

Complaint

IN THE MATTER OF
NATIONAL SILVER COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2080. Complaint, Dec. 5, 1932—Order, Dec. 16, 1933*

Consent order requiring respondent, its officers, etc., in connection with the advertisement, offer or sale in interstate commerce and in the District of Columbia of scissors imported from Germany, with the stamp and brand "Royal Brand—Solid Steel—Germany", and with a carbon content of not more than 0.095 percent, to cease and desist from representing the same as solid steel, either by use of the words "steel" or "solid steel" or other words which convey the same idea.

Mr. G. Ed. Rowland for the Commission.

Brill, Bergenfeld & Brill, 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 National Silver Company, a corporation, has been and is now 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, National Silver Company, is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 61 West Twenty-third Street, in the city of New York, State of New York, where it has been for more than one year last past, engaged in the sale of silverware, novelty ware and cutlery to wholesale and retail dealers located in the various States of the United States. The officers of respondent are Samuel E. Bernstein, president; Philip J. Bernstein, vice president; Morton Bernstein, treasurer; and Harry Berke, secretary. Respondent causes its said articles of merchandise when sold to be transported from its said place of business in the city of New York, State of New York, through and into other States of the United States to the purchasers thereof at their

respective places of location. In the course and conduct of its said business as aforesaid, respondent is in direct and active competition with other persons, partnerships, and corporations engaged in the sale and transportation of silverware, novelty ware and cutlery in commerce between and among the various States of the United States and the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business respondent is now, and has been for more than one year last past, engaged in selling to wholesale and retail dealers located throughout the various States of the United States, among other articles of merchandise, scissors which are stamped and branded with the words "Royal brand—solid steel—Germany" and "Royal brand—solid steel." In catalogs which respondent causes to be printed, and distributes to wholesale and retail dealers throughout the several States of the United States for the purpose of soliciting business, it describes the said scissors as "forged solid steel" and "Royal brand—solid steel."

PAR. 3. Steel is an alloy of iron and carbon, and the grades of steel used in the manufacture of cutting tools of various kinds contain a minimum amount of carbon which is necessary to make a proper cutting edge. Low carbon steel is not satisfactory for a cutting tool. The scissors sold by respondent, stamped and branded as set forth in paragraph 2 herein, contain too small an amount of carbon to entitle said scissors to be properly labeled "solid steel", as such term is generally applied in the trade to cutting tools.

PAR. 4. The statements and representations of respondent, as hereinabove set forth, are calculated to, and do, have the capacity and tendency of inducing many wholesale and retail dealers, and many of the purchasing public, to purchase the said scissors sold by respondent in the mistaken belief that said statements and representations are true, and tend to and do unfairly divert trade to respondent from competitors who are engaged in the sale of truthfully labeled scissors in interstate commerce throughout the various States of the United States and the District of Columbia.

PAR. 5. The above alleged acts and practices of respondent are each and all of them to the prejudice of the public and respondent's competitors, 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

Pursuant to the provisions of an act of Congress, approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the respondent, National Silver Company, charging it with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act. With the complaint there was served upon respondent a copy of the Commission's Rules of Practice. Said Rules of Practice with respect to answers provide, among other things, as follows:

III. ANSWERS

(2) In case respondent desires to waive hearing on the charges set forth in the complaint and not to contest the proceedings, the answer may consist of a statement that respondent refrains from contesting the proceeding or that respondent consents that the commission may make, enter, and serve upon respondent an order to cease and desist from the violations of the law alleged in the complaint, or that the respondent admits all the allegations of the complaint to be true. Any such answer shall be deemed to be an admission of all the allegations of the complaint, to waive a hearing thereon, and to authorize the commission, without a trial, without evidence, and without findings as to the facts or other intervening procedure, to make, enter, issue, and serve upon respondents.

Whereupon on January 25, 1933, the respondent entered its appearance and filed its answer to said complaint. Subsequently, to wit, on October 9, 1933, the respondent filed its amended answer, in which it consented that the Commission might make, enter and serve upon it an order to cease and desist from the violations of law alleged in the complaint.

Whereupon, pursuant to its Rules of Practice, the Commission finds that said amended answer is an admission of all the allegations of the complaint, and a waiver of hearing thereon and authorizes the Commission without trial, without evidence and without findings as to the facts or other intervening procedure, to make, enter, issue and serve upon respondent an order to cease and desist from the violations of law alleged in the complaint. The Commission being fully advised in the premises,

It is now ordered, That the respondent, National Silver Co., its officers, agents, representatives, and employees, in connection with the advertising, offering for sale or selling in commerce among the several States of the United States, and in the District of Columbia, of scissors, described in the complaint herein, being scissors imported from Germany stamped and branded with the words "Royal Brand—

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Solid Steel—Germany”, said scissors having a carbon content of not more than 0.095 percent, cease and desist from representing said scissors as solid steel, or representing that the said scissors are made from solid steel, either by the use of the words “steel” or “solid steel”, or other words which convey the same idea.

And it is further ordered, That respondent, within 60 days after service upon him of a copy of this order, shall file with the Commission a report in writing setting forth in detail the manner in which this order has been complied with and conformed to.

Complaint

IN THE MATTER OF

DELSON CHEMICAL CO., 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 2077. Complaint, Dec. 3, 1932—Decision, Dec. 27, 1933

Where a corporation engaged in the manufacture and sale of dog medicines, Represented or advertised in its "Kennel Manual" that "the modern method of treating disease is to remove the cause" and that "removal of germs, acids, ferments, and other impurities from the system is now possible by the aid of chemicals", and that there had resulted "a new science of Chemotherapy", and knowledge "now made available for the treatment of diseases of the dog", and included among such diseases, for treatment and cure through internal administration of its "Delcreo" preparation, and the asserted germicidal and other beneficial effects thereof, so administered, abscesses, asthma, fits, distemper, pneumonia, rheumatism, and vomiting attendant upon black tongue;

The facts being that said preparation, thus given, did not destroy bacteria or germs, or have any effect thereon or constitute a preventative treatment, and was not a cure or effective remedy in the treatment of said ailments, did not remove the causes thereof, was not effective, as represented, in causing cessation of paroxysms in asthma, was not an efficient treatment for pneumonia, rheumatism, or black tongue, and was not curative of any of the diseases mentioned in said manual;

With capacity and tendency to deceive the purchasing public into believing said preparation to be a germicide which, given internally, will kill germs and bacteria and destroy the causes of the various diseases for which prescribed, and induce purchase thereof by the public in and on account of said erroneous belief, and thus injure the business of competitors and divert trade from them to it:

Held, That such acts and practices, under the circumstances set forth, were to the injury and 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, a New York corporation engaged in the manufacture of proprietary dog medicines, and in the sale thereof to druggists, operators of dog kennels and pet shops, and to the public generally throughout the United States, and with principal place of business in New York City, with advertising falsely or misleadingly as to