

Complaint

IN THE MATTER OF
OSSOLA BROS., INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2236. Complaint, Sept. 29, 1934—Order, May 8, 1935*

Consent order requiring respondent, its agents, etc., in connection with the sale, or offer in interstate commerce, of "Grande Italia" tomato paste or sauce, to cease and desist from using on brands, labels, containers or packages, or in advertisements thereof or otherwise, words, phrases, pictures, pictorial designs, vignettes, maps or other devices falsely importing, implying or suggesting that said tomato paste or sauce is made in, or imported from, or made of tomatoes imported from, Italy, or any other foreign country; provided that the wording, phrasing and designs of respondent's present label, may be used as a brand or label, or in advertisements of said paste or sauce, if words, "Made from Tomatoes Grown in the United States" are printed in letters in close conjunction therewith, and in letters as large and prominent as any of those appearing upon said label, and appear on all labels, containers, packages or advertisements thereof.

Mr. E. J. Hornibrook 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 Ossola Bros., Inc., a corporation, has been or 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 thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Ossola Bros., Inc., is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, with its principal place of business in the city of Pittsburgh in said State. It is now and for more than one year last past has been engaged in the business of selling food products at wholesale in and from the cities of Pittsburgh, Pa., and New York City, N. Y. Among other things, it sells a canned tomato sauce under the brand name "Grande Italia". This sauce resembles thick catsup and is made from peeled and crushed tomatoes and is used in making sauce for spaghetti and other edible dishes. This sauce is sold to retail and jobber customers of respondent and many of such

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customers are in business outside of the States of New York and Pennsylvania, and when orders are received therefor from said customers, such orders are filled by respondent by shipping the said sauce from the said cities of Pittsburgh or New York to the respective places of business of said customers.

PAR. 2. In the course and conduct of its said business, respondent is in competition with other individuals, copartnerships and corporations engaged in the sale and transportation between and among various States of the United States of tomato sauce used for the same purposes as is respondent's; some of which tomato sauce is imported from Italy and is made from the Italian Plum Shaped Tomato grown in Italy, and some of which is made from tomatoes grown in the United States.

PAR. 3. "Grande Italia" tomato sauce is manufactured and packed for respondent in the State of California. It is made of Italian Plum Shaped Tomatoes grown in said last named State. The Italian Plum Shaped Tomato is native of Italy and is now and has been for many years grown there. The sauce which is and has been made from this Plum Shaped Italian grown tomato has an established reputation for being especially adapted as a sauce for spaghetti and other edible dishes, particularly among Italians in this country and abroad. The Italian Plum Shaped Tomato, as the name implies, is in the shape of a plum, while other tomatoes are round or globular in shape. Until about the year 1926 no Italian Plum Shaped Tomatoes were grown in the United States. Since about the year 1926 they have been grown to a small extent in the State of California and to a much lesser extent in the States of New York, New Jersey, Delaware and Maryland. The round or globular tomato, grown in the United States, is also used in the making of tomato sauce used for the same purposes as that of respondent's.

PAR. 4. In the sale of its said product, respondent causes the cans or containers thereof to be labeled as follows:

The label contains a vignette with a picture of the Italian Plum Shaped Tomato and a picture of a map of Italy, indicating the principal cities of that country and also the following words:

GRANDE ITALIA

Con Basilico

Salsa Pura di Pomidora

Uso Napoli

337

Order

Naples Style

Pure Tomato Sauce

Color Added

Between the two pictures on the label in small print there is stated the following:

Packed in California

Ossola Bros., Inc.

New York

Pittsburgh

This above described label is upon the cans or containers of respondent's said tomato sauce when they reach the consuming public.

PAR. 5. The aforesaid use by respondent of the label described in paragraph 4 hereof has the tendency and capacity to deceive the purchasing public into the belief that its said brand of tomato sauce is made from the Plum Shaped Italian Tomato grown in Italy and imported into the United States from Italy, when in truth and in fact said brand is made from tomatoes grown only in the United States and is not imported, and has the tendency and capacity to unfairly divert trade from said competitors to the respondent and otherwise injure them.

PAR. 6. The above alleged acts and practices are all to the prejudice of the public and of respondent's said competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of said Act of Congress.

ORDER TO CEASE AND DESIST, ETC.

Respondent herein having filed its answer to the complaint in this proceeding and having subsequently applied to this Commission for permission to withdraw its said answer and to file in lieu thereof an answer in which it desires to waive all further proceedings and by which it consents to the entry, issuance and service upon it of an order to cease and desist, and the Commission having duly considered the same and being fully advised in the premises:

Now, therefore, it is hereby ordered, That the said answer be and the same is hereby withdrawn and the said consent answer be and the same is hereby filed in lieu of the said answer so withdrawn.

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And it is hereby further ordered, That the respondent Ossola Bros., Inc., a corporation, its agents, employees and representatives, in connection with the sale, or offering for sale in interstate commerce, of Grande Italia tomato paste or sauce, cease and desist from using on brands, labels, containers, packages, or in advertisements of the same or otherwise, words, phrases, pictures, pictorial designs, vignettes, maps or other devices importing, implying or suggesting that said tomato paste or sauce is manufactured in, or imported from Italy, or any other foreign country, or made from tomatoes imported from Italy or any other foreign country, when such is not the fact; except that the wording, phrasing and designs of respondent's present label, described in paragraph 4 of the complaint herein, may be used as a brand, label or in advertisements of tomato paste or sauce, providing the words, *made from tomatoes grown in the United States* are printed in letters in close conjunction therewith, and close proximity thereto, and as large and prominent as any of the letters appearing upon said label, and shall appear on all labels, containers, packages, or in advertisements of such tomato paste or sauce.

It is hereby further ordered, That respondent, shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF
PURITAN STATIONERY COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2275. Complaint, Dec. 31, 1934—Decision, May 13, 1935*

Where a corporation engaged in the sale of stationery and paper, innocently and for a limited time advertised, designated, and sold as "rag content" its "Ambassador Linen" stationery and paper, made of wood pulp or fiber and purchased by it from the manufacturer, notwithstanding fact that said product had a rag content of less than 25 percent:

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

Mr. John W. Hildrop for the Commission.

Mr. Herman Moskowitz, of Philadelphia, Pa., 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 Puritan Stationery Company, a corporation, 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 thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Puritan Stationery Company, is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office and place of business in the city of Philadelphia in said Commonwealth, and now and for more than one year last past has been engaged in the manufacture and sale in interstate commerce, among other commodities, of a certain brand of stationery consisting of writing paper and envelopes known and designated as "Ambassador Linen", which it manufactures at its said place of business in the city of Philadelphia, Commonwealth of Pennsylvania, and ships its