

Complaint

IN THE MATTER OF
YOCUM BROTHERSCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1438. Complaint, Feb. 19, 1927—Order, Jan. 23, 1933*

Consent order requiring respondent corporation, its officers, etc., in connection with sale in interstate commerce of cigars, to cease and desist from—

- (1) Using or causing to be used the word "Cuba", in the brand name or designation "Spana-Cuba", for any such cigars which do not contain any substantial amount of Cuban tobacco, unless in each instance the designation be immediately accompanied by an equally prominent statement clearly indicating absence of Cuban tobacco;
- (2) Using or causing to be used said word in said brand name for cigars composed in part only of Cuban tobacco, unless brand name be immediately accompanied by an equally prominent explanatory statement indicating such partial content of Cuban tobacco only; and
- (3) Using or applying any word, name, etc., falsely importing a content of Cuban tobacco in whole or in part, for the particular cigars involved.

Mr. Henry Miller 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 Yocum Brothers, a corporation, hereinafter referred to as 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 is a corporation organized under the laws of the State of Pennsylvania, with its principal office and place of business in the city of Reading, in said State. It is engaged in the manufacture of cigars and the sale thereof to wholesale and retail dealers located at points in various States of the United States. It causes said cigars when so sold to be transported from its said place of business in the city of Reading, Pa., into and through other States of the United States to said vendees at their respective points of location. In the course and conduct of its said business respondent is in competition with other individuals, partnerships and corporations engaged in the sale and transportation of cigars in commerce between and among various States of the United States.

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PAR. 2. For many years prior to the date hereof tobacco has been and is now a commercial export product of the Island of Cuba and many of the cigar tobacco trade, the cigar trade and the consuming public have for many years considered and still consider said Cuban tobacco superior in quality for the manufacture of cigars, to tobacco grown elsewhere than on the Island of Cuba. Many among said trades and many of the consuming public have for many years considered and still consider that cigars made of said Cuban tobacco are superior in quality to cigars made of tobacco grown elsewhere than on the Island of Cuba.

PAR. 3. Among the cigars manufactured and sold by respondent in interstate commerce as in paragraph 1 hereof set out, is a certain cigar named and designated by respondent "Spana-Cuba". Respondent packs its said "Spana-Cuba" cigars in boxes and containers upon which respondent causes to be set forth in sundry places and positions said name "Spana-Cuba", printed in large and conspicuous letters and upon each said cigar respondent causes to be placed a band and label upon which said name, "Spana-Cuba", is conspicuously printed and set forth. Respondent ships and delivers said cigars so packed, labeled and banded, to its aforesaid dealer vendees. Said wholesale dealer vendees resell said cigars to retail dealers and ship and deliver said cigars, still so packed, labeled and banded, to their said retail dealer vendees. Said retail dealer vendees, both those who purchase said cigars directly from respondent and those who purchase same from said wholesale dealers, offer for sale and sell said cigars, still so packed, labeled and banded, to the consuming public. Further, respondent furnishes and supplies to retail dealers handling said cigars, advertising posters and signs bearing said name and designation "Spana-Cuba", printed thereon in large and conspicuous letters, which said posters are displayed by said retail dealers at their respective places of business for the purpose of advertising and inducing the sale of respondent's said cigars to the consuming public.

PAR. 4. The use by respondent of said name and designation, "Spana-Cuba", in the packing, labeling, banding, and advertising of said cigars, all as in paragraph 3 hereof set out, has the capacity and tendency to and does, mislead and deceive many among the aforesaid trade and many of the consuming public into the belief that respondent's said "Spana-Cuba" cigars are composed of Cuban tobacco referred to in paragraph 2 hereof, and causes many among said trades and many of the consuming public to purchase respondent's said cigars in that belief. In truth and in fact respondent's said "Spana-Cuba" cigars contain no Cuban tobacco referred to in

paragraph 2 hereof, and are composed entirely of tobacco grown elsewhere than on the Island of Cuba.

PAR. 5. There are among the competitors of respondent referred to in paragraph 1 hereof, many who sell cigars composed of Cuban tobacco referred to in paragraph 2 hereof, and who rightfully and lawfully represent their said cigars to be so composed. There are others of said competitors who sell cigars manufactured of tobacco other than said Cuban tobacco, who in no wise represent that their said cigars are composed of said Cuban tobacco. Respondent's acts and practices all in this complaint before set out tend to divert business from and otherwise to injure and prejudice said competitors.

PAR. 6. For about 5 years last past respondent has engaged in the acts and practices under the circumstances and conditions and with the results all in this complaint before set out.

PAR. 7. The above alleged acts and practices of respondent are all to the prejudice of the public and of respondent's competitors 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 coming on for final hearing by the Federal Trade Commission upon the record, including the complaint of the Commission and respondent's answer thereto that respondent waives hearing on the charges set forth in the complaint, refrains from contesting the proceeding and, pursuant to Rule III of the Commission's Rules of Practice as amended and revised to July 1, 1932, consents that the Commission may make, enter, and serve upon respondent, without evidence and without findings as to the facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint; and the Commission having duly considered the matter and being fully advised in the premises,

It is now ordered, That respondent Yocum Brothers, a corporation, its officers, directors, agents, representatives, servants, and employees cease and desist, in connection with or in the course of the sale or distribution of cigars in interstate commerce—

- (1) From directly or indirectly using or causing to be used the word "Cuba" in the brand name or designation "Spana-Cuba" for any such cigars which do not contain any substantial amount of Cuban tobacco, unless in each instance when and where so

used said brand name or designation be immediately accompanied or followed by a statement, assertion or phrase which is equally prominent and conspicuous and which clearly and unequivocally indicates or states the fact that such cigars do not contain any Cuban tobacco, or that said cigars are composed entirely of certain tobacco none of which has been grown in Cuba;

- (2) From directly or indirectly using or causing to be used the word "Cuba" in the brand name or designation "Spana-Cuba" for any such cigars which are not composed entirely of Cuban tobacco but contain such tobacco in part, unless in each instance when and where so used said brand name or designation containing the word "Cuba" be immediately accompanied or followed by a statement, assertion or phrase which is equally prominent and conspicuous and which clearly and unequivocally indicates or states the fact that such cigars are not composed wholly of Cuban tobacco, or that the cigars contain certain tobacco which has not been grown in Cuba;
- (3) From directly or indirectly applying to any cigars sold or distributed in interstate commerce any other word, name, designation, statement, assertion, phrase or representation which implies or imports that said cigars contain Cuban tobacco in whole or in part when such is not the fact.

It is further ordered, That said respondent Yocum Brothers, a corporation, shall, within 60 days after the service upon it of a copy of this order, file with the Federal Trade 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 hereinabove set forth.

Complaint

IN THE MATTER OF
FLECK CIGAR COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1453. Complaint, Apr. 7, 1927—Order, Jan. 23, 1933*

Consent order requiring respondent company, its officers, etc., to cease and desist in connection with sale and distribution of cigars in interstate commerce, from—

- (1) Using the word "Cuba" in brand name or designation "Rose-O-Cuba", for (a) any cigars containing no substantial amount of Cuban tobacco, without immediately accompanying or following such brand name or designation with an equally prominent statement or assertion clearly indicating aforesaid facts as to composition of cigars in question, or for (b) any cigars not composed entirely of Cuban tobacco, unless similarly accompanied by an equally prominent, appropriate explanatory statement or phrase as aforesaid;
- (2) Advertising, describing, branding, labeling or otherwise representing any such cigars as aforesaid described, with the words "Havana" or "Habana", or with any words, phrase, etc., falsely importing that cigars in question are composed wholly of Havana or Cuban tobacco;
- (3) Applying to any such cigars any other word, name, etc., falsely implying that Havana or Cuban tobacco is contained in cigars in question.

Mr. Henry Miller for the Commission.

Mr. John W. Townsend, of Washington, D.C., 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 Fleck Cigar Co., hereinafter referred to as 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 is a corporation organized under the laws of the State of Pennsylvania with its principal office and place of business in the city of Reading in said State. It is engaged in the manufacture of cigars and the sale thereof to wholesale and retail dealers and direct to consumers among the general public located and residing at points in various States of the United States. It