

Complaint

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IN THE MATTER OF
MORTIMER KAUFMAN, TRADING AS WILSHIRE
WOOLEN COMPANY

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

Docket 2347. Complaint, Mar. 25, 1935—Decision, Sept. 24, 1935

Where an individual engaged in the sale and distribution of men's clothes among the various States—

- (a) Represented in advertising that suits sold and offered by him were 100 percent virgin wool, 100 percent pure wool, and 100 percent pure worsted, notwithstanding fact that such suits were not thus composed, but were made of a large admixture of shoddy or reworked wool; and
- (b) Represented that such suits were made to the measure of the particular person or persons to whom they were sold or offered, and that orders therefor would be filled by his furnishing to the customer or prospective customer the particular style and material selected, facts being such suits were not made to the measure of the particular person to whom sold or offered, but were ready-made garments purchased by him from a manufacturer of ready-made clothing, and he did not send to customers style or material selected, but suits which differed in such respects from the customer's selection;

With capacity and tendency to deceive and mislead purchasing public into erroneous belief that such suits were composed as represented, made to measure of particular purchaser, and supplied in style and of material selected, and induce purchase thereof in such erroneous beliefs, and thereby divert trade to himself from competitors selling men's suits by fair and truthful representations, to the substantial injury of substantial competition in interstate commerce:

Held, That such acts and practices were to the prejudice and injury of the public and competitors within intent and meaning of Section 5.

Before *Mr. Edward M. Averill*, trial examiner:

Mr. John W. Hilldrop for the Commission.

Mr. Irving D. Lipkowitz, 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 Mortimer Kaufman, trading as Wilshire Woolen Company, 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 thereof would

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be to the public interest, the Commission hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Mortimer Kaufman, is an individual trading under the name and style, Wilshire Woolen Company, residing and having his principal place of business in the city of New York in the State of New York. He is now and for several years last past has been engaged in the sale and distribution of suits of men's clothes in commerce between and among the various States of the United States, and now causes and for several years last past has caused such suits of men's clothes sold by him, to be transported when sold, from his place of business in the city of New York, State of New York, to purchasers thereof located in the State of New York and in various other States of the United States. In the course and conduct of his business the respondent has been at all times hereinafter mentioned and still is engaged in competition in commerce between and among the various States of the United States, with other individuals and with partnerships and corporations offering for sale and selling suits of men's clothes.

PAR. 2. In the course and conduct of his business described in in paragraph 1 hereof, the respondent, for more than two years last past, has represented and still represents in his advertising that the suits of men's clothes sold by him and offered for sale by him, are "100 percent virgin wool", "100 percent pure wool", and "100 percent pure worsted"; that such suits of clothes are made to the measure of the particular person or persons to whom they are sold or offered for sale; that orders for suits of men's clothes are and will be filled by him by his furnishing to the customer or prospective customer, particular styles of suits of men's clothes and made of materials selected by the customer or prospective customer. In truth and in fact the suits of men's clothes sold and offered for sale by the respondent are not and have not been 100 percent virgin wool, 100 percent pure wool, or 100 percent pure worsted but are and have been made of a large admixture of shoddy or reworked wool. And in truth and in fact the suits of men's clothes sold and offered for sale by respondent are not made to the measure of the particular person to whom such suits are sold or offered for sale but are ready-made suits purchased by the respondent from a manufacturer of ready-made clothing. And in truth and in fact the respondent does not send to his customers the styles of suits nor suits made of materials selected by the customer, but sends to his customers suits of a style different from the styles ordered by the customers and made of materials other than those selected by his customers.

PAR. 3. The acts and practices of the respondent described in paragraph 2 hereof, have had and still have the capacity and tendency to

deceive and mislead the purchasing public into the erroneous beliefs that the suits of men's clothes sold and offered for sale by the respondent are 100 percent virgin wool, 100 percent pure wool, and 100 percent pure worsted; that such suits are made to the measure of the particular person to whom they are sold or to whom they are offered for sale; that the purchaser or prospective purchaser in purchasing from the respondent will receive from him suits of the style ordered by said customer and made of materials selected by the customer; and to induce customers of the respondent to purchase suits from the respondent in such erroneous beliefs. The aforesaid acts and practices of the respondent have had and still have the capacity and tendency to divert trade to respondent from competitors selling men's suits in interstate commerce by fair and truthful representations; thereby substantial injury is done by respondent to substantial competition in interstate commerce.

PAR. 4. The above acts and things done by respondent are all to the injury and prejudice of the public and competitors of respondent in interstate 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

Acting in pursuance 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, on the 25th day of March 1935 issued and thereupon served its complaint, as required by law, upon Mortimer Kaufman, trading under the name and style of Wilshire Woolen Company, hereinafter designated as respondent, in which said complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

The respondent, Mortimer Kaufman, trading under the name and style, Wilshire Woolen Company, having filed his answer herein, this proceeding was set for hearing before Edward M. Averill, an examiner for the Commission, theretofore duly appointed for such purpose, and the respondent, Mortimer Kaufman, trading under the name and style, Wilshire Woolen Company, appeared in his own proper person and by counsel on the 5th day of August 1935 whereupon the said respondent stipulated on the face of the record, wherein he admitted the allegations in the complaint contained and stipulated and signified his consent that the Federal Trade Commission may draw its con-

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clusion and make its findings as to the facts in this proceeding on the allegations contained in this said complaint and from said stipulation, and that said Commission may enter and serve upon him an order to cease and desist from the acts of unfair competition in the complaint alleged, without the taking of further testimony.

Thereupon, this proceeding having come on for final hearing on the record, and the Commission having considered same and being fully advised in the premises, finds that this proceeding is in the interest of the public and now files this, its report, in writing, stating its findings as to the facts and its conclusion drawn therefrom as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Mortimer Kaufman, is an individual trading under the name and style, Wilshire Woolen Company, residing and having his principal place of business in the city of New York in the State of New York. He is now and for several years last past has been engaged in the sale and distribution of suits of men's clothes in commerce between and among the various States of the United States, and now causes and for several years last past has caused such suits of men's clothes sold by him to be transported, when sold, from his place of business in the city of New York, State of New York, to purchasers thereof located in the State of New York and in various other States of the United States. In the course and conduct of his business the respondent has been at all times herein-after mentioned and still is engaged in competition, in commerce between and among the various States of the United States, with other individuals and with partnerships and corporations offering for sale and selling suits of men's clothes.

PAR. 2. In the course and conduct of his business as described in paragraph 1 hereof, the respondent for more than two years last past, and prior to the filing of the complaint, has represented in his advertising that the suits of men's clothes sold by him and offered for sale by him are "100 percent virgin wool", "100 percent pure wool", and "100 percent pure worsted"; that such suits of clothes are made to the measure of the particular person or persons to whom they are sold or offered for sale; that orders for suits of men's clothes are and will be filled by him by his furnishing to the customer or prospective customer, particular styles of suits of men's clothes and made of materials selected by the customer or prospective customer. In truth and in fact the suits of men's clothes sold and offered for sale by the respondent are not and have not been 100 percent virgin wool, 100 percent pure wool, or 100 percent pure worsted but are and have been made of a large admixture of shoddy or reworked wool.

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And in truth and in fact the suits of men's clothes sold and offered for sale by respondent are not made to the measure of the particular person to whom such suits are sold or offered for sale but are ready-made suits purchased by the respondent from a manufacturer of ready-made clothing. And in truth and in fact the respondent does not send to his customers the styles of suits nor suits made of materials selected by the customer, but sends to his customers suits of a style different from the styles ordered by the customers and made of materials other than those selected by his customers.

PAR. 3. The acts and practices of the respondent described in paragraph 2 hereof, have had and still have the capacity and tendency to deceive and mislead the purchasing public into the erroneous beliefs that the suits of men's clothes sold and offered for sale by the respondent are 100 percent virgin wool, 100 percent pure wool, and 100 percent pure worsted; that such suits are made to the measure of the particular person to whom they are sold or to whom they are offered for sale; that the purchaser or prospective purchaser in purchasing from the respondent will receive from him suits of the style ordered by said customer and made of materials selected by the customer; and to induce customers of the respondent to purchase suits from the respondent in such erroneous beliefs. The aforesaid acts and practices of the respondent have had and still have the capacity and tendency to divert trade to respondent from competitors selling men's suits in interstate commerce by fair and truthful representations; thereby substantial injury is done by respondent to substantial competition in interstate commerce.

CONCLUSION

The above acts and things done by respondent are all to the injury and prejudice of the public and competitors of respondent in interstate 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.

ORDER TO CEASE AND DESIST

This proceeding having come on to be heard by the Federal Trade Commission on the complaint of the Commission, the answer of respondent, and the stipulation made on the face of the record on August 5, 1935, before an examiner of the Commission who had theretofore been appointed to take testimony and receive evidence on behalf of the Commission and the respondent, in which said stipulation the respondent admitted as true the allegations in the complaint

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contained and consented that the Federal Trade Commission may draw its conclusion and make its findings as to the facts in this proceeding from the allegations contained in said complaint in paragraphs 1, 2, and 3 thereof and from said stipulation, and may make and serve upon respondent an order to cease and desist from the acts of unfair competition in the complaint alleged, without the taking of further testimony, and the Commission having made a report in writing in which it stated its findings as to the facts, with its conclusion that the respondent has violated the provisions 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", and the Commission being duly advised in the premises—

It is now ordered, That the respondent, Mortimer Kaufman, trading under the name and style, Wilshire Woolen Company, or trading under any other name and style, his agents, employees, and representatives, in connection with the advertising, offering for sale and selling in interstate commerce of men's clothes, cease and desist from representing in any manner:

(a) That such men's clothes are "100 percent pure wool", "100 percent virgin wool", and "100 percent pure worsted", unless and until in truth and in fact such men's clothes sold and offered for sale by respondent in interstate commerce are 100 percent pure wool, 100 percent virgin wool, or 100 percent pure worsted.

(b) That such suits of clothes are made to the measure of the particular person or persons to whom they are sold or offered for sale, and that orders for suits of men's clothes are and will be filled by respondent by furnishing to the customer a particular style of suit of men's clothes and made of materials selected by such customer, unless and until in truth and in fact such clothes sold and offered for sale by respondent in interstate commerce are made to the measure of the particular person or persons to whom they are sold, and unless and until in truth and in fact the suits of men's clothes sold and offered for sale by respondent are of the style and made from the materials selected by the customer.

It is further ordered, That the respondent shall within 60 days after the service upon him of this order file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF

CARLSBAD PRODUCTS COMPANY, INC.

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

Docket 2205. Complaint, July 7, 1934—Order, Sept. 30, 1935

Consent order requiring respondent corporation, its officers, etc., in the sale and offer for sale in interstate commerce and in the District of Columbia, of Carlsbad Sprudel Salt, forthwith to cease and desist from—

- (a) Representing by radio broadcast, labels on the containers of said product, and literature accompanying same, and in periodicals of general circulation, newspapers, testimonials or in any other form of advertising, that said product will reduce the weight of the body or will reduce weight sixteen pounds in eight days, or in any other period, or will cause a person to lose excess fat, or that it is the safest and sanest remedy for such purpose, or is a remedy at all therefor, or that through use thereof you may reduce without rigid diet or exercise;
- (b) Representing that aforesaid is an excellent or other remedy for the relief of gallstones, or will of itself remove pimples and similar blemishes along with excess fat, or that it is of itself a cure and remedy for a variety of ailments including jaundice, certain types of rheumatism, heart disease, etc., or that self-medication therewith is just as efficacious as a complete treatment at Carlsbad Spring.

Mr. John W. Hilldrop for the Commission.

Olvany, Eisner & Donnelly, of New York City, and *Mr. Wallen J. Haenlein*, 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 Carlsbad Products Company, Inc., 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, Carlsbad Products Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York with its principal place of business in New York City, N. Y. For several years last past the respondent has been and is now engaged at the said city of New York in the business of selling a product called Carlsbad Sprudel Salt. This salt is claimed by respondent to have been obtained from the waters

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of the famous Carlsbad Sprudel, or spring located in Czechoslovakia. It is put up in powdered form in containers and, according to the directions thereon is to be taken with and mixed with water, and when so taken the claim is made by respondent that it will reduce weight of the human body and that it has therapeutic value in the treatment of many of the ailments and diseases of mankind. Carlsbad Sprudel Salt is packed in said containers in New York by respondent and shipped by them to their customers, which and who are department stores, drug stores, jobbers, and individuals—into and through various States of the United States to the places of business of said stores, jobbers, and the residences of said individual customers, many of which are and were located in States other than the State of New York. Such stores sell said product direct to the consuming public with representations accompanying the containers of the same as hereinafter described.

PAR. 2. In the course and conduct of said business respondent is in substantial competition with individuals, copartnerships, and corporations engaged in the manufacture and sale, or the sale, and transportation between and among the various States of the United States, of books and treatises dealing with the subject of obesity and cures therefor and of sundry medical remedies and surgical instruments and appliances used in the treatment of the sick and injured and obese in commerce between and among various States of the United States.

PAR. 3. In aid of the sale of the said Carlsbad Sprudel Salt the respondent represents upon the labels of the containers thereof and in literature accompanying the same and in magazines having general circulation in the States of the United States, in newspapers, in letters, through and by means of circulars, booklets, and other printed matter containing purported testimonials, and other literature, and through and by means of employees, solicitors and agents, and in and through such media said respondent in order to induce the public to purchase said Carlsbad Sprudel Salt, makes and has made and caused to be made many false and misleading and deceptive statements concerning said Carlsbad Sprudel Salt. Among such representations so made are the following:

That the use of Carlsbad Sprudel Salt will reduce weight 16 pounds in 8 days;

That it will cause a person to lose excess fat;

That it is the sanest and safest remedy for surplus fat;

That through its use one may reduce without rigid diet or exercise;

That it will remove pimples, blackheads, blotches, and blemishes along with excess fat;

That it is an excellent remedy for the relief of stomach troubles, intestinal disorders, rheumatism, kidney disorders, gallstones, neuritis;

That self-medication with the respondent's said product is just as efficacious as a complete treatment at Carlsbad Spring;

That physicians all over the world recommend the use of respondent's said product;

That it has therapeutic value and effect and is proper and efficacious treatment in the following diseases of the human body: Adiposis, hypochondria, chronic constipation, enlargement of the liver, jaundice, catarrhal inflammation of the stomach, dyspepsia, chronic pelvic cellulitis, marasmus, chronic rheumatism where joints are enlarged, gravel, ague cake, cancer of the stomach, dropsy from valvular heart disease, gouty nodules or fat, dilation of stomach, enlarged spleen.

PAR. 4. The advertising of the respondent described in the preceding paragraph is false and misleading in that:

(a) The use of Carlsbad Sprudel Salt will not cause a person to lose 16 pounds of flesh or fat in 8 days;

It will not cause a person to get rid of excess fat;

It is not the safest, sanest and most beneficial antifat remedy;

It does not quickly or at all clean off pimples, blackheads, blotches, and blemishes, and get rid of excess fat.

(b) That the use of said Carlsbad Sprudel Salt will not cure, aid in the cure, nor is its use proper or efficacious treatment for any of the diseases or afflictions mentioned in the preceding paragraph hereof;

Nor will it cure or relieve diseases, sicknesses, or ailments of mankind of any kind or nature;

Nor does it possess therapeutic value in the treatment of such diseases, sicknesses or ailments.

(c) Self-medication with said Sprudel Salt is not as efficacious as a complete treatment at Carlsbad Spring.

(d) Physicians all over the world do not recommend the use of respondent's product, and physicians of repute do not recommend its use in the diseases and afflictions mentioned in paragraph 3 hereof.

PAR. 5. The aforesaid false, misleading, and deceptive statements and representations used by respondent, as in this complaint heretofore set forth, have and have had the capacity and tendency to and

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do induce the public to purchase and use the said Carlsbad Sprudel Salt in the belief that said statements and representations are true, and to divert trade to this respondent from its said competitors.

PAR. 6. The above alleged acts and practices of the respondent, Carlsbad Products Company, Inc., are each and all to the prejudice of the public and to the competitors of the respondent, and constitute unfair methods of competition 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.

ORDER TO CEASE AND DESIST

Carlsbad Products Company, Inc., a corporation, the respondent herein, by its president, H. M. Kiesewetter, having filed its supplemental and amended answer to the complaint in this case, in which supplemental and amended answer it states that it desires to waive hearing on the charges set forth in the complaint herein and not to contest the proceeding, consenting in and by its said supplemental and amended answer that, as provided in paragraph (b) of Rule V of the Commission's Rules of Practice, the Commission, without trial, without evidence and without findings as to the facts or other intervening procedure may make, enter and serve upon said respondent an order to cease and desist from the methods of competition alleged in the complaint.

And the Commission having duly considered the said supplemental and amended answer and being fully advised in the premises—

Now, therefore, it is hereby ordered, That said Carlsbad Products Company, Inc., a corporation, the said respondent, its officers, agents, servants, and employees, in the sale and offering for sale by it in interstate commerce and in the District of Columbia of Carlsbad Sprudel Salt forthwith cease and desist from representing:

(a) By radio broadcast, by labels on the containers in which said Carlsbad Sprudel Salt is shipped, in literature accompanying same, in magazines having general circulation in the States of the United States, in newspapers, in letters, circulars, booklets, purported testimonials, and in any other form of advertising, that said Carlsbad Sprudel Salt will reduce the weight of the human body.

(b) That the use of Carlsbad Sprudel Salt will reduce weight 16 pounds in 8 days, or in any other period.

(c) That it will cause a person to lose excess fat.

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(d) That it is the safest and sanest remedy for surplus fat, or that it is a remedy at all for surplus fat.

(e) That through its use one may reduce without rigid diet or exercise.

(f) That it is an excellent or other remedy for the relief of gallstones.

(g) That it will of itself remove pimples, blackheads, blotches, and blemishes along with excess fat.

(h) That self-medication with the respondent's said product is just as efficacious as a complete treatment at Carlsbad Spring.

(i) That it is of itself a cure and remedy for: Adiposis, hypochondria, enlargement of the liver, jaundice, chronic pelvic cellulitis, marasmus, chronic rheumatism where joints are enlarged, gravel, ague cake, cancer of the stomach, dropsy from valvular heart disease, gouty nodules or fat, dilation of stomach, enlarged spleen.

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

Syllabus

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IN THE MATTER OF

MARCUS A. WEINBERG AND BELLE WEINBERG, TRADING AS CRONIN CHINA COMPANY, PUBLICITY DEPARTMENT, AND LEIGH CHINA COMPANY, PUBLICITY DEPARTMENT

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

Docket 2378. Complaint, Apr. 26, 1935—Order, Sept. 30, 1935

Consent order requiring respondents, doing business as aforesaid, their agents, etc., in connection with the offer for sale or sale in interstate commerce of certificates, coupons, or written or printed matter, redeemable or purportedly redeemable in china, chinaware, or earthenware, through advertisements in magazines, newspapers, or written or printed matter or through radio broadcasting or representations of agents or salesmen, to cease and desist from—

- (a) Falsely representing that they are connected as agents or otherwise with the Cronin China Company, the Leigh China Company, or any individual, partnership, or corporation, except as a purchaser of their merchandise, or using the words "publicity department" immediately after the names of said companies or in any connection therewith in their advertisements of any kind or on letterheads or stationery, unless and until they become or are the publicity department or departments of such companies;
- (b) Representing in connection with the sale of said certificates, etc., to merchants, dealers, or others that said certificates, etc., redeemable in china, chinaware, or earthenware will be sold to them at a cost of 15 cents each, without further payment therefor either by merchant or dealer or their customers among whom such certificates, coupons, cards, or tickets are distributed, unless or until such is the fact and respondents have adopted and are following such practice;
- (c) Representing that said certificates, etc., will be redeemed with a thirteen-piece set of chinaware which will be sent to customers of local merchants or dealers on receipt from such customers of the certificate, coupon, card or ticket duly signed and accompanied by a small charge to cover the cost of packing, postage, or transportation, unless or until the precise amount to be paid for packing, postage or transportation is disclosed to the retail dealer at the time of his purchase of such certificates, coupons, cards or tickets; and
- (d) Representing to the retail dealers to whom they sell such certificates, etc., that the 15 cents paid for each one of them will be returned to such retail dealers or other purchasers of the certificates, cards, coupons, or tickets as and when customers forward them to respondents accompanied by amount necessary for postage and packing, unless or until such is the fact, and respondents have adopted and are following such practice.

Mr. James M. Brinson for the Commission.

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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 Marcus A. Weinberg and Belle Weinberg, trading as Cronin China Company, Publicity Department, and Leigh China Company, Publicity Department, hereinafter designated respondents, have been and are 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. Respondents, Marcus A. Weinberg and Belle Weinberg, trading as Cronin China Company, Publicity Department, or Leigh China Company, Publicity Department, have been for several years last past and now are engaged in the business of offering for sale and selling earthenware or chinaware in commerce among and between the various States of the United States and the District of Columbia. Their principal office and place of business while trading under the name of Cronin China Company, Publicity Department, was Chicago, Ill. When they commenced to trade as Leigh China Company, Publicity Department, they established and since then have maintained an office and place of business at Sebring, Ohio, in addition to their office at Chicago, Ill. Respondents have not been and are not manufacturers of the earthenware or chinaware offered for sale or sold by them, but have purchased and now purchase it from the manufacturers thereof.

It has been and is the practice of respondents, as described in paragraphs 2 and 3 hereof, to offer for sale and sell such earthenware or chinaware by means of the sale of premium certificates redeemable in earthenware or chinaware to merchants and dealers of various kinds, or others engaged in the class or type of business in which such premium certificates could or can be used. It has been and is their practice in the course and conduct of such business, whether trading as Cronin China Company, Publicity Department, or Leigh China Company, Publicity Department, to cause such premium certificates when sold to be transported from their place or places of business in the State of Illinois or the State of Ohio to purchasers located in the various States of the United States other than the States of Illinois and Ohio. It has also been and is the practice of respondents to transport or cause to be transported

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earthenware or chinaware for redemption of such premium certificates, from their said places of business into and through the various States of the United States other than the States of Illinois and Ohio.

In the course and conduct of their business respondents have been and each of them has been in substantial competition with individuals, partnerships, and corporations engaged in the sale and distribution in interstate commerce of china, chinaware, earthenware, glassware, and similar products for table service.

PAR. 2. Sometime in 1933 respondents began to trade by or under the firm name and style of Cronin China Company, Publicity Department. Cronin China Company is a well and favorably known manufacturer of earthenware and chinaware. Respondents have not had and do not have any connection with or relationship to such Cronin China Company, except as a purchaser of its products.

It was the practice of respondents trading as Cronin China Company, Publicity Department, to use the premium certificate plan of selling earthenware or chinaware through the agency of salesmen. They have supplied or equipped such salesmen with forms of a contract described by respondents as an "Agreement of Cooperation", which the salesmen have been instructed to submit to local merchants or proprietors of the various classes or types of business in connection with which the premium certificate plan could or can be used. As inducements for the purchase of such premium certificates respondents have falsely represented through their salesmen to such local merchants and others that they were the publicity department and sales agency of the Cronin China Company and were, on behalf of such company, presenting a premium certificate plan for the sale of its earthenware or chinaware, which if employed by such local merchants and others would greatly advertise and stimulate their business; that each certificate would cost 15 cents; that it would be redeemed by respondents with a thirteen piece set of chinaware which would be sent to customers of the local merchants or others purchasing from respondents such premium certificates on receipt from such customers of the premium certificate duly signed and accompanied by a small amount to cover the cost of packing and postage or transportation. The amount of this expense respondents have failed to disclose in the form of contract submitted to local merchants and others by their salesmen. It was the general practice of such salesmen to represent this cost at various amounts, always small, usually the amount necessary for parcel postage from the place or places of business of respondents to the particular locality of the solicited merchant or other business concern.

It was provided in such proposed agreements submitted by respondents through their salesmen to the local merchants or others that when customers of such local merchants and other purchasers of the certificates forwarded such certificates to respondents for redemption, the original purchase price of the certificates, to wit, fifteen cents, would be returned to such local merchants and other original purchasers of the redeemed certificates. It was the practice of respondents through their salesmen to represent that this provision of the agreement would furnish such local merchants or other purchasers of the premium certificates valuable advertisement for their business at no expense whatever. It was the practice of respondents to furnish the local merchants and other purchasers of their premium certificates a sample set of the chinaware or earthenware for display, together with printed matter for advertising uses, and also to promise a commission for all chinaware or earthenware sold by respondents through the cooperation of such local merchants and other purchasers of the premium certificates.

It was the practice of respondents while so trading as Cronin China Company to require the local merchants or other business concerns purchasing their premium certificates to pay one-third in advance and two-thirds on delivery of the premium certificates, together with the sample set and printed matter.

The premium certificate plan of respondents contemplated or provided for the distribution of the premium certificates by local merchants and other purchasers of them among customers in order to advertise and stimulate the business of the local merchants or other business concerns purchasing and distributing such premium certificates. Under the plan of respondent, local merchants and others purchasing the premium certificates and distributing them among their customers were allowed to determine for themselves the amount of merchandise it was necessary for the customer to purchase in order to obtain a premium certificate.

It has been the practice of respondents after their salesmen have induced local merchants or others to sign such contracts to forward to them with the premium certificates and the sample set of chinaware a printed card requesting the local merchants or other business concerns to notify customers to send to respondent with the certificates, when seeking to redeem them, the amount stated on such card. This amount has varied from \$1.20 to \$1.80, depending on the parcel post zone and usually it has been approximately five times the amount represented by the salesmen to the local merchants or others when soliciting their signatures to the said agreement of cooperation. The amount so required on the card has usually been

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substantially more than the price at which the customer could purchase chinaware or earthenware of the same grade or quality at stores in their own communities. The local merchants or others who have been so induced by respondents through their salesmen to enter into such agreements of cooperation have had no knowledge of this amount so substantially in excess of the amount stated to them by respondents through their agents, until receipt of such card, after their payment of the purchase price of the certificates to respondents. As a result they have been compelled either to lose the amount so paid to respondents, or to offer their customers as a premium, chinaware or earthenware which could be purchased by them at less cost in local stores.

PAR. 3. On or about June 27, 1934, respondents began to trade by or under the name of Leigh China Company, Publicity Department, and they are now trading under such firm name and style. The Leigh China Company is a manufacturer of earthenware or chinaware at Sebring, Ohio. Its products are well and favorably known by the purchasing public. Respondents have been permitted to use such trade name by the Leigh China Company so long as they sell its products, although they do not have any relationship to the Leigh China Company except that of purchasers of its chinaware or earthenware. It has been and is the policy and practice of respondents to withhold this fact from purchasers and prospective purchasers of their premium certificates and their salesmen or agents in soliciting business from local merchants and others have followed the same practices pursued by respondents when soliciting business under the name Cronin China Company, Publicity Department, except as hereinafter stated. They have represented themselves as salesmen of the Leigh China Company and have supported or attempted to support such false representations by reference to the location of respondents' place of business at Sebring, Ohio, which is also the place of business of the Leigh China Company.

It has been and is the practice of respondents, trading as the Leigh China Company, Publicity Department, to require the payment of 20 cents for each of the certificates calling for Leigh Chinaware or earthenware, with 25 cents of the total purchase price payable in cash and the remainder on delivery, instead of fifteen cents for each certificate and one-third of the total amount payable in cash and two-thirds on delivery as was their practice when operating under the name of Cronin China Company.

Respondents have also represented and continue to represent that the chinaware or earthenware with which the Leigh certificates are to be redeemed was and is of the first or highest grade, when in truth

and in fact it has been their practice to redeem and they are redeeming such certificates with the ware known as "run of the kiln" or "seconds", which is substantially inferior to the first or high grade product promised by them.

It has been and is the practice of respondents by or through their salesmen to represent to local merchants or others to whom their premium certificates have been or are sold, just as they have represented when soliciting purchasers under the trade name Cronin China Company, Publicity Department, that the amount of money to be transmitted to them by customers for redemption of the certificates was so small as to be merely nominal and in all instances substantially less than the amount found by the local merchants and others to be necessary after completion of the payments to respondents for such certificates.

PAR. 4. There have been and are individuals, partnerships and corporations offering for sale and selling in interstate commerce in competition with respondents china, chinaware, earthenware, glassware, and similar products for table service.

PAR. 5. The acts and practices of respondents described in paragraphs 2 and 3 hereof have had and have the capacity and tendency to mislead and deceive the purchasing public into the belief that respondents have been and are connected with and related to the Cronin China Company and the Leigh China Company and that in entering into agreements or contracts with respondents they have been entering into agreements or contracts with the Cronin China Company or the Leigh China Company, and that the representations of respondents through their salesmen relative to the redemption of the premium certificates have been and are true, and into the purchase of such certificates redeemable in earthenware or chinaware in reliance upon such erroneous belief.

The aforesaid acts and practices of respondents have had and have the capacity and tendency to divert trade to respondents from and otherwise injure competitors offering for sale and selling china, chinaware, earthenware, glassware, or similar products for table service, truthfully described or represented.

PAR. 6. The aforesaid acts and practices of respondents have been and are all to the prejudice and injury of the public and of respondents' competitors and have been and are unfair methods of competition in violation of the provisions 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

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents Marcus A. Weinberg and Belle Weinberg, trading as Cronin China Company, Publicity Department, and Leigh China Company, Publicity Department, in which answer respondents, in pursuance of paragraph (b) of Rule V of the Commission's Rules of Practice, announce their desire not to contest the proceeding and consent as therein provided that the Commission may make, enter and serve upon said respondents an order to cease and desist from the violations of law charged in the complaint, and the Commission having considered the record and being fully advised in the premises—

It is ordered, That respondents Marcus A. Weinberg and Belle Weinberg, trading as Cronin China Company, Publicity Department, and Leigh China Company, Publicity Department, and their agents, employees and representatives, in connection with offering for sale or selling in interstate commerce certificates, coupons, tickets, cards, or any written or printed matter, redeemable or purporting to be redeemable in china, chinaware or earthenware, by means of advertisements in magazines, newspapers, or through any written or printed matter, radio broadcasting or representations of their agents or salesmen, do cease and desist directly and indirectly from:

1. Representing that they are connected as agents or otherwise with the Cronin China Company, the Leigh China Company, or any individual, partnership, or corporation, except as a purchaser of their merchandise, unless or until such is the fact.

2. Using the words "publicity department" immediately after the words "Cronin China Company" or in any connection therewith, or the words "publicity department" immediately after the words "Leigh China Company" or in any connection therewith in their advertisements of any kind or on letterheads or stationery, unless or until they become or are the publicity department or departments of such companies.

3. Representing in connection with the sale of certificates, coupons, cards, tickets or any form of printed or written matter to merchants, dealers or others that such certificates, coupons, cards or tickets redeemable in china, chinaware or earthenware will be sold to them at a cost of 15 cents each, without further payment therefor either by merchant or dealer or their customers among whom such certificates, coupons, cards, or tickets are distributed, unless or until such is

the fact and respondents have adopted and are following such practice.

4. Representing that such certificates, coupons, cards or tickets will be redeemed with a 13-piece set of chinaware which would be sent to customers of local merchants or dealers on receipt from such customers of the certificate, coupon, card, or ticket duly signed and accompanied by a small charge to cover the cost of packing, postage or transportation, unless or until the precise amount to be paid for packing, postage, or transportation is disclosed to the retail dealer at the time of his purchase of such certificates, coupons, cards or tickets.

5. Representing to the retail dealers to whom they sell such certificates, tickets, coupons or cards that the 15 cents paid for each one of them will be returned to such retail dealers or other purchasers of the certificates, cards, coupons or tickets as and when customers forward them to respondents accompanied by amount necessary for postage, and packing, unless or until such is the fact, and respondents have adopted and are following such practice.

It is further ordered, That the respondents shall within 60 days after the service upon them of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinabove set forth.

Complaint

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IN THE MATTER OF
PIONEER MAPLE PRODUCTS COMPANY

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

Docket 2510. Complaint, Aug. 10, 1935—Order, Sept. 30, 1935

Consent order requiring respondent corporation, its officers, etc., in connection with the sale or offer for sale in interstate commerce by it of its "Bucket Syrup", forthwith to cease and desist from using in circulars, labels, or in any other way any such descriptions or designations regarding such product as "maple goodness", "the mellow richness of pure New England maple", "this tangy maple syrup", "subtle maple flavor", "gorgeous maple syrup", "here's maple at its delicious best", "old time maple syrup * * *", "New England maple", and "rich, mellow maple", until and unless such "Bucket Syrup" is made entirely of maple syrup or is substantially made of maple syrup, in which latter event the presence and percentage of the other ingredient or ingredients shall be stated, named and specified.

Mr. Joseph C. Fehr 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 Pioneer Maple Products Company, 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 thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Pioneer Maple Products Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located in the city of St. Paul, in the State of Minnesota. It is now and for more than one year last past has been engaged in the business of manufacturing syrups, one brand of which it designates "Bucket Syrup", and in the sale and distribution thereof in commerce between and among various States of the United States. It causes and has caused said products, when sold, to be shipped from its place of business in the State of Minnesota to purchasers thereof located in a State or States other than Minnesota. In the course and conduct of its business, Pioneer Maple