

Complaint

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· IN THE MATTER OF

**K & E DELUXE PADDED VAN COMPANY, INC., AND
UNITED VAN SERVICE****COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914***Docket 2501. Complaint, July 19, 1935—Order, Oct. 23, 1935*

Consent order requiring respondent corporations, their officers, etc., in connection with the business of carrying, moving, and transporting household goods and other merchandise for hire in interstate commerce and in the District of Columbia and in connection with the solicitation of such business and the offer of such services, to cease and desist from—

- (a) Advertising, stating, or representing in any form or by any means or medium that they own or possess 1,250, 1,200, or 1,000 vans, trucks, or motor carriers, or that the quantity of equipment or facilities owned or possessed by them is more than they do in fact own or possess;
- (b) Advertising, etc., as above set forth, that they own or possess 600 offices or offices in 250 cities in the United States and Canada, or that they own or possess offices in more cities, or have more agencies or representatives, or that their business or organization is larger, than is the fact; or
- (c) Advertising, etc., as above set forth, that they own or possess all of the equipment and facilities used by them in the course of the performance of their contracts with their customers and do not subcontract or sublet any of their business to other carriers in the course of the performance of their contracts with customers, or that they offer or maintain greater protection or security for the benefit of customers in the movement and transportation of goods and merchandise in interstate commerce, than is the fact.

Mr. Jay L. Jackson for the Commission.

Mr. Harry Tartalsky, of Jersey City, N. J., 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 the K & E Deluxe Padded Van Company, Inc., a corporation, and United Van Service, a corporation, have been, or are, using unfair methods of competition in commerce as "commerce" is defined in such 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. Respondents, K & E Deluxe Padded Van Company, Inc., and United Van Service, are each and both of them corporations organized and existing under and by virtue of the laws of the State

of New Jersey, with their principal offices and places of business located at 79 Kearney Avenue, Jersey City, the State of New Jersey. Said respondents, individually or jointly, are now and for more than one year last past have been engaged for hire in the business of carrying, moving, and transporting household goods and other merchandise in and between various States of the United States and in the District of Columbia, in the course and conduct of which said respondents have entered and now enter into contracts with individuals, partnerships and corporations for the moving, carrying and transporting of such goods and merchandise from one State of the United States to and between other States of the United States and from, to and in the District of Columbia, and in pursuance of which said respondents have moved, carried and transported and now move, carry, and transport such goods and merchandise from one State to other States of the United States and from, to and in the District of Columbia. In the course and conduct of the said business, respondents have been and are now in competition with other corporations, firms, partnerships, and individuals engaged in like commerce.

PAR. 2. In the course and conduct of the business of respondents, as aforesaid, respondents have advertised and now advertise said business and service and carry on said business in and by means of telephone directories, newspapers, circulars, letters, blotters, displays, and various other forms of advertising media which have had or have a circulation in and through various States of the United States and in the District of Columbia, in the course and conduct of which respondents, individually or jointly, have made and now make false and misleading statements and misrepresentations, all to the injury of the public and to the injury of competitors of said respondents.

PAR. 3. In the course and conduct of the business, advertising and promotion of the business of respondents, as aforesaid, said respondents, individually or jointly, have advertised and made and now advertise and make the following statements and representations, among others, to wit:

Anywhere in the United States, Canada, abroad; low prices; over 1,000 vans; storage.

Over 1,200 vans—More than 600 offices. * * * We are no agents. We own all our equipment.

Anywhere United States, Canada; 1,250 vans; insurance; return load quotations; storage; special rates California shipments.

United Van Service. Size of our organization. We have available for use over 1,250 vans; we get business through more than 600 offices and agencies located in about 250 key cities in the United States and Canada.

PAR. 4. Respondents' statements and representations, as aforesaid, are false and misleading in that respondents, individually or jointly,

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represent and imply that they own 1,000, 1,200, and 1,250 vans, and have 600 or more than 600 offices, are national or international organizations in size, own all of the equipment used in the course of their movement and transportation of goods and merchandise by van or trucks, and are equipped to and do transport all goods and merchandise in their own equipment to all parts of the United States and to Canada, without subcontracting or subletting any of their business received to any other carriers, and that by virtue thereof the shipper of such goods and merchandise assumes no risk of subcontracting or subletting to others or to irresponsible carriers or carriers not known to the shipper, and that by virtue of size and facilities respondents are equipped to handle the movement of goods with greater facilities and security than that of their competitors; whereas, in truth and in fact said respondents, individually or jointly, do not own 1,250 or 1,200 or as many as 1,000 vans, do not have 600 or more than 600 offices, are not national or international organizations in size, do not own all of the equipment used in the course of their movement and transportation of goods and merchandise by van or trucks, are not equipped to and do not transport all goods and merchandise in their own equipment to all parts of the United States and to Canada, and are not equipped to and do not move or transport goods and merchandise to all parts of the United States and Canada without subcontracting or subletting any of their business received to any other carriers, and are not, either by virtue of size or facilities, equipped to handle the movement of goods with greater facilities or security than that of their competitors.

PAR. 5. The aforesaid false and misleading statements of respondents, as aforesaid, have had and have the tendency and capacity to mislead and deceive, and do mislead and deceive customers and prospective customers of competitors into the false and erroneous belief that said statements and aforesaid representations and implications are true, thereby causing said customers and prospective customers of said competitors to discontinue or refrain from hiring or making use of the service and transportation facilities of said competitors, causing such customers and prospective customers to hire and use the service of said respondents in lieu and instead of the service and transportation facilities of said competitors, in consequence of which trade has been diverted and is diverted to respondents from their competitors who do not falsely nor misleadingly represent their service or transportation facilities, and thereby substantially injuring competition and said competitors in interstate commerce.

PAR. 6. The above and foregoing acts, practices and representations of respondents have been and are all to the prejudice of the public and respondents' competitors, and have been, and are, unfair

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methods of competition within the meaning and intent of Section 5 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".

ORDER TO CEASE AND DESIST

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 on the 19th day of July 1935 issued its complaint against K & E Deluxe Padded Van Company, Inc., a corporation, and United Van Service, a corporation, respondents herein, and caused the same to be served upon them as required by law, in which complaint it is charged that respondents have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

On July 31, 1935, said respondents filed herein an answer in writing to the complaint herein. Subsequently thereto and on the 17th day of August 1935 said respondents filed herein a motion for leave to withdraw said original answer and to file herein their consent answer, which motion was granted by the Commission and said new answer of said respondents was accordingly filed. By said consent answer the said respondents elected to refrain from contesting the proceeding herein and consented to the issuance of an order to cease and desist from the practices set forth in the complaint herein, expressly waiving the taking of evidence, findings as to the facts, the filing of briefs, the making of oral arguments and all other intervening procedure.

Thereafter this proceeding came on regularly for disposition and decision by the Commission under subdivision (b) of Rule V of the Rules of Practice adopted by the Commission, and the Commission being fully advised in the premises:

It is ordered, That K & E Deluxe Padded Van Company, Inc., a corporation, and United Van Service, a corporation, their officers, directors, agents, representatives, servants, and employees, in connection with the business for hire of carrying, moving and transporting household goods and other merchandise in interstate commerce and in the District of Columbia, in connection with the solicitation for said business in interstate commerce and in the District of Columbia by said respondents, and in connection with the offering of the services of said respondents in said business in interstate commerce and in the District of Columbia, do cease and desist from the following, to wit:

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1. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., now owns or possesses 1,250, 1,200, or 1,000 vans, trucks, or motor-carriers, and from advertising, stating or representing in any form or by any means or medium whatsoever that said respondent owns or possesses more vans, trucks, or motor-carriers than the number thereof which said respondent does in truth and in fact own or possess.

2. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service now owns or possesses 1,250, 1,200, or 1,000 vans, trucks, or motor-carriers, and from advertising, stating, or representing in any form or by any means or medium whatsoever that said respondent owns or possesses more vans, trucks or motor-carriers than the number thereof which said respondent does in truth and in fact own or possess.

3. From advertising, stating or representing in any form or by any means or medium whatsoever that the quantity of equipment or facilities owned or possessed by respondent K & E Deluxe Padded Van Company, Inc., is more than that quantity which said respondent does in truth and in fact own or possess.

4. From advertising, stating or representing in any form or by any medium whatsoever that the quantity of equipment or facilities owned or possessed by respondent United Van Service is more than the quantity which said respondent does in truth and in fact own or possess.

5. From advertising, stating, or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., now owns or possesses 600 offices, and from advertising, stating or representing in any form or by any means or medium whatsoever that said respondent owns or possesses more offices than the number which in truth and in fact said respondent owns or possesses.

6. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service now owns or possesses 600 offices, and from advertising, stating or representing in any form or by any means or medium whatsoever that said respondent owns or possesses more offices than the number which in truth and in fact said respondent owns or possesses.

7. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., now owns or possesses offices

in 250 cities in the United States and Canada, and from advertising, stating or representing in any form or by any means or medium whatsoever that said respondent owns or possesses offices in more cities than the number of cities in which in truth and in fact said respondent owns or possesses offices.

8. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service now owns or possesses offices in 250 cities in the United States and Canada, and from advertising, stating or representing in any form or by any means or medium whatsoever that said respondent owns or possesses offices in more cities than the number of cities in which in truth and in fact said respondent owns or possesses offices.

9. From advertising, stating or representing in any form or by any means or medium whatsoever that the size of the business or organization of respondent K & E Deluxe Padded Van Company, Inc., is larger than that which said business or organization of said respondent is in truth and in fact.

10. From advertising, stating or representing in any form or by any means or medium whatsoever that the size of the business or organization of said respondent United Van Service is larger than that which said business or organization of said respondent is in truth and in fact.

11. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., has more agencies or has more representatives than said respondent in truth and in fact has.

12. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service has more agencies or has more representatives than said respondent in truth and in fact has.

13. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., owns or possesses all of the equipment and facilities used by said respondent in the course of its performance of all of its contracts with its customers for the moving and transportation of goods and merchandise in interstate commerce.

14. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service owns or possesses all of the equipment and facilities used by said respondent in the course of its performance of all

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of its contracts with its customers for the moving and transportation of goods and merchandise in interstate commerce.

15. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., does not subcontract any of its contracts with customers, or sublet any of its moving and transportation business to other carriers, in the course of its performance of all its contracts with its customers for the moving and transportation of goods and merchandise in interstate commerce.

16. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service does not subcontract any of its contracts with customers, or sublet any of its moving and transportation business to other carriers, in the course of its performance of all of its contracts with its customers for the moving and transportation of goods and merchandise in interstate commerce.

17. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent K & E Deluxe Padded Van Company, Inc., holds or maintains greater protection or security for its customers in the movement and transportation of goods and merchandise in interstate commerce than that protection or security which said respondent does in truth and in fact hold or maintain for the benefit, protection, and security of its customers.

18. From advertising, stating or representing in any form or by any means or medium whatsoever that respondent United Van Service holds or maintains greater protection or security for its customers in the movement and transportation of goods and merchandise in interstate commerce than that protection or security which said respondent does in truth and in fact hold or maintain for the benefit, protection, and security of its customers.

It is further ordered, That K & E Deluxe Padded Van Company, Inc., a corporation, and United Van Service, a corporation, within 60 days from and after the date of the service upon them of this order shall file with the Commission a report in writing, setting forth in detail the manner and form in which said order to cease and desist hereinabove set forth is being complied with.

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IN THE MATTER OF

CRESCENT SHOE COMPANY, INC.

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

Docket 2518. Complaint, Aug. 15, 1935—Order, Oct. 28, 1935

Consent order requiring respondent corporation in connection with soliciting the sale of and selling shoes in interstate commerce, to cease and desist from—

- (a) Using or causing to be used the word "Doctor" or the abbreviation "Dr.", in connection with the name, or with any word or words, or in any way as a trade name, brand, or designation for its shoes or for the shoes of others manufactured for it; or in advertising said shoes, or in any way which may have the capacity and tendency to confuse, mislead, and deceive purchasers into the belief that said shoes are made in accordance with the design or under the supervision of a doctor or that said shoes contain special, scientific, or orthopedic features which are the result of medical advice or services or that said shoes were designed or constructed for the purpose of correcting or alleviating any foot trouble or weakness of the feet, when such is not the fact; or
- (b) Using or causing to be used the word "manufacturers" or words or abbreviations of similar import in connection or in conjunction with any word or words or in any way as a trade name or designation on its shoes, or for the shoes of others, or in advertising said shoes, or any way which may have the capacity and tendency to confuse, mislead and deceive purchasers into the belief that said shoes are made or manufactured by said respondent, when such is not the fact, and until said respondent actually owns or operates or directly and absolutely controls the factory or other producing, making, or manufacturing equipment and facilities used in the manufacture or production of all such shoes sold and distributed by respondent under said representations.

Mr. Morton Nesmith for the Commission.

Mr. Henry L. Burkitt, 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 the Crescent 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. The respondent, Crescent Shoe Company, Inc., is a corporation organized, existing, and doing business under and by