

Complaint

IN THE MATTER OF
H. PERILSTEIN, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2112. Complaint, Aug. 17, 1933—Order, Nov. 14, 1933*

Consent order requiring respondent, its agents, etc., in connection with the sale or offer for sale in interstate commerce or in the District of Columbia of window glass, to cease and desist from shipping to any purchaser thereof, panes of window glass of grade or quality "B" as and for window glass of the grade and quality "A" or from representing in any manner to said purchasers that common window glass of the grade and quality "B" is of the grade and quality "A."

Mr. PGad B. Morehouse for the Commission.
Englander, Cohen & Korn, of Philadelphia, Pa., 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 H. Perilstein, Inc., a corporation, hereinafter referred to as respondent, has been 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, H. Perilstein, Inc., is a corporation organized and existing under the laws of the State of Pennsylvania with its principal place of business in the city of Philadelphia, State of Pennsylvania. For more than two years last past it has been engaged in trading as a jobber of window glass, trading in its corporate name and also through its branches or subsidiaries under the name and style of "Scranton Plate Glass Company" in the city of Scranton, State of Pennsylvania, and under the name and style of "United Plate Glass Company" in the city of Pittsburgh, State of Pennsylvania. When sold respondent causes window glass to be shipped in crates from its warehouses in the State of Pennsylvania in, through and to various other States of the United States for delivery to the purchasers thereof. In the course and conduct of its business as aforesaid respondent is and has been in direct and active competition with other individuals, partnerships, and corporations engaged in the sale and distribution in interstate commerce of window glass.

PAR. 2. In the "flat" or window glass industry there are two principal grades of common window glass, to wit: "A Quality" and "B Quality." The "B" quality is inferior to the "A" quality in that it may contain more defects, more distortions, "waves", "blisters", or "burn spots." It has been the practice in the trade to attach by sticking to the panes of glass a label bearing the symbol "A" when the glass is of that quality and a label bearing no letter symbol when the glass is of "B" quality, by reason of which practice, a purchaser having no notice or knowledge thereof cannot identify a pane of common window glass as being of the "B" or inferior quality upon a casual examination thereof. The price of "B" glass is lower than the price of "A" glass to the jobber, retailer and ultimate consumer and this situation in the trade has resulted in the common practice of substituting "B" quality when "A" quality has been specified.

PAR. 3. In the course and conduct of its business as aforesaid respondent has been following the practice of selling and shipping to the purchasers thereof panes of common window glass of grade or quality "B" as aforesaid as and for window glass of the grade and quality "A" as aforesaid, and by means of tampering with and changing the markings of the manufacturer stenciled on the crates which respondent has sold and re-shipped to its customers, has deliberately represented to its purchasers that common window glass of the grade and quality "B" is of the grade and quality "A", thereby tending to deceive such ultimate purchasers to their injury and tending unfairly to divert trade from respondent's competitors to respondent.

PAR. 4. On the 27th day of October, 1932, respondent caused to be shipped from its warehouse in Philadelphia a shipment of eight boxes of common window glass to the Buffalo State Hospital in the city of Buffalo in the State of New York, sale of said glass having been made to the said purchaser by respondent through its agent after competitive bidding upon specifications calling for "A" quality window glass. Of said eight boxes five contained window glass of grade "B" quality. On said boxes or crates the manufacturer's grade marking had been removed by scraping or planing and the marking indicating grade "A" substituted therefor.

PAR. 5. On the 18th day of November, 1932, respondent caused to be shipped from its warehouse in Philadelphia, a shipment of five boxes of common window glass to the Buffalo State Hospital in the city of Buffalo in the State of New York, sale of said glass having been made to the said purchaser by respondent through its agent

after competitive bidding upon specifications calling for "A" quality window glass. All five boxes contained window glass of grade "B" quality. On said boxes or crates the manufacturer's grade marking had been removed by scraping or planing and the marking indicating grade "A" substituted therefor.

PAR. 6. The acts and things above alleged to have been done, the substitution as aforesaid, the false and misleading representation thereby made by respondent and each of them, are to the prejudice and injury of the public and to competitors of respondent, have the tendency unfairly to divert trade from respondent's competitors to respondent, 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 for final hearing by the Federal Trade Commission upon the respondent's answer filed herein pursuant to paragraph 2 of Rule III of Practice and Procedure of the Commission which said answer refrains from contesting the proceeding, and the Commission being fully advised in the premises,

It is now ordered, That the respondent, H. Perilstein, a corporation, and its agents, representatives, servants, and employees and each of them, in connection with the sale or offering for sale in interstate commerce or in the District of Columbia of window glass, cease and desist from shipping to any purchaser thereof, panes of window glass of grade or quality "B" as and for window glass of the grade and quality "A" or from representing in any manner to said purchasers that common window glass of the grade and quality "B" is of the grade and quality "A."

It is further ordered, That the respondent shall within 60 days from the date of 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.

Complaint

18 F.T.C.

IN THE MATTER OF

JOSEPH H. McGRANAHAN, DOING BUSINESS UNDER
THE TRADE NAME MONTECATINI DISTRIBUTING
COMPANYCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2090. Complaint, Feb. 18, 1933—Decision, Nov. 27, 1933*

Where a corporation had long engaged in the sale of certain Italian salts as sole representative and distributor in the United States of the Italian "Societa Regie Terme di Montecatini", agency of the Italian Government in extracting salts from the famous Italian Montecatini Mineral Springs (including the "Tamerici" spring), and said corporation had done a constantly increasing business in such salts, which had increased in public favor and demand in the United States, and were packed, in Italy, in bottles (1) labeled "Sali Cristallizzati Di Montecatini (Royal Seal) 'Tamerici' (T.M.C.) (in monogram) Societa Regie Terme Di Montecatini", together with the words "Montecatini Sale Tamerici" blown therein, and (2) individually contained in cartons bearing the aforesaid label, together with the words, "Massime Onorificenze A Tutte Le Esposizioni"; and thereafter an individual engaged in the purchase from domestic laboratories of synthetic salts of the same appearance as those distributed by said corporation,

Adopted the trade-name "Montecatini Distributing Co." and sold his said product packed in bottles and containers which were marked and labeled, and were of the same size, shape, color and general appearance as the aforesaid, including the claim that contents had received highest honors at all expositions, English equivalent of the aforesaid Italian legend;

With effect of deceiving the purchasing public into believing that said synthetic salts, not extracted from spring water of any character, were those extracted from the Montecatini mineral springs as sold by said corporation, and with capacity and tendency so to do, and with resulting substantial loss of business to said corporation through diversion of trade from it to said individual, and with tendency and capacity to injure the business of competitors dealing in salts extracted from natural spring water and that of those dealing in salts of laboratory manufacture, and to divert trade from such various competitors to said individual:

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

Mr. Alfred M. Craven 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 individual, engaged at Alliance, Ohio, in the business of