

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

Products Company has been at all times herein referred to in substantial competition with other corporations, individuals, firms, and partnerships also engaged in the sale and distribution in interstate commerce of maple syrup and other kinds of syrup.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, Pioneer Maple Products Company, in soliciting the sale of and selling its product designated "Bucket Syrup" in interstate commerce, caused the same to be advertised in newspapers having interstate circulation. These advertisements contained various statements among which are the following:

Now you can enjoy that tangy maple goodness in Bucket Syrup. For Bucket Syrup captures and treasures the unmatched flavor of genuine, selected maple by blending it with pure cane sugar.

Under the caption "Selected Maple Used" appeared and still appear the words:

The mellow richness of pure New England maple and the exquisite flavor of maple from Quebec province are captured and treasured in Bucket Syrup.

This was and is followed by the statement "blended with pure cane sugar".

Other statements set forth in said advertising matter referred and still refer to said product as "this tangy maple syrup", "subtle maple flavor", "gorgeous maple syrup", and

Here's maple at its delicious best! Why? Because it's a secret blend of the best maples obtainable—New England maple for its mellow richness, Canadian maple for delicious flavor, and just the right amount of pure cane sugar.

PAR. 3. Said respondent also makes and publishes to the public and to purchasers and prospective purchasers sales talks by radio transmission at and out of radio broadcasting stations located in Seattle, Wash., and in San Francisco, Calif., and having hook-ups with radio stations located in other States of the United States, by means of which the said product was, and is, variously represented and referred to, among other things, as follows:

It has a mellow richness that will remind you of old time maple syrup—for it is made with genuine selected maples from New England and Canada.

Two kinds of choice maples contribute to the distinctive flavor of Bucket Syrup but it's the genius of Towle blending that makes it deliciously different, and

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New England maple, known for its mellow richness, is combined with Canadian maple famed for its delicate flavor. Blended in Bucket Syrup, they give a richness and tang that cannot be found in any other syrup.

PAR. 4. The said respondent also distributes other advertising matter in interstate commerce by way of catalogs and other publications, and in divers other ways and by divers other means, represents its product to be "rich, mellow maple * * *."

PAR. 5. All of said statements and representations set forth in paragraphs 2, 3, and 4, in so far as they relate to "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" are, and each of them is, incorrect, untrue, false, and misleading.

PAR. 6. In truth and in fact the said product is admittedly not composed wholly of maple syrup, but consists of approximately 70 percent of cane sugar syrup, nor is the product composed of such a substantial quantity of maple as to justify any of the aforesaid statements which represent said product to be a blend in which maple is the predominant and principal ingredient.

PAR. 7. There are among the competitors of the respondent in interstate commerce and have been for more than one year last past manufacturers of pure maple syrups who so advertise and represent their products. There are also among the competitors of the respondent in interstate commerce and have been for more than one year last past manufacturers of syrups whose products are blends made from pure maple syrup and other ingredients but who truthfully advertise and represent their products to be maple syrup blended with other ingredients and who do not mislead purchasers or prospective purchasers into the belief that their syrups are pure maple syrups or that maple syrup is the chief ingredient contrary to the fact. The use by respondent of said methods, acts and practices as above set forth had, and has, the tendency and capacity unfairly to divert trade and custom to respondent from its said competitors to the substantial injury of said competitors, and also has the tendency and capacity to injure the public by inducing purchasers and prospective purchasers into purchasing respondent's said "Bucket Syrup" in, and because of, the erroneous belief that said incorrect, untrue, false and misleading statements and representations so made by respondent are true.

Said acts and practices of respondent are all to the prejudice and injury of the public and of respondent's competitors and constitute

unfair methods of competition in or affecting 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, as amended.

ORDER TO CEASE AND DESIST

The respondent herein, Pioneer Maple Products Company, having filed its answer to the complaint herein and having in and by such answer waived hearing on the charges set forth in the complaint herein, and having stated in its said answer that it does not contest the said proceeding, and having consented in and by its said answer that the Commission, without trial, without evidence, without findings as to the facts or other intervening procedure, might make, enter, issue, and serve upon the said respondent an order to cease and desist from the methods of competition alleged in the complaint; and the Commission having duly considered the same and being fully advised in the premises—

Now, therefore, it is hereby ordered, That the respondent, Pioneer Maple Products Company, its officers, agents, servants, and employees in connection with the sale, or the offering for sale, in interstate commerce, by said Pioneer Maple Products Company of a brand of syrup called by it "Bucket Syrup" forthwith cease and desist from using in circulars, advertising on labels, or in any other way any of the following descriptions, designations, or statements regarding such Bucket Syrup, or any other word or words of similar tenor, import or substance:

- (a) Maple goodness.
- (b) The mellow richness of pure New England maple.
- (c) This tangy maple syrup.
- (d) Subtle maple flavor.
- (e) Gorgeous maple syrup.
- (f) Here's maple at its delicious best.
- (g) Old time maple syrup * * *.
- (h) New England maple, and
- (i) 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.

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

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IN THE MATTER OF

HARRY GABOVITCH, DOING BUSINESS AS BANNER
NOVELTY COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF
AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2507. Complaint, Aug. 1, 1935—Order, Oct. 1, 1935*

Consent order requiring respondent, doing business as aforesaid, his agents, etc., in connection with the sale or offer for sale in commerce among the several States and in the District of Columbia, of general merchandise and peddlers' supplies, including soaps, flavoring compounds, toilet articles, and household novelties, to cease and desist from—

- (a) Advertising or marking any of the products specified as aforesaid with fictitious, and exaggerated prices, and making any false, fictitious, or misleading statements concerning the value or the prices at which said products, or any of them, are sold or intended to be sold in the usual course of trade, or representing such soaps, food flavorings, or other products, sold in combination deals or otherwise, to have regular retail prices which were and are fictitious and greatly in excess of the prices at which such or similar products are usually sold, or were intended to be sold, and representing to buyers values greatly in excess of the values of such or similar products;
- (b) Using the words "vanilla", "lemon", "walnut", "almond", "maple", "banana", "orange", "strawberry", or similar words descriptive of certain fruits, nuts, berries, or beans, in combination or in connection with the word "extract", until and unless the product is composed of genuine ingredients as distinguished from synthetic chemical substitutes, and such ingredients are suspended in ethyl alcohol; or
- (c) Stating or representing in advertisements and advertising matter, by the use of printed words or pictorial representations, that he owns and occupies a large office and warehouse building, until he does own and operate such a building.

Mr. J. T. Welch 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 Harry Gabovitch, doing business under the trade name and style of Banner Novelty Company, hereinafter designated as respondent, is now, and has been, 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 the charges in that respect as follows:

PARAGRAPH 1. Respondent, Harry Gabovitch, is an individual who is now, and has been at all times mentioned herein, doing business