acts and practices of respondent under the circumstances and conditions hereinabove set forth have and had 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 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

This proceeding having come on to be heard by the Federal Trade Commission upon the complaint and answer of respondent, and after testimony had been taken by a duly appointed trial examiner on behalf of both the Commission and respondent, and respondent thereupon having been granted, by the Commission, permission to withdraw its answer heretofore filed on June 13, 1930, and respondent having filed in lieu thereof its answer consenting that the Commission may make, enter and serve upon it an order to cease and

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desist from the method or methods of competition charged in the complaint, and the Commission being fully advised in the premises,

*It is now ordered*, That the respondent, Albert K. Sheldon Co., a corporation, and its agents, representatives, servants, and employees, in connection with the sale or offering for sale, in interstate commerce, of a certain spirit varnish product named, designated, and described by it as Shelco-Lac, cease and desist from:

(1) Using the word "Shelco-Lac" alone or in connection with any other word or words to designate a product which is not pure shellac gum dissolved or cut in alcohol.

(2) From using the trade-mark "Shelco" or any coined word of similar phonetic notation or spelling alone or in combination with other words, syllables or phrases to designate a quick drying spirit varnish of which the principal ingredients are Manila Gum (copal), carnauba wax and alcohol, unless respondent shall, in equally conspicuous place and type, name and designate said product as "spirit varnish".

*It is further ordered*, That the respondent shall, within 60 days from the 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 herein set forth.

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## IN THE MATTER OF

ELIAS SHEINKER, TRADING AS W. SHEINKER & SON,  
AND W. SHEINKER & SON, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5  
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1909. Complaint, Jan. 27, 1932.<sup>1</sup>—Order, June 24, 1932*

Consent order requiring respondents, their agents, etc., in connection with sale in interstate commerce of their so-called "German Culinary Bouquet No. 22", and "German Culinary Bouquet No. 42", flavoring extracts, to cease and desist from using words "German" or "Leipzig" on packages, bottles or containers thereof, or in advertisements thereof or otherwise, or any other words, phrases, pictorial design, device, etc., importing such or any other foreign source of origin; as in said order set forth and qualified.

*Mr. E. J. Hornibrook* for the Commission.

*Hirsh, Newman, Reass & Becker*, 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 Elias Sheinker, hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce, in violation of the provisions of section 5 of said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Elias Sheinker, is an individual doing business under the trade name, W. Sheinker & Son, with his principal place of business in the City and State of New York. For the last year respondent has been engaged in the manufacture and sale in interstate commerce of flavoring extracts. In the course of said business, respondent has advertised for sale and sold in interstate commerce, liquid flavors in bottles, composed of various ingredients, principally essential oils, fusel oil, solvents, vanilla extract and water. Of these, the essential oil and fusel oil together represent, respectively, approximately 15 per cent and 20 per cent of the respondent's products above described. The flavors so advertised and sold by respondent in interstate commerce carry labels designating

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<sup>1</sup> Supplemental.