

Complaint

21 F. T. C.

IN THE MATTER OF

WESTPHALIA MANUFACTURING COMPANY, INC., AND
POLY CHEMICAL LABORATORIES, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2566. Complaint, Oct. 2, 1935—Order, Nov. 22, 1935*

Consent order requiring respondent corporations, and each of them, their agents, etc., to cease and desist, directly or indirectly, in connection with offering for sale or selling in interstate commerce their cleaning fluid, known and described as Rid-O-Spot, from representing on labels affixed to the container or containers of such product, or in advertisements, oral, printed, or written, that Rid-O-Spot, when used for cleaning purposes leaves no rings or that it removes all grease spots without injury to the most delicate fabric or color.

Mr. James M. Brinson 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 the Westphalia Manufacturing Company, Inc., a corporation, and the Poly Chemical Laboratories, Inc., a corporation, hereinafter designated as 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. Respondent Westphalia Manufacturing Company, Inc., has been for several years last past and now is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey.

Respondent Poly Chemical Laboratories, Inc., is also a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey.

The main offices and principal places of business of said respondent corporations are located at Jersey City in the State of New Jersey.

Respondents are now and have for several years last past been engaged in the sale and distribution of a cleaning fluid which they have described and designated as "Rid-O-Spot", in commerce among and between the State of New Jersey and the various other States of the United States and the District of Columbia. It has been

and is the practice of said respondent corporations to transport or cause said product to be transported when sold from their said place of business in the State of New Jersey to purchasers of such product located in the various other States of the United States.

In the course and conduct of their business, said respondent corporations have been and were, and each of them has been and was, at all times mentioned herein, in competition with other individuals, partnerships, and corporations similarly engaged in the sale and distribution in interstate commerce of cleaning fluids.

PAR. 2. Respondents in the course and conduct of their said business, described in paragraph 1 hereof, have offered for sale and sold said cleaning fluid by means of false and misleading statements and representations to the effect that Rid-O-Spot is a cleaning fluid which leaves no rings and removes all grease spots instantly without injury to the most delicate fabric or color and other representations and statements to the same, equivalent, or similar effect. The following statements on the labels affixed to containers of their product are typical of the representations by which respondents sell their product:

RID-O-SPOT CLEANING FLUID

Leaves No Rings. Removes all Grease Spots Instantly without injury to the most delicate Fabric or color

In truth and in fact, the use of respondents' said product on fabrics dyed with certain kinds of dyes, such as non-fast or fugitive dyes, does affect the colors of fabrics upon which said product has been used by causing them to bleed or run, as such effect is generally described in the trade. The use of said product on certain fabrics produces and leaves a ring, spot or mark, and such fabrics are in fact injured by the use thereon of such product.

PAR. 3. There are now and for several years past have been individuals, partnerships and corporations offering for sale and selling in interstate commerce cleaning fluids for fabrics of all kinds.

PAR. 4. The aforesaid representations of respondents are false, and each of them has had and has, and all of them have had and have, the capacity and tendency to mislead and deceive the public into the belief that they are true, and into the purchase of such product of respondents in reliance upon such erroneous belief.

Such representations have had and have, and each of them has had and has, the capacity and tendency to divert trade to respondents from competitors offering for sale and selling cleaning fluids in interstate commerce.

PAR. 5. The above and foregoing practices of respondents have been and are, and each of them has been and is, to the prejudice of

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the public and of respondents' competitors, and have been and are unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of an Act 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

Respondents herein, having filed their answer to the complaint in this proceeding, and having subsequently filed with this Commission their motion that they be permitted to withdraw said answer and that they be permitted to file in lieu thereof as a substitute answer the draft of proposed substitute answer submitted in connection with said motion, and the Commission having duly considered the said motion—

It is hereby ordered, That the said motion be and the same hereby is granted; that the said answer be and the same hereby is withdrawn and that the said proposed substituted answer be and the same hereby is filed in lieu of the said answer so withdrawn.

And the said respondents, in and by their said substituted answer, state that they refrain from contesting the proceeding and consent that the Commission may make, enter and serve upon them and upon each of them, an order to cease and desist from the violations of the law alleged in the complaint, without hearing, without evidence, and without findings as to the facts or other intervening procedure, and the Commission being fully advised in the premises—

It is hereby further ordered, That respondents, Westphalia Manufacturing Company, Inc., a corporation, and Poly Chemical Laboratories, Inc., a corporation, and each of them, their agents, employees, and representatives, and the agents, employees and representatives of each of them, cease and desist, directly or indirectly, in connection with offering for sale or selling in interstate commerce their cleaning fluid, known and described as Rid-O-Spot, from representing on labels affixed to the container or containers of such product, or in advertisements, oral, printed, or written, that Rid-O-Spot, when used for cleaning purposes leaves no rings or that it removes all grease spots without injury to the most delicate fabric or color.

It is further ordered, That the respondents shall within 30 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

IN THE MATTER OF

AMERICAN ARMY AND NAVY STORES, INC.

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

Docket 2284. Complaint, Jan. 25, 1935—Decision, Nov. 26, 1935

Where a corporation, engaged in the conduct of a mercantile establishment, the inventory of which never showed more than ten or fifteen percent of goods procured from the Army or Navy Departments through purchase of products offered by said departments in sales of surplus, reject and refuse goods—

Caused its corporate name, in which were included words "Army and Navy", to be displayed in large signs about its mercantile establishment and in trade journals, circulars and advertisements in newspapers and other periodicals, and featured the words "Army and Navy" therein as prominently as other portions;

The facts being that, while aforesaid corporation was organized chiefly to engage in purchase and resale of such surplus, reject and refuse goods, said departments began to curtail sharply the quantity thereof offered annually in the open market a number of years after the war, until, for some years since, no such goods had been thus offered, and such products had been ultimately absorbed for the conduct of retail trade by said corporation and other individuals and concerns similarly engaged;

With the result that various members of the purchasing public came to the belief that goods purchased in its establishment were substantially all, if not all, procured from the Army and Navy and were of the quality and nature used by said departments, and that a substantial bargain with reference to price and quality would be therein obtained, and were induced by reason thereof to make purchases from it, and with capacity and tendency thereby to mislead the purchasing public, and with effect of diverting trade to it from competitors, who offer to sell merchandise identical with the bulk of its inventory, similarly purchased from the ordinary marts of trade, without the use of such misleading and deceptive practice, and of causing substantial injury to substantial competition in the District of Columbia:

Held, That such practices, under the conditions and circumstances set forth, were to the prejudice and injury of competitors and the public and constituted unfair methods of competition.

Before *Mr. John W. Addison*, trial examiner.

Mr. S. Brogdyne Teu, II, and *Mr. Alden S. Bradley* for the Commission.

Mr. H. Mitchell Pfeffer, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commis-