

Complaint

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IN THE MATTER OF
RAFFY PARFUMS, INC.

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

Docket 2114. Complaint, Sept. 13, 1933—Decision, July 23, 1934

Where perfumes composed in France had had for many years a widespread popularity and there had been and was a substantial demand and preference among large numbers of the public for perfumes composed in and imported from said country, which usually displayed the words "Paris and France" in addition to the name of the French manufacturer on the labels of the bottles and display boxes in which sold; and thereafter a domestic distributor—

Labeled perfumes composed from concentrates produced in the United States from essential oils imported from France and other foreign countries, and not composed in France from concentrates made of essential oils in France, with such words and legends as "Adam—et—Eve—Marcel Raffy—Paris", and beneath, in smaller letters, "New York"; "Jasmin—Extra fin—Raffy—Paris"; "Chypre—Extra fin—Raffy—Paris"; "Encens—Oriental—Raffy—Paris"; and "Futuris—Raffy—Paris", and "Nuit Blue—Paris";

With effect of misleading and deceiving retail dealers and members of the public into believing said perfumes to have been composed in or near Paris and imported into the United States, and into purchasing same in reliance upon such belief in place of products of competitors in fact so composed and imported, and in place of those composed in the United States and so labeled and represented, and result of diverting trade in perfumes to said corporation from competitors, many of whom import and sell throughout the United States in the bottles and display boxes in which received, perfumes composed in or near Paris, and many of whom sell perfumes composed in the United States, and so labeled and represented; and with capacity and tendency so to mislead, deceive and divert:

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

Mr. Edward E. Reardon for the Commission.

Mr. Benjamin Siet, of New York City, for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action is the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in New York City in the manufacture of perfumes, toilet waters, and cosmetics, and in the sale thereof to wholesale and retail dealers throughout the United States from its factory and principal place of business in said city, with misbranding or mislabeling as to source or origin of product, 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, engaged as aforesaid in competition with those dealing in the domestic products and those importing such products from France, uses labels with such trade names and legends on bottles and containers of its preparations as, "Encens Oriental Raffy Paris", "Voici Paris Raffy Paris", "Chypre extra Fin Raffy Paris", "Jasmin Extra Fin Raffy Paris", and "Gardenia Raffy Paris", notwithstanding fact none of said products are made or compounded in Paris; with capacity and tendency to mislead dealers, and the purchasing and consuming public (many of whom buy the long, widely popular, perfumes made in France and imported therefrom, in preference to the products of other countries), into the belief that respondent's said products are made or compounded in said city, and induce the purchase thereof in reliance upon such erroneous belief, and thus divert trade to respondent from competitors, to their injury and prejudice and that of the public.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 above-named respondent charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having filed its answer herein, hearings were had and evidence was thereupon introduced in behalf of the Commission and the respondent before an examiner of the Federal Trade Commission duly appointed.

Thereupon this proceeding came on for a final hearing on the brief filed on behalf of the Commission, no one appearing for the respondent, and the Commission having duly considered the record and being fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and the conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Raffy Parfums, Inc., is a corporation, incorporated under the laws of the State of New York, and since the date of its incorporation it has been engaged in the business of the sale of perfumes in New York City.

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PAR. 2. Charles P. Andrae is and has been the vice president and secretary of the respondent, Raffy Parfums, Inc., since its incorporation.

PAR. 3. From the date of its incorporation until on or about October 1933 the respondent sold its entire output of perfumes throughout the United States through the sales agency of Charles P. Andrae, above mentioned, who did business under the name Andrae Sales Company. In or about October 1933 the Andrae Sales Company was organized as a corporation under the name Andrae Sales Corporation. The sale of the respondent's products has been conducted by the Andrae Sales Corporation and its predecessor, the Andrae Sales Company, since the incorporation of the respondent on or about April 5, 1932, and during all said times the respondent through its said agents has been engaged in the sale of perfumes in interstate commerce to retail dealers throughout the United States for resale by the said dealers to members of the public for use or wear. The respondent during the above times has caused the perfumes so sold by it to be transported from New York City, N. Y., to, into, and through other States to the retail dealers above referred to.

PAR. 4. Perfumes are generally a conglomeration of odors and are produced in the form of concentrates from essential oils. The basic ingredients from which the essential oils are derived come from various parts of the world, principally from the south of France, the French colonies, and from other parts of the world, such as China, Italy, and Africa. The best and most expensive essential oils are produced in France and the concentrates from essential oils are usually produced from a great many basic ingredients, sometimes from as many as 40 to 60 different ingredients.

PAR. 5. The center of the French perfume industry is and has been for very many years located in or near Paris, France, and many of the largest French producers of perfume have and have had for very many years their places of business in Paris, France.

PAR. 6. The perfumes composed in France have had for very many years a wide-spread popularity in the United States and there has been and is now a substantial demand, among large numbers of the public throughout the United States who use or wear perfume, for the perfumes composed in and imported from France rather than for the perfumes composed in the United States or in other countries.

PAR. 7. There are and have been since long prior to the incorporation of the respondent many other individuals, firms, and corporations, located in the United States, some of whom are and have been engaged in the importation and sale of perfumes from France to retail dealers located in the various States and some of whom are and

have been engaged in the business of the composing of perfumes in the United States and in the sale of such perfumes to dealers therein located in the various States of the United States, and all of whom have, respectively, caused the perfumes so sold by them during said times to be transported from the State or origin of the shipment to, into, and through other States to the purchasers, the said retail dealers.

The respondent is and has been in substantial competition in interstate commerce during said times with the other individuals, firms, and corporations above referred to.

PAR. 8. The perfumes sold by the respondent during the above-mentioned times are and have been composed from concentrates produced in the United States from essential oils imported from foreign countries, including France.

The respondent does not import and has not imported perfumes that were composed in France from concentrates made of essential oils in France.

PAR. 9. The respondent during the times above mentioned has sold its perfumes in bottles, generally of from 1 to 4 ounces in size and in boxes containing such bottles. Among others the respondent sold a perfume which was labeled "Adam"—"et"—"Eve"—"Marcel Raffy"—"Paris", and beneath in smaller letters, the word "New York"; a perfume which had on the bottle label the words, reading from top to bottom, "Jasmin"—"Extra fin"—"Raffy"—"Paris"; a perfume which had on the bottle label, reading from top to bottom, the words, "Chypre"—"Extra fin"—"Raffy"—"Paris"; a perfume which had on the bottle label, reading from top to bottom, the words, "Encens"—"Oriental"—"Raffy"—"Paris"; and perfumes which had on the bottle labels, reading, respectively, from top to bottom, the words, "Futuris"—"Raffy"—"Paris", and "Nuit Blue"—"Paris."

PAR. 10. Among the individuals, firms, and corporations, referred to in paragraph 7 hereof, are many who import perfumes from France that are and have been composed in or near Paris, France, and the perfumes so imported are and have been sold to retail dealers, department stores, specialty shops, druggists, and wholesale dealers throughout all the United States, usually in the packages in which they are received from France consisting of bottles of perfume in sizes of from one-quarter ounce to 32 ounces, contained in display boxes in which the bottles of perfume are sold.

Such perfumes usually have on labels on the bottles and display boxes in which they are sold, the words, "Paris" and "France" besides the name of the French manufacturer.

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PAR. 11. There are among the competitors of the respondent in the sale of perfume in the United States many who sell perfumes composed in the United States and who do not represent their products to have been composed in France.

PAR. 12. The respondent's use of the word "Paris" in labeling and advertising its perfumes, as above set out, has the capacity and tendency to mislead and deceive retail dealers and members of the public who purchase perfumes for use or wear and it has misled retail dealers and members of the public into believing that respondent's of said perfumes were composed in or near Paris, France, and imported into the United States and, in reliance upon such belief, into purchasing the respondent's perfumes in place of perfumes of respondent's competitors which were composed in or near Paris, France, and imported from France into the United States, and in place of perfumes of respondent's competitors which were composed in the United States and so labeled and represented, and trade in the sale of perfume was thereby diverted from respondent's competitors to the respondent.

PAR. 13. The respondent's acts and practices above set forth have the capacity and tendency to mislead and deceive the public and to divert business to respondent from its competitors and they have misled and deceive the public and diverted trade, as above set forth, to the injury and prejudice of competitors and of the public.

CONCLUSION

The practices of the respondent, under the conditions and circumstances disclosed in the foregoing findings, are all to the injury and prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and are in violation 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

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of respondent, testimony and evidence introduced, upon the brief of Commission's attorney; and the Commission having made its findings as to the facts and its conclusion that the respondent, Raffy Parfums, Inc., 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"—

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Order

It is now ordered, That the respondent Raffy Parfums, Inc., its agents and representatives, in connection with the sale or the offering for sale of perfumes in interstate commerce between and among the several States of the United States and in the District of Columbia, do—

Cease and desist, From representing, by use of the words “Paris” and “France”, or either of those words on the labels on bottles or other containers or on any part of the package in which perfume is offered and sold or in any other way, that perfumes composed in the United States or elsewhere and sold or offered for sale by respondent are composed in Paris or in France unless and until such shall be true in fact.

It is further ordered, That the respondent, Raffy Parfums, Inc., shall within 30 days after the service of this order file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which it has complied with this order to cease and desist.

IN THE MATTER OF
CIVIL SERVICE TRAINING BUREAU, 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 2117. Complaint, Sept. 16, 1933—Decision, July 23, 1934

Where a corporation engaged in the sale and distribution to members of the public of correspondence courses of study and instruction for civil service examinations for positions with the Government—

- (a) Employed a corporate name which included the words "Civil Service" and "Bureau" in its advertisements and otherwise, and made use of such terms in advertising as "advisors", "district advisors", "civil service district advisors", "field advisors", "registrars" and "Central States office", notwithstanding fact it was a private institution, with no connection whatever with the Civil Service Commission or the Government; with effect of creating false impressions as to some Government connection or sponsorship due to said terms, connotation, and causing persons to interview its representatives, pay money thereto and sign contracts for additional payments in ignorance of the true facts, which were inadequately disclosed through explanatory statement on receipts and contract forms, due to failure of those concerned to see, read or appreciate such statements, misleading impressions otherwise created, and the silence and in some cases actual misrepresentations of its representatives;
- (b) Referred to examinations for such positions as Internal Revenue-General Clerical, or Internal Revenue Clerk, or to a General Clerical examination, and in its advertisements referring to positions with the Government made such statements as "We can help you get one of these well-paying life-time positions", notwithstanding fact there were no such examinations as before referred to, and it had no way of assisting students in getting Government positions other than by its training for examinations;
- (c) Represented through documents prepared and distributed to salesmen that forty to fifty thousand new appointments in Government work were made each year and that there were nearly 700,000 Civil Service employees, and the Civil Service Commission was holding many different kinds of examinations annually, facts being no such number of appointments were then being made, number of employees referred to was less than 500,000 at the time, very few examinations as aforesaid were then being held and few appointments made, and such as were, were largely by transfer, reinstatement, or from register of eligibles, so that there was little if any chance for students to take an examination and secure an appointment in the lines in question;
- (d) Represented or implied that Government jobs were offered or to be had or that persons were wanted therefor, or that its advertisements were those of the Government or of a representative or agent thereof, through such statements in the classified and "help wanted" columns of the papers as "Railway postal clerks—men age 18-35, \$1,000 year to start; for free information covering qualifications * * * to try next examination write Field Advisor Box CS-26" and other similar advertisements beginning with