

Complaint

17 F.T.C.

IN THE MATTER OF
DAVID FELDMAN, INDIVIDUALLY AND TRADING AS
FELDMAN & SONS

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

Docket 2076. Complaint, Nov. 30, 1932—Order, Apr. 10, 1933

Consent order requiring respondent individual, his representatives, agents and employees, in connection with sale or offer in interstate commerce, of men's shirts, to cease and desist from using words "fast color" or "commercial fast color" or other words of like import in describing, advertising or labeling product in question unless color or dye therein, "is a true fast color and will not fade or blanch when subjected to laundering."

Mr. Henry C. Lank for the Commission.

Mr. Erwin I. Feldman, of Baltimore, Md., 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 David Feldman, individually and trading as Feldman & Sons, 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 the said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is an individual trading under the name of Feldman & Sons with his office and principal place of business located in the city of Baltimore, State of Maryland. Respondent is now and for more than 2 years last past has been engaged in the manufacture of men's shirts and in the sale and distribution thereof to retail dealers and jobbers located at points in the various States of the United States and causes said shirts when so sold to be transported from his principal place of business in the State of Maryland into and through other States of the United States to the purchasers thereof at their respective points of location. In the course and conduct of his said business respondent is in competition with other individuals, partnerships and corporations engaged in the manufacture of men's shirts and in the sale and distribution thereof in interstate commerce.

PAR. 2. In the sale and distribution of his shirts throughout the United States as hereinabove described, respondent has caused and still causes large and substantial numbers of said shirts to be adver-

tised, offered for sale, sold and distributed under the following designations, descriptions and representations, to wit:

Fast Color

100 x 60 Fast Color Broadcloth Shirt

100 x 60 Broadcloth Commercial Fast Color

PAR. 3. The truth and fact is that said shirts represented and marketed by respondent as "Fast Color" and "Commercial Fast Color" are not manufactured from cloth which is a true fast color nor from materials which have been vat dyed. The said shirts so advertised will fade or blanch when subjected to laundrying.

PAR. 4. The respondent has caused the said designations, descriptions, and representations to be stamped on the neck band of said shirts or to be woven or printed on labels which are sewed in the collar of said shirts and has caused the said designations, descriptions and representations to be printed on paper bands which are placed around the said shirts before delivery to respondent's customers. The above designations, descriptions, and representations come to the attention of the consuming or purchasing public by reason of the above practices of the respondent. The terms "Fast Color" and "Commercial Fast Color" when used in connection with shirts mean to the consuming or purchasing public that the said shirts are made from cloth which is dyed a true fast color and which will not fade or blanch when subjected to laundrying.

PAR. 5. Respondent's advertising, describing, representing, offering for sale and selling the said shirts as Fast Color and Commercial Fast Color as heretofore described are false, misleading, and deceptive and have the capacity and tendency to mislead and deceive large and substantial numbers of the purchasing and consuming public into purchasing said shirts in the erroneous belief that the said shirts are true fast color and will not fade or blanch when subjected to laundrying.

PAR. 6. The use by the respondent of the false, misleading, and deceptive representations, statements, and descriptions as hereinabove set forth constitute 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 business of the marketing of shirts.

PAR. 7. 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 com-

Order

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petition in commerce within the intent and meaning of section 5 of the 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 been considered by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent in which answer respondent consents that the Commission may make, enter, and serve upon said respondent an order to cease and desist from the violations of law charged in the complaint,

It is now ordered, That the respondent, David Feldman, individually and trading as Feldman & Sons, his representatives, agents, and employees do cease and desist from using the words "fast color" or "commercial fast color" or other words of like import in describing or advertising, or on the labels of, the men's shirts which he sells or offers for sale in interstate commerce unless and until the color or dye in the said shirts is a true fast color and will not fade or blanch when subjected to laundering.

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

Complaint

IN THE MATTER OF

H. MICHELSEN COMPANY, INC.

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

Docket 2033. Complaint, May 11, 1932—Decision, May 8, 1933

Where a corporation engaged in New York City in the manufacture and sale of bay rum from oil of bay from Porto Rico and St. Johns, conspicuously labeled its bottles with the words "H. Michelsen, St. Thomas, West Indies", together with the legend in smaller type, "The H. Michelsen Co., New York, sole agents for the North American Continent", and displayed upon its letterheads, invoices, and order blanks, depiction of its bottles so labeled, and offered and sold said product in bottles with the words "St. Thomas" blown therein, and shipped the same in packing boxes bearing the words "H. Michelsen, St. Thomas, W. I.", with effect of injuring competitors who do not use such labels, containers, letterheads, etc., for their domestic products, not made at St. Thomas, West Indies, and of diverting trade to it from competitors through purchases by persons who believed its products to have been made in St. Thomas, Virgin Islands, and bought the same as and for the more costly and favored product there made, and with capacity and tendency so to do:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Robert H. Winn for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in the bottling and sale of bay rum and with principal office and place of business in New York City, with misbranding or mislabeling as to source of origin of product, and advertising falsely or misleadingly in said respect in violation of the provisions of section 5 of said act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as aforesaid in the bottling and sale of domestic bay rum, displays the word "St. Thomas, West Indies" on labels of the bottles of its said product, together with the words, lower down and in smaller type, "Sole agents for the North American Continent", and also displays the words "St. Thomas, W. I." upon the packing boxes used for its said bottled product, and makes use of bottles, some of which have blown in the bottom thereof,