

Complaint

IN THE MATTER OF
JEFFREY JEWELRY COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2004. Complaint, Feb. 2, 1932—Order, Sept. 21, 1932*

Consent order requiring respondent, its agents, etc., in connection with sale in interstate commerce of jewelry, not made by hand by American Indians to cease and desist representing same as so made through the words "Indian" or "Navajo", or any other words, markings or labeling, or otherwise.

Mr. Eugene W. Burr for the Commission.

Mr. Frank S. Righeimer, of Chicago, Ill., 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 Jeffrey Jewelry Co., 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. Respondent, Jeffrey Jewelry Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its factory and principal place of business located in the city of Chicago, in the State of Illinois. Respondent is now and for more than one year last past has been engaged in the manufacture of jewelry and in the sale and distribution of said jewelry in commerce between and among various States of the United States. Respondent causes its said products when sold to be shipped from its place of business in the State of Illinois to purchasers thereof located in a State or States of the United States other than the State of Illinois. In the course and conduct of its business, the respondent was at all times herein referred to in competition with other corporations and with individuals, firms, and partnerships engaged in the sale and distribution in interstate commerce of similar products.

PAR. 2. There are in the United States tribes of Indians, including especially the Navajo Indians in Arizona, who manufacture jewelry of special design designated as "Indian" or "Navajo" jewelry, which jewelry is sold to the trade and the public under such designa-

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tions in interstate commerce. The value of the jewelry manufactured and sold by said Indians is substantial and the said "Indian" or "Navajo" jewelry has acquired a reputation for beauty and wearing qualities and said Indians have a valuable goodwill in the words "Indian" and "Navajo" as applied to the same.

PAR. 3. In the course and conduct of its business as described in paragraph 1 hereof, respondent has been and is now soliciting the sale of and selling and distributing in interstate commerce certain jewelry described and advertised in advertisements, circulars, leaflets or brochures published or caused to be published, and issued or caused to be issued by it, and distributed or caused to be distributed to its customers and prospective customers located in various States of the United States. The descriptive matter in such advertisements, circulars, leaflets or brochures contained the representations (both by printed words and pictorial representations) that the said jewelry so offered for sale and sold by respondent is "Indian" jewelry or that the said jewelry so offered for sale and sold by respondent is "Navajo" jewelry, when in truth and in fact, the said jewelry is not manufactured by American Indians of any tribe, but is manufactured or fabricated by machinery in mills or factories.

PAR. 4. The word "Indian" or the word "Navajo" as applied to hammered silver jewelry is understood by the purchasing public to mean and designate jewelry manufactured or fabricated by hand by American Indians.

PAR. 5. The acts and things done by respondent as hereinabove set forth have the capacity and tendency to mislead and to deceive and do mislead and deceive the purchasing public into the belief that the products manufactured and offered for sale and sold by respondent as aforesaid, are products manufactured by hand by American Indians, and to induce and have induced the purchase of such jewelry in reliance on such belief; and thereby to divert trade from and otherwise injure competitors of respondent.

PAR. 6. Among the competitors of respondent are many manufacturers, dealers and distributors of jewelry who market such products under truthful representations to the purchasing and consuming public in competition with respondent and who do not use false or misleading representations of the type and character used by respondent, as hereinabove set forth.

PAR. 7. The use by respondent of the false, misleading, and deceptive representations, statements, and assertions as hereinabove set forth, constitutes practices or methods of competition which tend to and do (a) Prejudice and injure the public, (b) Unfairly divert

trade from and otherwise prejudice and injure respondent's competitors, and (c) Operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in the jewelry business.

PAR. 8. Said false, misleading, and deceptive acts, practices and methods of respondent under the circumstances and conditions hereinabove alleged are unlawful 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".

ORDER TO CEASE AND DESIST

This proceeding having come on for final hearing by the Federal Trade Commission upon the complaint and respondent's answer waiving all further proceeding and consenting that the Commission may make, enter, and serve upon it an order to cease and 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, Jeffrey Jewelry Co., a corporation, its agents, representatives, servants, and employees, in connection with the sale or offering for sale in interstate commerce of jewelry, cease and desist from representing by the words "Indian", or "Navajo", or any other words, markings, or labels, independently or in connection with any other words, phrases, or markings, or by any other means, that said jewelry is manufactured by hand by American Indians when such is not the fact.

It is further ordered, That the respondent shall, within 60 days from the service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order herein set forth.

IN THE MATTER OF
F. T. CARY, TRADING AS DIAMOND FUR
INDUSTRIES

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

Docket 2020. Complaint, Mar. 16, 1932—Decision, Sept. 21, 1932

Where an individual engaged in the breeding, buying, and sale of fur-bearing rabbits, made such statements in his advertisements in newspapers and periodicals of general circulation and in letters, circulars, booklets, and other literature as "We agree to buy all the rabbits you raise from stock purchased from us or their descendants and remit promptly * * * your breeding place becomes a branch of ours. We take all the risk * * * Your market is already provided by us * * * We guarantee to buy from you all Chinchilla rabbits you raise from our parent stock or their descendants, under the conditions, that you will find fully explained in the *market agreement and contract*, that accompanies this letter. Read it carefully. You will find it a fair, sound business proposition"; without making clear in same context that his plan, offer, agreement, and guaranty related primarily only to purchase by him of such stock as complied with registration requirements of the American Rabbit and Cavy Breeders Association, and that in accordance with his actual obligation he would pay his customers only market, and not advertised, price for stock not so complying, and that transportation costs from customer's location to his place of business would be a charge against such noncomplying stock; with capacity and tendency to mislead and deceive customers and prospective customers into believing that said individual would buy all rabbits raised from stock purchased from him at prices advertised by him for breeding stock, and to divert trade to him from competitors engaged in sale of fur-bearing rabbits, and with a substantial effect upon said competitors' competition:

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

Mr. Eugene W. Burr for the Commission.

Mr. Mark F. Jones, of Los Angeles, Calif., 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 for a time as United States Fur Farms and thereafter as Diamond Fur Industries, in the breeding and selling of fur-bearing rabbits, and with principal place of business in Inglewood, Calif., with offering deceptive inducements to purchase through nonperformance of contractual undertakings with