

Complaint

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

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said product into and through various of the other States of the United States to retail merchants for sale to the public at retail, and especially does the said respondent ship from its said place of business in Philadelphia, Pa., to J. G. McCrory & Company, which is the owner and operator of chain stores in various and divers cities and States of the United States, the said commodity consisting of writing paper and envelopes known and designated as "Ambassador Linen".

In the course and conduct of its business respondent is now, and for more than one year last past has been, in substantial competition with other corporations and with persons, firms, partnerships and associations engaged in a like or similar business to that of respondent, to wit, the manufacture and sale in interstate commerce of writing paper and envelopes.

PAR. 2. The said writing paper and envelopes so manufactured and sold by respondent in interstate commerce and in competition with others engaged in a like and similar business, is by said respondent manufactured of wood pulp or fiber with a mixture of "rags" and, in the manufacture of such writing paper and envelopes, the percentage of rags used in the manufacture of writing paper and envelopes from wood pulp determines the price to be charged therefor, both by the manufacturer in selling to the retail merchant and the retail merchant in selling to the buying public. The said paper manufactured and sold by respondent in interstate commerce as aforesaid, under the name and designation of "Ambassador Linen" is made of wood fiber or pulp and a percentage of rags not over 10 percent.

PAR. 3. In the manufacture and sale of stationery, paper and envelopes, and in the advertising and labeling of same, the trade term "Rag Content" conveys to the jobbers, retail stores, and the buying public the idea and impression that the paper and envelopes thus labeled and advertised are manufactured of wood pulp or fiber with a minimum content of rags of 25 percent, while in truth and in fact the stationery, paper and envelopes so manufactured and sold in interstate commerce by respondent are not entitled to the label or advertisement, "Rag Content", for the reason that it is commonly known, accepted and understood by the manufacturers, jobbers, retail sellers and the buying public that paper with a rag content of less than 25 percent is not, in truth and in fact, a "Rag Content", and the stationery, paper, and envelopes so manufactured and sold by respondent in interstate commerce and labeled "Rag Content" and "Ambassador Linen" contain less than 10 percent of "Rag Content".

PAR. 4. Respondent in the advertising and labeling of its said commodity, manufactured and sold, with a rag content of less than

10 percent and as "Ambassador Linen", as set forth in paragraph 3 hereof, uses the trade term "Rag Content" in prominent display which, as aforesaid, has the trade meaning and conveys to the buying public and consumer the idea, impression and understanding that the paper and envelopes so advertised have a rag content of not less than 25 percent, when in truth and in fact the said commodity of respondent known and designated as "Ambassador Linen" contains less than 10 percent of rag content and is not a "linen" paper at all, but is a paper made of wood pulp or fiber with a small rag content and therefore the said product of respondent is not entitled to the trade term "Rag Content". Therefore, the said labeling and advertising of respondent's said commodity as "Rag Content", is false, unfair and misleading and has a tendency and capacity to, and does, mislead the buying public by causing it to believe that when it buys respondent's said product, it is buying a paper with a rag content and a paper of a much higher grade than it actually receives, and thereby respondent, when it advertises and ships to retail merchants its said paper and envelopes as "Rag Content" to be by said retail merchants resold to the buying public, the respondent thereby furnishes others with an instrumentality for the perpetrating of a fraud upon the public.

PAR. 5. The practice of respondent in labeling and advertising the said paper and envelopes manufactured by it and sold in interstate commerce and which contains less than 25 percent of rag content, to wit, less than 10 percent of rag content, as "Rag Content", as known and understood by the trade and the buying public, has the tendency and capacity to, and does, divert trade from the competitors of respondent, who truthfully advertise the rag content of the paper and envelopes manufactured and sold by them in interstate commerce, from those competitors of respondent who manufacture a like product containing 100 percent rag content, to respondent.

PAR. 6. The above acts and things done by respondent are all to the injury and prejudice of the public and of respondent's competitors in commerce within the intent and 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent Puritan Stationery Company, a

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corporation, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. Respondent having entered its appearance and filed its answer herein, and having entered into a stipulation as to the facts with W. T. Kelley, chief counsel of the Federal Trade Commission, in which it was agreed that the said facts may be taken in lieu of testimony and that the Commission may draw its conclusion therefrom and may make, enter, and serve upon respondent an order to cease and desist from the acts of unfair competition in commerce set out in this petition; thereupon this proceeding came on for final hearing and the Commission having considered the record, having approved the said stipulation and being fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent at the time of the filing of the complaint herein and for more than one year prior thereto was and is a corporation chartered, existing, and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal place of business in Philadelphia in the Commonwealth of Pennsylvania; that its principal business consisted in the sale of stationery and paper, among which was stationery and paper advertised, designated and sold under the name of "Ambassador Linen"; that said paper so designated, advertised and sold as "Ambassador Linen" was by respondent shipped from its said place of business in Philadelphia, Pa., into and through various of the States of the United States of America to its customers who had bought same from respondent, and, therefore, respondent was and is engaged in interstate commerce.

PAR. 2. Respondent is now, and was at the time this complaint was filed and for more than one year prior thereto, in competition with various corporations, individuals, associations, firms and partnerships engaged in a similar and like business to that of respondent in interstate commerce.

PAR. 3. Up to the end of the year 1932 it did sell a quantity of stationery, in interstate commerce, which it designated, advertised and represented as "rag content", and at all times during the period during which said stationery was thus advertised, labeled and sold, it did not know that before it would be justified in the use of said term "rag content" its said stationery, which was made out of wood pulp or fiber, should contain not less than 25 percent of rag content; that this stationery was sold and shipped in interstate commerce by

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respondent as "Ambassador Linen"; said stationery so sold in interstate commerce by respondent with a rag content of less than 25 percent was manufactured for it by a company engaged in the manufacture of paper, and that only one "run" of paper so manufactured with the rag content of less than 25 percent was sold by respondent in interstate commerce or otherwise. Since on or about March 8, 1933, respondent has not sold in interstate commerce or otherwise any stationery with a rag content of less than 25 percent.

CONCLUSION

The acts and practices of respondent under the conditions and circumstances described in the foregoing findings are to the prejudice of the public and respondent's competitors and constitute unfair methods of competition within the intent and 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".

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of the respondent and a stipulation of facts entered into by and between the respondent and the chief counsel of the Commission, the Commission having approved said stipulation and having made its findings as to the facts and conclusion that respondent 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"—

It is now ordered, That respondent Puritan Stationery Company, a corporation, its agents, officers, representatives and employees, in advertising, labeling and describing its certain product, stationery and paper, known and designated as "Ambassador Linen", or in labeling, advertising and describing any other such stationery and paper, in interstate commerce, cease and desist from the use of the words "rag content" unless in truth and in fact such stationery and paper is manufactured with a rag content of not less than 25 percent.

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

JAMES M. MARNER, TRADING UNDER THE NAME OF DISPENSARY SUPPLY COMPANY

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

Docket 2278. Complaint, Jan. 4, 1935—Decision, May 20, 1935

Where an individual engaged in the sale and distribution of a certain proprietary preparation designated as "Dr. McCaskey's Prescription Tablets"; in advertising the same in various publications and newspapers—

Represented that said preparation constituted a remedy and competent and adequate treatment for obesity, and that through use thereof a person could reduce a definite amount, or any desired part of the body, without diet or exercise, and that it contained no drugs, through such statements as "reduce five pounds this week with the proven method of prominent New York physician. Reduce five pounds during the next week. You can—surely, safely and without discomfort, This sensational statement * * * is our absolute money back guarantee. * * * "Fifty-five pounds reduction in six weeks. Dr. McCaskey's case reports to medical journals have been sensational. * * * His prescription is not a physic—it positively contains no thyroid, no drugs, nothing that could harm a baby. No drastic diets are necessary, no exercise, * * *." "Reduce where you want to reduce * * *," and through accounts or purported accounts of and by said physician relative to his standing, experience, method and success in dealing with weight control and reduction;

The facts being that said preparation did not constitute a remedy, cure or competent and adequate treatment for obesity or fat reduction, would not reduce any desired part of the body, contained no ingredients capable of producing effects set forth, was not a safe remedy due to presence therein of certain ingredients, long continued use of which, except under direction and oversight of a physician, might endanger or injure user's health, would not cause a person to reduce a definite number of pounds within a specified time, and did not give users results similar to those obtained by Dr. McCaskey in his practice as a physician;

With capacity and tendency to confuse, mislead and deceive members of purchasing public into the belief that said preparation constituted a remedy and competent and adequate treatment for the ailments for which recommended and advertised, as aforesaid, and induce their purchase and use thereof because of such erroneous belief, thus engendered, and with effect of unfairly diverting trade from legitimate competitors truthfully advertising similar preparations for the same purpose and selling in interstate commerce preparations intended for the same ailments for which aforesaid product was offered, and thereby doing substantial injury to substantial competitors in such commerce: