

Complaint

IN THE MATTER OF
STEMPEL BROS., INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2249. Complaint, Nov. 19, 1934—Order, Dec. 22, 1934*

Consent order requiring respondent, its officers, etc., in connection with the sale and offer of women's garments in interstate commerce, forthwith to cease and desist from submitting or transmitting to its customers or prospective customers, or the customers or prospective customers of its competitors, or to any other part of the trade or to the public, advertisements or illustrations of garments or other wearing apparel manufactured by its competitors, with the representation, express or implied, that respondent is or was the manufacturer of such garments or other wearing apparel, or in any other or similar manner representing it is the manufacturer of particular garments or other wearing apparel when such is not the fact.

Mr. Robt. N. McMillen for the Commission.

Mr. Nathan Kosseff, 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 having reason to believe that Stempel Bros., Inc., a corporation, 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 the Commission that a proceeding by it in respect thereof would be in the public interest, states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized and existing under and by virtue of the laws of the State of New York, with its place of business at the City of New York, in said State. It is, and at all times hereinafter mentioned has been, engaged in the manufacture and sale of ladies' sportswear, including dresses, coats, skirts, and guimpes. Sales are made to department stores located throughout the several States of the Union, and, pursuant to such sales, shipment is made from its place of business in New York to such purchasers.

PAR. 2. In the course and conduct of its said business respondent is in competition with other persons, firms, and corporations manufacturing and selling similar garments, and, pursuant to such sales, shipping them from their respective places of business to purchasers located in various States other than the States of the location of such competitors.

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20 F. T. C.

PAR. 3. There is, and has been, during all the time herein mentioned, a custom among manufacturers of women's wear, of sending to customers and prospective purchasers throughout the United States the advertisements of their garments placed in the New York papers by leading New York merchants handling same. Many buyers who do not come frequently to the New York markets are accustomed to judge the value and popularity of garments, and are to a substantial extent influenced in their purchases, by the fact that such garments are featured in advertisements placed by well-known New York stores. Therefore, when a manufacturer sends to a customer, or prospective purchaser, an advertisement sponsored by one of these stores, it means in the trade that that manufacturer is the maker of the merchandise therein advertised, and that it has such merit and popularity as to lead the New York merchant to feature it in his advertising.

PAR. 4. In the course and conduct of its business respondent has engaged in the practice of clipping from New York newspapers advertisements sponsored by leading department stores, and has mailed them to prospective customers, who are also the customers and prospective customers of its competitors, which advertisements feature not the garments or merchandise manufactured by respondent but by its competitors. Specifically, on or about April 26, 1933, and at various other times, a leading department store of New York City, known as Wanamakers, purchased a number of garments from the manufacturer thereof, to wit, one Maiman-Sanger, Inc., and advertised them for sale in the New York Sun and in other newspapers of New York City. Thereafter, the respondent clipped such advertisement from numerous copies of said newspapers and mailed them, with its business card, to its customers and prospective customers who were also customers and prospective customers of said manufacturer, Maiman-Sanger, Inc., located in various States throughout the United States, thereby representing to all to whom it mailed said clipped advertisements that it was the manufacturer of the garments featured in said advertisement, and offered them for sale at a price lower than the price at which the real manufacturer thereof had offered and was offering them.

PAR. 5. The result of such practice on the part of respondent has been and is to deceive purchasers and prospective purchasers of ladies' sportswear into the belief that respondent was and is the manufacturer of the garments in said advertisements featured, and that its said garments are of such merit and popularity as to be featured by said leading New York stores, thus tending to divert, and diverting, business to itself from the real manufacturer thereof, and tending to divert, and diverting, business to itself from other com-

petitors whose garments are not featured by said leading New York stores, and to deceive customers and prospective customers into the belief that the garments featured in the advertisements of said leading New York stores are and were of respondent's manufacture.

PAR. 6. Respondent's conduct and practices as aforesaid constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of the 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

The Commission having the above matter under consideration upon the complaint and the answer filed by respondent; and it appearing that in accordance with paragraph (b) of Rule V of the Commission's Rules of Practice, respondent's answer states that it refrains from contesting the proceeding and it further appearing that under said rule such answer constitutes an admission of all the allegations of the complaint, a waiver of hearing, and a consent that the Commission, without a trial, without evidence, and without findings as to the facts, or other intervening procedure, may make, enter, issue, and serve upon respondent an order to cease and desist from the violations of law charged in the complaint; and the Commission having duly considered the complaint and answer and being fully advised in the premises—

It is therefore ordered, That the respondent, Stempel Bros., Inc., a corporation, its officers, agents, representatives, and employees, forthwith cease and desist, in connection with its business of selling and offering for sale women's garments in interstate commerce, from submitting or transmitting to its customers or prospective customers, or to the customers or prospective customers of its competitors, or to any other part of the trade or to the public, advertisements or illustrations of garments or other wearing apparel manufactured by its competitors with the representation, express or implied, that respondent is or was the manufacturer of such garments or other wearing apparel, or in any other or similar manner representing that it is the manufacturer of particular garments or other wearing apparel when such is not the fact.

It is further ordered, That within 30 days from the date of the service of this order upon it, respondent shall file with the Commission a report in writing setting forth in detail the manner and form in which this order has been complied with.

IN THE MATTER OF
B. M. ZIEVE AND ISRAEL DUKES, INDIVIDUALLY AND
AS COPARTNERS DOING BUSINESS UNDER THE NAME
AND STYLE OF DIAMOND PAPER & BOX COMPANY

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

Docket 2137. Complaint, Dec. 18, 1933—Decision, Jan. 16, 1935

Where a firm engaged in purchase of fiber board "clothing boxes", and in the sale thereof to manufacturers and shippers of clothing, in competition with persons and concerns located without the state in which so engaged, and who, as manufacturers or dealers as the case might be, offered and sold similar products within said state—

Caused the box maker's certificate, required by the railroads' classification committee to entitle shipment to substantially lower charges than otherwise effective, and containing its name and address as the maker, to be stamped on its said boxes, notwithstanding fact it was not the maker thereof, such certificate by other than the maker did not entitle shipment to the lower charges, and a substantial number of purchasers prefer, to a substantial extent, to buy such boxes direct from the maker rather than the jobber or dealer;

With capacity and tendency to mislead purchasers to believe it to be the maker of said products, and that they conformed to all the requirements and specifications of said committee and would, therefore, take the lower rates, and thereby unfairly divert business to it from competitors who make their boxes, and from those who do not do so, or thus represent themselves:

Held, That said acts and practices, under the circumstances and conditions set forth, were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. Robt. N. McMillen for the Commission.

Mr. I. Emanuel Sauder, of Philadelphia, Pa., for respondents.

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 B. M. Zieve and Israel Dukes, individually and as copartners trading under the name and style of Diamond Paper & Box Company, hereinafter referred to as respondents, have been and are 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. Respondents are individuals doing business as copartners under the name and style Diamond Paper & Box Company