

IN THE MATTER OF

JOSEPH H. McGRANAHAN, DOING BUSINESS UNDER
THE TRADE NAME MONTECATINI DISTRIBUTING
COMPANY

COMPLAINT (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

purchasing from manufacturers salts used for purgatives, laxatives, and regulatory remedies for humans and animals, and selling said salts to druggists and other dealers throughout the United States, with simulating containers and labels of competitor, in violation of the provisions of Section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, sells salts dealt in by it as aforesaid, which are sulphate of soda of laboratory manufacture, and not extracted from spring water of any character, though identical in appearance with the salts extracted for a long number of years from certain mineral springs located in Tuscany, Italy, in the locality of Montecatini, and sold and distributed in the United States for a number of years by the Banfi Products Corporation, contained in bottles of the same size, shape and contour as those of said corporation, together with the same words, i.e., "*Montecatini Tamerici*", blown therein, and with photographic copies of the labels of said Banfi Products Corporation on said bottles and on the cartons containing said bottles,¹ "so as to simulate in many and essential particulars and to represent that respondent's product is the identical one sold and distributed by the Banfi Corporation."

Said representations and descriptions of his product by respondent individual, as charged, "are false and have the capacity, tendency, and effect of misleading and deceiving purchasers and of inducing the purchase of respondent's product in and on account of the belief that it is extracted from the waters of Banfi Products Corporation, and thus, to divert trade from respondent's competitors to the respondent"; all to the prejudice of the public and competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDERS

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 on the 18th day of February, 1933, issued its complaint against the respondent, Joseph H. McGranahan, doing business under the trade name "Montecatini Distributing

¹ Label in question, as set forth in the complaint, follows:

Sali Cristallizzati
MONTECATINI
TAMERICI
Società Regie Terme
di
Montecatini

Co.", charging him with the use of unfair methods of competition in commerce in violation of the said act. Respondent having entered his appearance and filed his answer, hearings were had before a trial examiner heretofore duly appointed, testimony was heard, and evidence was received in support of the charges of the complaint, the respondent not appearing at this hearing. Hereafter this proceeding came on for final hearing, and the Commission, having duly considered the record, and being now fully advised in the premises, makes this its report, stating its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Joseph H. McGranahan, doing business under the trade name and style of "Montecatini Distributing Co.", is engaged at Alliance, Ohio, in the business of purchasing from manufacturers or laboratories in the United States, salts used for purgative, laxative, and regulatory medicines for humans and animals, and in the sale thereof in interstate commerce to druggists and other dealers throughout the United States. Respondent causes said salts when sold to be shipped and transported in interstate commerce from his said place of business at Alliance, Ohio, into and through other States of the United States, to the purchasers thereof at their respective points of location. Respondent in the course and conduct of his said business is and has been in competition with other firms and corporations located in the United States, engaged in the sale and distribution throughout the United States in interstate commerce of salts, sold and used for the same purposes as the products of the respondent.

PAR. 2. Among respondent's competitors are many who sell and distribute salts extracted and crystalized from the waters of natural mineral springs. Among competitors of this class is the Banfi Products Corporation, organized and doing business under the laws of the State of New York. The Banfi Products Corporation is now and for many years past has been engaged as the sole representative and distributor in the United States of an Italian corporation known as "Societa Regie Terme di Montecatini", which last named corporation is and has been, as an agency of the Italian Government, engaged in extracting salts from certain mineral springs located in the locality known as Montecatini, in Tuscany, Italy. The springs thus located are known as Montecatini Mineral Springs. For many years salts have been extracted from the waters of the Montecatini Mineral Springs by the said Italian Government, and have been

sold and distributed in the United States by the said Banfi Products Corporation. The business done in the sale and distribution of such salts by the Banfi Products Corporation has constantly increased and the said salts have increased in public favor and demand, especially among the inhabitants of the United States who are of Italian birth or descent, and annual sales thereof are about \$300,000.

The salts sold by respondent describing himself as doing business as "Montecatini Distributing Co." are sulphate of soda of laboratory manufacture, not extracted from spring water of any character. They are, however, identical in appearance with the salts distributed by the Banfi Products Corporation as above set forth.

PAR. 3. The salts distributed by the Banfi Products Corporation are packed in Italy in bottles which are in turn packed in individual cartons.

The cartons in which the true Montecatini salts are packed and offered for sale are approximately $4\frac{1}{8}$ inches high by $1\frac{3}{4}$ inches thick. At the top of both faces of the said carton appear the words:

Massime Onorificenze

A Tutte

Le Esposizioni

and immediately under these words, on a yellow background, appears the label, containing the following words:

Sali Cristallizzati

Di

Montecatini

(Royal Seal)

"Tamerici "

(T.M.C.) (in monogram)

Societa Regie Terme

Di

Montecatini

The first statement means in the English language that the product has taken honors and awards at all expositions. The Royal Seal referred to and which cannot be reproduced here is the seal of the Italian Government, and the word "Tamerici" refers to one of the six famous springs of Montecatini, from the waters of which spring the salts are extracted. The bottle enclosed in said carton and in which the crystals of salts are contained also had upon its face the same identical label above set forth, and has blown into it the words

Montecatini

Sale

Tamerici

Conclusion

18 F.T.C.

PAR. 4. The respondent packs its product in bottles of the same size and contour as those used by the Banfi Products Corporation, which bottles he packs in cartons of the same size and color as those used by the Banfi Products Corporation. There is also blown into the bottles used by respondent the inscription

Montecatini

Sale

Tamerici

and on the cartons and bottles used by the respondent is the same identical label, probably procured by photographic process, as used by the Banfi Products Corporation. Respondent also by another label affixed to his cartons announces that his salts have received honors at all expositions.

PAR. 5. The cartons and bottles used by the respondent are identical in size, shape, color, and general appearance with the cartons and bottles used in the packing of the Montecatini Salts sold by the Banfi Products Corporation. The use of the word "Montecatini" in the trade name, and on the packages and bottles used by the respondent, and the simulation of the label and dress of the packages and bottles as described in paragraphs 4 and 5 hereof have the tendency and capacity to deceive the purchasing public and have deceived the purchasing public into the belief that the synthetic salts sold by respondent are the salts extracted from the mineral springs of Montecatini, Italy, as sold by the Banfi Products Corporation. The sale of salts of laboratory manufacture by respondent as and for the salts extracted from the natural mineral springs of "Montecatini" and sold as such by the Banfi Products Corporation has resulted in a substantial loss of business to the said corporation by the diversion of trade from the said corporation to the said respondent.

The use by respondent of the false descriptions and representations mentioned in paragraphs 4 and 5 has the tendency and capacity to injure the business of respondent's competitors, both those competitors who sell salts extracted from natural spring water and those who sell salts of laboratory manufacture and to divert trade from both classes of respondent's competitors to the respondent.

CONCLUSION

The practices of the said respondent under the conditions and circumstances stated in the foregoing findings are to the prejudice of the public and respondent's competitors, and constitute a violation of the act of Congress approved September 26, 1914, entitled "An

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Order

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 been heard by the Federal Trade Commission on the complaint of the Commission, the answer of the respondent, the testimony and brief filed, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated 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 ”,

It is now ordered, That the respondent, Joseph H. McGranahan, in connection with the sale or offering for sale of salts in interstate commerce between and among the various States of the United States, and in the District of Columbia, do cease and desist from:

(1) Using the word “Montecatini” in his trade name or upon cartons, bottles, or other containers.

(2) Using the corporate name “Societa Regie Terme Di Montecatini” upon the bottles or other containers of his product or in any of his advertising, or in any manner representing that said corporation has any connection whatsoever with the product sold by him.

(3) Representing in any manner that the salts sold by him is extracted or crystallized from the waters of the springs of Montecatini or from the water of any spring whatsoever.

(4) Using on his labels or otherwise at all the seal of the Italian Government.

(5) Advertising in any manner that his salts has received awards at any exposition.

(6) Simulating the packages, labels, or any advertising matter of the Benfi Products Corporation.

It is further ordered, That the respondent shall within 30 days after the service upon him 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 to cease and desist hereinabove set forth.

Complaint

18 F.T.C. -

IN THE MATTER OF
BENJAMIN HALLMAN, DOING BUSINESS AS RELIABLE
SUIT CASE COMPANY

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

Docket 2109. Complaint, July 26, 1933—Order, Dec. 9, 1933

Consent order requiring respondent, in connection with the sale and offer of luggage in interstate commerce, to cease and desist from labeling, stamping or otherwise advertising luggage manufactured in whole or in part from split leather, as being manufactured from genuine leather, and from in any manner indicating that the material used in the manufacture is other than split leather.

Mr. Alfred M. Craven 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 Benjamin Hallman 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, Benjamin Hallman, is now and has been for several years last past doing business in the city of New York under the trade name of Reliable Suit Case Co. The business of respondent is that of manufacturing and selling in interstate commerce to jobbers and retail dealers throughout the United States handbags, suitcases and other luggage. He causes said merchandise when sold to be shipped in interstate commerce from his said place of business in New York into and through various States of the United States to purchasers thereof at their respective points of location. In the course and conduct of his said business respondent is and has been in competition with many other persons, firms and corporations located in the United States engaged in the manufacture and sale in interstate commerce of handbags, suitcases and other luggage and in the shipment of same from their respective points of