

Complaint

IN THE MATTER OF

PETERS SERUM COMPANY

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

Docket 2556. Complaint Sept. 20, 1935—Order, Oct. 18, 1935

Consent order requiring respondent corporation, its agents, etc., in connection with the sale or offer for sale in interstate commerce of its serums, biologics, bacterins, and veterinary products, to cease and desist from advertising or in any other wise representing directly or by implication that it manufactures all of its said products, unless such is the case, or that purchasers can save the middleman's profit by buying said products from it, unless such is the case.

Mr. DeWitt T. Puckett 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 Peters Serum Company, a corporation, hereinafter referred to as respondent, has been and now 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, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Peters Serum Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business located in the Lobby Livestock Exchange Building in Kansas City, Mo. It is now and for several years last past has been engaged in the manufacture of serums and bacterins for the inoculation of livestock and poultry against disease. It also deals in a line of veterinary remedies and preparations which it purchases from other dealers. Respondent has been engaged in the sale of its manufactured products and the products purchased from other dealers between and among the various States of the United States and the District of Columbia, and now causes and for several years last past has caused such products when sold by it to be shipped from its place of business in Kansas City, Mo., to the purchasers thereof, some located in the State of Missouri and others located in various other States of the United States and in the District of Columbia, and there is now

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and for several years last past has been a constant current of trade in commerce by the respondent in said veterinary remedies between and among the various States of the United States and in the District of Columbia.

Respondent is now and for several years last past has been in substantial competition with other corporations, and with persons, firms, and partnerships engaged in the sale of serums, bacterins and other veterinary remedies between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, Peters Serum Company, in soliciting the sale of and selling its products in interstate commerce, caused catalogs or books entitled "Peters Veterinary Guide" to be distributed in interstate commerce and in various editions of which the following statement appeared at the bottom of many pages thereof: "Buy your animal serums, biologics and veterinary preparations direct from the manufacturer and save money". Elsewhere in the book appeared the following language: "Peters Serum Company, a corporation, are manufacturers. The corporation sells direct to farmers, with the object of saving the farmers money by doing away with the middleman's profit. Most of the other serum companies market their product either through veterinarians or other jobbers or speculators, all of whom are middlemen." Other statements appearing in said advertising matter were:

Buy from the manufacturer. Special Notice—Buy direct from the manufacturer and be safe. Peters is the only hog serum manufacturer located in Kansas City, Mo., selling direct to farmers, operating under a Government license and making its own hog serum.

In truth and in fact, the said Peters Serum Company does not make, manufacture, or compound all of the products sold by it under the aforesaid representations; it does not own and operate or directly or absolutely control the plant or factory in which all of its said products are made, manufactured, or compounded, but fills certain of the orders received by it from customers and prospective customers with products made, manufactured, or compounded in plants or factories which it does not own or operate, or directly or absolutely control; and the statements contained in its advertising matter to the effect that in dealing directly with the said Peters Serum Company, customers and prospective customers will save money through the elimination of dealers' or middlemen's profits are untrue, in that customers do not save middlemen's profits by purchasing respondent's products.

PAR. 3. The use by respondent of the representations set out in paragraph 2 hereof has, and has had, the capacity and tendency to mislead and deceive, and does and has misled and deceived, the purchasing public into the belief that such representations are true, and causes and has caused said public to purchase such serums, bacterins, and other veterinary remedies from respondent in such erroneous beliefs. There are, among the competitors of respondents, as mentioned in paragraph 1 hereof, manufacturers of and dealers in serums, bacterins, veterinary remedies, and preparations, who do not misrepresent the origin of their products and who do not falsely represent that the middlemen's profits are eliminated in the purchase of their products, sold by them between and among the various States of the United States and in the District of Columbia. By the representations aforesaid, trade is unfairly diverted by respondent from such competitors; thereby substantial injury is being done and has been done by respondent to substantial competition in interstate commerce.

PAR. 4. The above alleged acts and practices of respondent are all to the prejudice of the public and respondent's competitors 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

This proceeding coming on for final hearing by the Federal Trade Commission upon the record, including the complaint of the Commission and the respondent's answer thereto, in which answer respondent waived hearing on the charges set forth in the complaint, refrained from contesting the proceeding, and, pursuant to paragraph (b) of Rule V of the Rules of Practice of the Commission, as amended and revised to September 1, 1934, consented that the Commission might make, enter, and serve upon respondent, without evidence and without findings as to the facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint; and the Commission being fully advised in the premises—

Now therefore, it is hereby ordered, That the respondent, Peters Serum Company, a corporation, its agents, servants, or employees, in connection with the sale or offering for sale in interstate commerce of its serums, biologics, bacterins and veterinary products,

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cease and desist from advertising or in any other wise representing directly or by implication:

(1) That it manufactures all of its said products, unless such is the case.

(2) That purchasers can save the middleman's profit by buying said products from respondent, unless such is the case.

It is further ordered, That respondent file with the Commission within 60 days from and after service of this order a report in writing, setting forth in detail the manner and form of his compliance with the provisions of the order.

Complaint

IN THE MATTER OF

MORRIS SHOE COMPANY, INC.

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

Docket 2217. Complaint, Aug. 13, 1934—Order, Oct. 21, 1935

Where a corporation engaged in the sale of shoes at wholesale labeled the shoes thus dealt in by him with such names as "Dr. Morris High-Grade Shoes", "Dr. Chester's Foot Form Shoes", "Dr. Hafer—Approved by Dr. Hafer", and featured said "Dr." designation on the cartons in which he sold such shoes and set forth the same upon his printed order blanks and in a trade journal of interstate circulation, notwithstanding fact that no doctor of the aforesaid names or any other name was connected with its business or advised with it as to the manufacture of said shoes, which contained no special scientific or orthopedic features and were not designed or constructed to correct or alleviate any foot trouble or weakness; with capacity and tendency to mislead many among the trade and consuming public into the belief that such shoes had been made or designed by doctors or others with special orthopedic knowledge or at least contained some feature not common to ordinary footwear, designed or intended to correct some foot ailment or weakness or afford some relief therefrom, and to cause such public to purchase said shoes in such belief, and with effect of unfairly diverting trade from and otherwise injuring competitors and with capacity and tendency so to do, to the substantial injury of substantial competition throughout the various States:

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.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Morton Nesmith for the Commission.

Hornidge & Dowd and *Mr. Ludwig M. Wilson*, 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 Morris Shoe Company, Inc., hereinafter referred to as respondent, 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 thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Morris Shoe Company, Inc., is a corporation organized, existing, and doing business by virtue of the laws of the State of New York, with its principal place of business at 143 Duane Street,