

Complaint

IN THE MATTER OF
THE MACEY COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC.
5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914*Docket 2138. Complaint, Dec. 19, 1933—Order, May 11, 1934*

Consent order requiring respondent corporation, in connection with the offer or sale of furniture in interstate commerce, to cease and desist from directly or indirectly advertising, describing, or designating furniture as walnut, the exposed parts of which, when placed in the generally accepted position for use, have for an outer ply or a face veneer, other wood or woods than walnut, or a combination of walnut with other wood or woods, or whose exposed solid parts consist of other wood or woods than walnut or walnut in combination with other wood or woods, unless such use of other wood or woods than walnut except in marquetry, inlays, or overlays is disclosed by apt and adequate words in immediate connection with the word "walnut."

Mr. James M. Brinson 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 The Macey Company, a corporation, hereinafter called 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, The Macey Company, has been for several years last past and now is, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business at Grand Rapids in said State, engaged in the manufacture of sectional bookcases and office furniture, and its sale and transportation in commerce from its said place of business at Grand Rapids in the State of Michigan to purchasers in the various other States of the United States and in the District of Columbia. In the course and conduct of such business respondent has been and is in competition with individuals, partnerships, and corporations engaged in the sale and transportation of such class of furniture in like commerce.

PAR. 2. It has been and is the practice of respondent, in the course and conduct of its business, to manufacture the broad parts, and

the flat parts, of its furniture, such as tops of desks and tops, ends, and fronts of cabinet pieces, from panels of plywood which vary in thickness from 1 to 1 $\frac{5}{8}$ inches. These panels, or so-called plywood, consist of layers of gumwood, chestnut, or other wood of similar grade or adaptable to such use and purpose, attached with glue. Upon the outer layer, where exposed to view in the generally accepted position for use, there is glued a veneer of walnut 1/28th of an inch in thickness. There are in such panels either 3 or 5 layers, including the outer ply or veneer. Solid woods are used in the construction of legs, posts, stretchers, or those parts of the furniture usually known or described as solid parts. It has been and is the practice of respondent to use, in the construction of many articles of such furniture, as the outer ply layer, or veneer, for surfaces exposed to view when the piece of furniture occupies the generally accepted position for use, a wood other than walnut, to wit, laurel, which resembles walnut in appearance.

PAR. 3. Such furniture has been and is offered for sale in the catalog of respondent distributed among dealers, sold, and invoiced by or under the description or designation of "walnut", whether the panels or broad or flat parts of such furniture consist of plywood veneered with walnut or plywood veneered partially with walnut and partially with laurel. Such furniture is so designated as "walnut" without any qualification, disclosure, or indication of any character by means of which dealers have been or are enabled to ascertain or learn that the furniture described or designated as "walnut" is actually furniture consisting of walnut and laurel veneered on other woods. Furniture so described as "walnut" by respondent to its dealers has been and is resold to the consuming public as and for "walnut".

PAR. 4. There have been for many years last past and now are individuals, partnerships, and corporations, competitors of respondent, offering for sale and selling in interstate commerce sectional bookcases and office furniture described or designated as "walnut" which has in fact consisted and now consists of solid walnut, or of plywood whose various plies consist of walnut. There have been and are individuals, partnerships and corporations also offering for sale and selling in competition with respondent sectional bookcases and office furniture consisting of walnut veneered on other woods or on plywood truthfully described and designated as "walnut veneer". There have also been competitors of respondent and there are now competitors of respondent who offer for sale and sell as "walnut" sectional bookcases and office furniture consisting of

walnut veneered upon plywood or other woods and whose outer or surface veneer contains no laurel, and is described as "walnut".

PAR. 5. The above and foregoing practices of respondent have had and have and each of them has had and has the capacity and tendency to mislead and deceive the dealer customers of respondent into the belief that the articles of furniture offered for sale and sold by respondent described or designated as "walnut" are, or such parts of them as are exposed to view when the piece of furniture is in the generally accepted position for use, or their outer ply or surface veneer is, walnut, and to induce the purchase of such furniture in reliance on such erroneous belief.

The offering for sale of such furniture described and designated as stated in paragraph 3 has furnished and furnishes dealers among whom the catalog of respondent is distributed or who receive such description of said furniture from respondent or its agents and solicitors with the means to mislead and deceive the consuming public into the belief that the articles of furniture described by respondent as aforesaid, or such parts as are exposed for view when the piece is in the generally accepted position for use or their outer ply or veneer, consist of walnut.

The above and foregoing practices of respondent have had and have and each of them has and had the capacity and tendency to divert business to respondent from its competitors who offer furniture for sale in interstate commerce truthfully advertised and represented.

PAR. 6. The above and foregoing practices of respondent have been and are all to the prejudice of the public and to the respondent's competitors and have been and are unfair methods of competition in violation of the provisions of Section 5 of the Act 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

This proceeding having come on to be heard upon the complaint and the amended answer of respondent wherein it waives hearing and right to contest the proceeding and consents in pursuance of the Rules of Practice (III. Answers, par. 2) that the Federal Trade Commission may make, enter, and serve upon respondent an order to cease and desist from the violations of the law alleged in the complaint and the Commission having considered the record and being now fully advised in the premises,

Order

19 F.T.C.

It is ordered, That respondent, the Macey Company, its officers, agents, and employees, in connection with offering for sale or selling furniture in interstate commerce, cease and desist, directly or indirectly:

From advertising, describing, or designating furniture as walnut, the exposed parts of which, when placed in the generally accepted position for use, have for an outer ply or a face veneer, other wood or woods than walnut, or a combination of walnut with other wood or woods, or whose exposed solid parts consist of other wood or woods than walnut or walnut in combination with other wood or woods, unless such use of other wood or woods than walnut except in marquetrys, inlays, or overlays is disclosed by apt and adequate words in immediate connection with the word "walnut".

Syllabus

IN THE MATTER OF
CROXON, INCORPORATED, AND A. W. LUBLIN¹

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 2096. Complaint, Mar. 27, 1933—Decision, May 28, 1934

Where a corporation engaged in the manufacture and sale of certain preparations for the removal of hair, including a cream (for use with which a certain wax preparation is sold), the principal ingredients of which were sodium perborate and commercial zinc peroxide, and a powder, which contained strontium sulphide; in advertising the same in trade magazines and those of general circulation, and in booklets and other forms of advertising material distributed by it,

- (a) Represented that its said cream would kill the hair roots and prevent and permanently destroy hair growth through such statements as "Actually destroys superfluous hair permanently", "Definitely prevents the regrowth of superfluous hair", "Completely destroys both hair and hair root—painlessly—harmlessly—permanently"—facts being there is no chemical or combination of chemicals which, applied to the skin, will permanently remove hair and prevent its regrowth without injuring the skin, and said statements and claims were false, deceptive, and misleading;
- (b) Falsely represented said cream as the result of extended research by doctors, during which sections of human skin were taken from living bodies for purposes of experimentation, "So that the microscope might tell the investigators exactly what was happening to the hair roots, because nothing less than an absolute cure would satisfy them", the facts being no such research or experiments had been conducted and the originator of the product was a chemist;
- (c) Falsely represented said cream as a treatment based on an entirely new principle, through such statements as "A revolutionary product", "Scientists have finally triumphed over this age-old problem", "The principle * * * is entirely new", involving a combination of "gentle chemical reactions" which "dissolves both hair and its roots without injury to the health and vitality of the skin", etc.;
- (d) Represented that it had on file complete records proving the truth of its claims through such statements as "Complete records of their entire research work (i.e., 'the doctors and scientists' who made the cream 'possible') proving every claim, are in our files", facts being it did not have on file records proving the truth of claims and representations as to the efficacy of said cream, and no records were in existence which proved that it would permanently remove hair and prevent its regrowth; and
- (e) Falsely represented that said depilatory powder, which accomplished its results through burning the hair off, was harmless and nonirritating to the skin when used for the removal of hair, facts being that preparation in question would cause irritation, and, if left on the skin too long, would cause inflammation;

¹ Dismissed as to respondent A. W. Lublin.