

Complaint

IN THE MATTER OF

SUTTON BROTHERS, INCORPORATED

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

Docket 2193. Complaint, June 8, 1934—Order, Aug. 8, 1934

Consent order requiring respondent, its officers, etc., in connection with the manufacture and sale, offer, and advertisement of handkerchiefs in interstate commerce and in the District of Columbia, to cease and desist from directly or indirectly using or causing to be used the words, "Warranted pure linen cording", as a label upon handkerchiefs not made of linen, or otherwise to describe or designate handkerchiefs as linen unless the material contained therein is linen.

Mr. Morton Nesmith for the Commission.

Mr. Jacob Ansbacher, of New York City, for respondent.

COMPLAINT

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 having reason to believe that Sutton Bros., Inc., hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Said respondent, Sutton Bros., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located in the City of New York in said State. Said respondent, Sutton Bros., Inc., is now, and since its organization in, to wit, the year of 1930, has been engaged in the manufacture and sale of handkerchiefs between and among the various States and Territories of the United States. It has manufactured and sold, and has caused and still causes, the said articles in which it deals, to be transported from its said place of business into and through other States of the United States to various jobbers and retailers located at points in various States of the United States. In the course and

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conduct of its said business respondent is in competition with other individuals, partnerships, and corporations engaged in the sale and transportation of handkerchiefs in commerce between and among the various States of the United States.

PAR. 2. For many years prior to the date hereof, linen has proven superior to cotton fabrics in the manufacture of handkerchiefs because of its durability, smoother texture, and coolness, and is, therefore, more expensive and the consuming public have, for many years, considered and still consider that handkerchiefs or materials produced from flax and known as linen are much superior to those manufactured from cotton.

PAR 3. (a) That the respondent, Sutton Bros., Inc., in the course and conduct of its business as aforesaid, has manufactured and sold to various jobbers and retailers at wholesale, and still does manufacture and sell to various jobbers and retailers, certain handkerchiefs which respondent plainly labels as follows:

Warranted Pure Linen Cording

(b) That said respondent, Sutton Bros., Inc., in the course and conduct of its business as aforesaid, has caused, and still causes, certain other handkerchiefs of said Sutton Bros., Inc., to be sold to various jobbers and retailers which said handkerchiefs respondent plainly labels as follows:

Warranted Pure Linen Cording

PAR. 4. (a) In truth and in fact the handkerchiefs so manufactured, labeled, and sold as described in paragraph 3 (a) contain more than 50 percent of cotton, and the label so placed upon said handkerchiefs by the respondent has the capacity and tendency to, and does mislead many among the aforesaid trade and many of the consuming public into the belief that respondent's said handkerchiefs are composed of pure linen as referred to in paragraph 2, and causes many of the said trade and many of the consuming public to purchase respondent's products in that belief.

(b) In truth and in fact the handkerchiefs caused to be sold by the respondent, as described in paragraph 3 (b) hereof, contain no linen whatsoever except the thread or threads around the border thereof, and the label so placed upon said handkerchiefs by respondent has the capacity and tendency to, and does mislead many among the aforesaid trade and many of the consuming public into the belief that respondent's said handkerchiefs are composed of pure linen, as referred to in paragraph 2 hereof, and causes many of the said trade

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and many of the consuming public to purchase respondent's products in that belief.

PAR. 5. Respondent, Sutton Bros., Inc., in the manufacture and sale of its handkerchiefs as aforesaid, ships and delivers its said products so labeled to its aforesaid jobbers and retailers. Said jobbers and retailers resell said handkerchiefs so labeled to the consuming public.

PAR. 6. There are among the competitors of respondent referred to in paragraph 1 hereof, many persons, firms, and corporations who manufacture and sell handkerchiefs, and sell said products which are composed of pure linen and who rightfully and lawfully represent them to be so composed. There are others of said competitors who manufacture and sell handkerchiefs composed of other and inferior materials or fabrics and who do not represent that their products are composed of linen. The use by the respondent of said mislabeling or misbranding of its products as described in paragraph 3 hereof, has unfairly diverted trade from, and otherwise injured and prejudiced respondent's competitors in interstate commerce.

PAR. 7. The above alleged acts and things done by the respondent are all to the injury and prejudice of the public and of the competitors of the respondent, in interstate commerce, and constitute unfair methods of competition in interstate commerce within the intent and the 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 coming on for final hearing by the Federal Trade Commission on the record, including the complaint of the Commission and respondent's answer thereto that it waive hearing on the charges set forth in the complaint, refrains from contesting the procedure, and pursuant to paragraph 2 of Rule III of the Commission's Rules of Practice, consents that the Commission may make, enter, and serve upon respondent, without evidence and without the findings as to the facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint; and the Commission having duly considered the matter and being fully advised in the premises—

It is now ordered, That respondent, Sutton Brothers, Inc., its officers, directors, agents, representatives, servants, and employees, in connection with the manufacture and sale of, offering for sale, and advertising of handkerchiefs in interstate commerce and in the District of Columbia, do cease and desist from:

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Directly or indirectly using or causing to be used the words "Warranted pure linen cording", as a label upon handkerchiefs not made of linen, or otherwise to describe or designate handkerchiefs as linen unless the material contained therein is linen.

It is further ordered, That the respondent, Sutton Brothers, Inc., shall, within 60 days after the service upon it of a copy 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 the order to cease and desist hereinabove set out.

Complaint

IN THE MATTER OF
AQUA SEAL CORPORATION AND DUPLAN SILK
CORPORATION

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

Docket 2194. Complaint, June 9, 1934—Order, Aug. 27, 1934

Consent order requiring respondent corporations, their agents, etc., in connection with the sale, advertisement, and offer in interstate commerce, of velvet fabrics, processed, treated, or finished with "Aqua-Sec" process to cease and desist from stating or representing to the public in advertisements in newspapers, or other publications, or otherwise, that velvet fabrics processed, treated, or finished with the "Aqua-Sec" process are thereafter permanently waterproof and waterspot proof; or that velvet fabrics so treated or articles of clothing made of them have those qualities or characteristics after the ordinary and usual drycleaning to which they may be subjected in ordinary use and wear; and

Ordered further that complaint be dismissed as to charges of use of unfair methods of competition in connection with sale in interstate commerce of silk fabrics processed, treated or finished with the "aqua-sec" process of the respondent Aqua Seal Corporation.

Mr. Edward E. Reardon for the Commission.

COMPLAINT

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, having reason to believe that Aqua Seal Corporation and Duplan Silk Corporation, hereinafter referred to as respondents, have been and now are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Aqua Seal Corporation is a corporation, incorporated in or about November 1932 under the laws of the State of New York and having a place of business in the City of New York at all times since its incorporation.

PAR. 2. Respondent Duplan Silk Corporation is a corporation, incorporated in the year 1917 under the laws of Delaware and having a place of business in the City of New York, N. Y., at all times since its incorporation. It is engaged in the manufacture and in the business of the sale of silk, rayon, velvet, and textile fabrics, with factories for