

Complaint

17 F.T.C.

IN THE MATTER OF
NORTHERN FRUIT & PRODUCE COMPANY AND
TED E. WOLFE

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

Docket 2065. Complaint, Oct. 3, 1932—Order, Dec. 6, 1932

Consent order requiring respondents and their agents, etc., to cease and desist, in connection with sale or offer of seed potatoes in interstate commerce, from representing that inspection or certification by respondent individual is certification or inspection by the "Mid-West" or an other "agricultural institution", or that potatoes in question have been inspected and certified by anyone or in any manner other than is actually the case.

Mr. PGad B. Morehouse 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 Northern Fruit and Produce Co., a corporation, hereinafter referred to as a company, and Ted E. Wolfe, an individual, and each of them under the name and style of "Mid-West Agricultural Institute", have been and are 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:

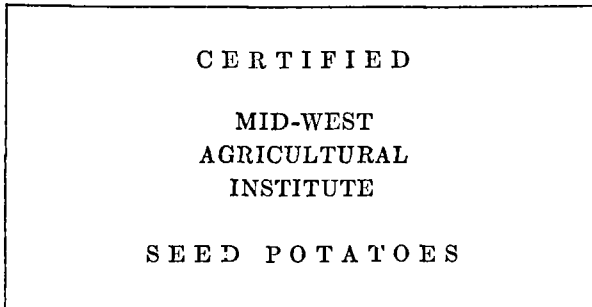
PARAGRAPH 1. The respondent Northern Fruit & Produce Co. is a corporation organized, existing, and doing business in the State of Illinois, having its office and principal place of business in the city of Chicago, State of Illinois. The respondent Ted E. Wolfe is and has been an employee of the respondent company as an inspector of seed potatoes under arrangements and circumstances hereinafter more fully set out. Both respondents in the course and conduct of the respondent company's business have used the name and style "Mid-West Agricultural Institute".

For approximately two years last past the respondent company has been engaged in the business of buying and selling seed potatoes and also operating as a commission merchant dealing in said produce, purchasing seed potatoes in carload lots from the sellers located in various States other than the State of Illinois and shipped by these sellers from such other States to the company at Chicago, Ill. In the course and conduct of its business, while the said carloads of

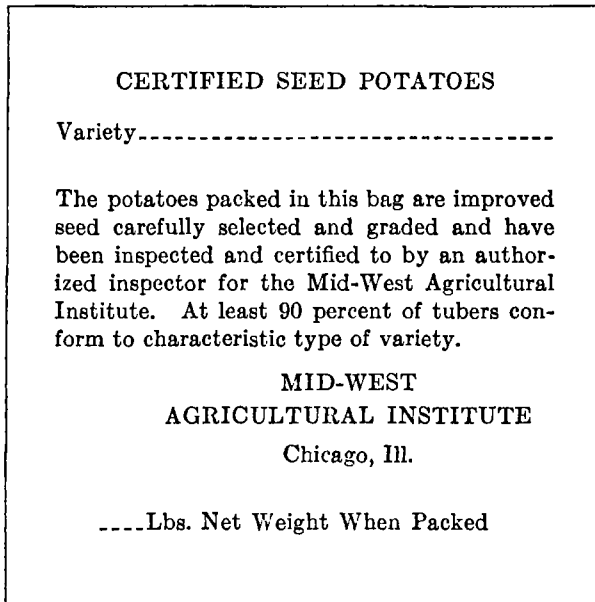
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seed potatoes are in Chicago awaiting resale and transshipment, the company employs the respondent Wolfe to certify and tag the bags in which said potatoes are contained. Respondent Wolfe, designating himself as "Mid-West Agricultural Institute", for hire, upon the instructions of the company, thereupon certifies and tags the said seed potatoes by attaching to the said bags tags in words and figures following:



(Front)



(Reverse)

PAR. 2. In the course and conduct of his employment and while the seed potatoes are in the cars in the railroad yards at Chicago, Ill.,

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awaiting rebilling to final destination, respondent Wolfe places the aforesaid certificates and tags upon the sacks in which the seed potatoes are contained, with the purpose and result of having said certificates and tags transported with the potatoes from the State of Illinois in and through various other States of the Union all in aid and furtherance of respondent company's acts of unfair competition herein set forth.

The said potatoes thus certified and tagged by respondent Wolfe, respondent company acting sometimes as broker and sometimes as a middleman, transships and resells to various buyers, other commission merchants, middlemen, wholesalers, jobbers, and chain stores at a price which includes a premium, or an advance price from that price which is charged for uncertified seed potatoes which price is charged and received by reason of such certification and tagging.

PAR. 3. Respondent company causes the said seed potatoes to be reshipped from the city of Chicago in the State of Illinois into and through various other States of the United States to the purchaser's thereof.

In the course and conduct of its business as aforesaid the respondent company is in competition with other individuals, partnerships and corporations engaged in the sale and distribution in interstate commerce of seed potatoes.

PAR. 4. For more than two years last past through the efforts of State and local organizations, educational institutions, and widely disseminated information by State and National agencies, potato planters have come to recognize the value of planting seed potatoes certified to be free from various diseases deleteriously affecting crop production such as "dwarfing", "running out", or "mosaic", some of which diseases are destructive, soil inoculating, and can only be detected by inspection of the growing seed potato plant. Seed potatoes are grown almost exclusively in those States in the northern half of the United States and transshipped with Chicago, Ill., as a central distributing point to States in the southern portion of the United States and virtually all of the seed potato raising States have made provisions for field inspection conducted by trained men during the growing season, generally under the auspices of the State agricultural college or other organization or institution. After such inspection there is customarily a certificate issued which the grower may attach to his bags of seed potatoes prior to shipment. From the foregoing educational propaganda, customs and practices in the seed potato trade, wholesalers, jobbers, retailers, and many of the consuming public have come to associate, where seed potatoes are concerned, the word "certified" with a product which, while still grow-

ing, has been competently and disinterestedly inspected for freedom from destructive plant diseases, under the supervision of an accredited Federal or State institution or organization, and also have come to associate the words, "agricultural institution", where used in connection with seed potatoes, with an accredited educational or scientific institution. By reason of such trade practices and association of ideas purchasers have been and are willing to and do pay higher prices for seed potatoes which have been certified in such manner.

PAR. 5. Under and by reason of the foregoing circumstances the certification and tagging of said seed potatoes done by respondent Wolfe at the instance of the company as above set out, respondent company in the course and conduct of its business, falsely represents and has represented to purchasers and prospective purchasers that such seed potatoes have been competently and disinterestedly inspected, and that they are therefore free from "dwarfing", "running out", "mosaic", and any other potato disease determinable by inspection of the growing seed potato plant, when in truth and in fact such is not the case; and the prospective purchasers, believing and relying upon the truth of such representations, purchase the seed potatoes at a price higher than they would for seed potatoes not inspected and certified in the manner in which they believe respondent company's seed potatoes have been inspected and certified.

PAR. 6. In the course and conduct of its business as aforesaid, by means of the certification and tagging of said seed potatoes in the manner above set out, respondent company falsely represents to purchasers and prospective purchasers that its said seed potatoes are freer from "dwarfing", "running out", and "mosaic", and other potato plant diseases than seed potatoes which have not been inspected while growing and thereafter certified by competent and disinterested persons or organizations, and the prospective purchasers believe and rely upon the truth of said representation. Such representation is passed on by respondent company to, through and by the various buyers, commission merchants, middlemen, wholesalers, jobbers, and chain stores aforesaid, to the ultimate purchasers who, believing and relying thereon, purchase and plant seed potatoes of a quality and condition productive of inferior crops.

PAR. 7. In the course and conduct of his employment by respondent company as aforesaid, the respondent Wolfe, in procuring and affixing the aforesaid tags and certificates to the sacks of seed potatoes while enroute from the source of their production to their final destination into and through various States of the United States, places in the hands of respondent company the means of deceiving its prospective purchasers and the ultimate purchasers

of said seed potatoes, as to the pedigree, quality, value and kind of said seed potatoes so purchased and also as to the nature and kind of inspection to which such seed potatoes have been subjected.

PAR. 8. The aforesaid methods used by respondent company in the course and conduct of its business, aided and abetted for hire by respondent Wolfe have a tendency to and do unfairly result in (a) respondent company's being able to sell its so-called "agricultural-institute-certified" seed potatoes at a greater profit than can be obtained by competitors who do not misrepresent to their prospective purchasers in the manner and form hereinabove set out, and (b) respondent company's being able to undersell those of its competitors who in the course and conduct of their business have had their seed potatoes field-inspected by competent disinterested persons under supervision of accredited National or State associations or institutions and who, after paying the reasonable and usual expenses of such inspection and certification (greater than the expenses of respondent company's so-called inspection and certification), are unable to compete with respondent company at a profit.

PAR. 9. The foregoing methods of competition and each of them are to the prejudice of competitors of the respondent company, to the prejudice of the public, and have a tendency to divert trade from respondent company's competitors to respondent and constitute unfair methods of competition in interstate commerce within the intent and meaning 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

This proceeding having come on for final hearing by the Federal Trade Commission upon the respondents' answer waiving all further procedure and consenting that the Commission may make, enter, and serve upon them an order to cease and desist from the methods of competition charged in the complaint, and the Commission being fully advised in the premises:

It is now ordered, That the respondents, Northern Fruit & Produce Co., a corporation, Ted E. Wolfe, an individual and the agents, representatives, servants, and employees of each of them, in connection with the sale or offering for sale in interstate commerce of seed potatoes cease and desist from representing directly or by implication,

That inspection or certification by the respondent, Ted E. Wolfe, is certification or inspection by the "Mid-West" or any

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other "agricultural institution" or that the said seed potatoes have been inspected and certified to by any persons whomsoever or in any manner whatsoever other than is actually the case.

It is further ordered, That the respondents and each of them shall within 60 days from the date of the service upon them of a copy of this order file with the Commission a report in writing setting forth in detail the manner and form in which they and each of them have complied with the order herein set forth.

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IN THE MATTER OF
WEIL CORSET COMPANY

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

Docket 1965. Complaint, Aug. 13, 1931—Order, Dec. 7, 1932

Consent order requiring respondent corporation, its agents, etc., in connection with sale or distribution of abdominal belts or corsets in interstate commerce to cease and desist from representing that said article, Instantly makes the wearer look years younger and reduces the waist at once from 2 to 4 inches;

Works for the wearer every second, day and night, and reduces much more rapidly than ordinary massage, actually taking up inch after inch through the deep breathing facilitated and the better circulation brought about, and is not to be compared, with its easy convenient time saving reducing method, to strenuous gymnastics with their effect on the heart, or weakening starvation diets;

Is based on the principle which has the unqualified endorsement of the country's greatest athletes, trainers, and physicians, making it possible for anyone, through the use thereof, without any effort, fasting or self-denial, to obtain easily a normal waistline, and substitutes good solid tissue for useless fat, bringing long sought relief to its users in the easiest, quickest, and most pleasant way imaginable; and

Is priced at a special or reduced figure or less than the regular figure, or is sent on free trial, when former is not the case, or deposit or payment is required prior to receipt and trial; subject to qualifications noted.

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 the Weil Corset Co., a corporation, hereinafter referred to as respondent, has been and now 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. That the respondent, Weil Corset Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its principal place of business located in the city of New Haven in said State. It is now, and, for more than two years last past has been engaged in the manufacture of corsets, abdominal belts, suspensories, shoulder braces, and other similar articles, and in the sale and distribution of