

Complaint

21 F. T. C.

IN THE MATTER OF

BRENNER PAPER MANUFACTURING, INC.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2590. Complaint, Oct. 21, 1935—Order, Dec. 11, 1935*

Consent order requiring respondent corporation, its agents, etc., in connection with the printing or converting of paper or the imprinting thereon of forms and panels in preparation for use in printing announcements, or in the sale and distribution of such products in interstate commerce, to cease and desist from using a corporate name containing the word "manufacturing", or representing by any other means that it is a paper manufacturer, or using phrase "paper manufacturing", or publishing in any manner statements conveying impression that it or any of its officers, agents or employees on its behalf is engaged in paper manufacturing business or that its products are manufactured on its premises, unless and until it actually manufactures the paper it sells or offers for sale or owns or absolutely controls a mill, mills, factory or factories in which such paper is manufactured.

Mr. T. H. Kennedy for the Commission.

Mr. Jacob Brenner, 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 Brenner Paper Manufacturing, Inc., a corporation, hereafter 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, states its charges in that respect as follows:

PARAGRAPH 1. The Brenner Paper Manufacturing, Inc., respondent herein, is a corporation organized in October 1933, then, ever since and now, existing under and by virtue of the laws of the State of New York and now has its principal place of business in the city of New York, State of New York.

PAR. 2. The respondent, Brenner Paper Manufacturing, Inc., is and has been since on and after March 1, 1935, engaged in the business of printing or in the converting of paper or the imprinting thereon on forms and panels in the preparation for use in printing announcements and in the sale and distribution of such products in commerce between and among the various States of the United States.

PAR. 3. The respondent is and has been since on and after March 1, 1935, engaged in the sale or distribution of the above mentioned products in commerce to members of the public residing in States other than New York and the respondent has caused the products when so sold or distributed by it to be transported from the respondent's place of business in New York or from the State of origin of the shipment to, into and through States other than New York, or the State of origin of the shipment to members of the public, the purchasers or consignees of the said products.

PAR. 4. The respondent, since its incorporation, has been and now is in competition with other individuals, firms, partnerships, and corporations located in the United States who have been and are engaged in the sale or distribution in interstate commerce of products like or similar to those sold or distributed by respondent as hereinbefore described.

PAR. 5. In the course and conduct of its business the respondent, in soliciting the sale and distribution of its products, has carried on its business under its corporate name, Brenner Paper Manufacturing, Inc., and has used and featured said name so containing the words and phrase "Paper Manufacturing" and the statements:

Louis Brenner is a producer having 20 years experience in the printing business and 10 years in the manufacturing and converting of announcements,

and

Everything we sell is made on our own premises, and has caused the same to appear on its stationery, bill heads, trade directories, price lists, announcements and other business stationery circulated among its customers and prospective customers. Said solicitation and sale has been and now is in interstate commerce.

Respondent, throughout all its business transactions since March 1, 1935, has represented itself to be a paper manufacturer, when in truth and in fact it has not been a paper manufacturer but a converter and printer.

PAR. 6. The representations made by respondent as alleged in paragraph 5 hereof, are false and misleading and have the tendency and capacity to mislead and deceive the purchasers of respondent's products into the belief that when purchasing from respondent they are dealing with a manufacturer of paper and thereby are gaining an advantage by saving the middleman's profits. The said false representations also have the capacity and tendency unfairly to divert and do divert trade from its competitors.

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PAR. 7. The above alleged acts and practices of respondent are all to the prejudice of respondent's competitors, and constitute unfair methods of competition in interstate commerce within the intent and meaning 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

The respondent herein having filed its answer to the complaint in this proceeding, and having subsequently filed with this Commission its motion that it be permitted to withdraw its said answer and that it be permitted to file in lieu thereof as a substituted answer, the draft of a proposed substituted answer annexed to the said motion; and the Commission having duly considered the said motion:

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

And the said respondent in and by its said substituted answer having waived hearings on the charges set forth in the complaint in this proceeding, and having stated in its said substituted answer that it does not contest the said proceeding, and having consented in its said substituted answer that the Commission, without a trial, without evidence, and 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 charged in the complaint; and the Commission being fully advised in the premises;

It is hereby further ordered, That the respondent, Brenner Paper Manufacturing, Inc., a corporation, its officers, agents, representatives or employees, in connection with the printing or the converting of paper or the imprinting thereon, forms and panels in preparation for use in printing announcements or in the sale or offering for sale or distribution of such products in interstate commerce, do cease and desist from:

Using a corporate name containing the word "manufacturing" or from representing by any other means that the respondent is a paper manufacturer, or using the phrase "paper manufacturing", or publishing in any manner statements conveying the impression that respondent or any of its officers, agents or employees on behalf of respondent is engaged in the paper manufacturing business or that products of said respondent are manufactured on the premises of

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respondent, unless and until said respondent actually manufactures the paper it sells or offers for sale or owns or absolutely controls a mill, mills, factory or factories in which such paper is manufactured.

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

Syllabus

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IN THE MATTER OF
THE LINEN SUPPLY ASSOCIATION OF THE DISTRICT
OF COLUMBIA, ET AL.

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

Docket 2256. Complaint, Dec. 10, 1934—Order, Dec. 13, 1935

Where an association, which included a large majority of the concerns engaged in supplying linen coats, towels, table and other linen in the District of Columbia, and which, at the time of its organization, adopted and ratified the previous action of the Linen Supply Stabilization Committee of the Linen Supply Group, composed of various concerns and individuals in said industry and section, directed to increasing charges to customers and taking other steps to limit prior competition among the various members and businesses involved, and which included an arbitration committee with power to penalize members for infraction of its rules and regulations; and the officers of said Association and the individual member concerns belonging thereto; in pursuance of said combination to suppress competition in the business concerned in the District of Columbia and nearby Virginia and Maryland through fixing uniform prices—

- (a) Agreed to and did allocate customers among the members and agreed not to solicit the business or acquire a customer of another member except by and with latter's consent, and to refuse to permit a customer of one member to transfer business to another except with consent of former or approval of the aforesaid committee, and abided by such agreements, and agreed upon and arbitrarily fixed uniform prices, discounts, and terms and conditions of sale, distribution, and delivery of products involved in territory in question, and abided thereby, and otherwise controlled the business of the individual members;
- (b) Agreed to inform and did inform their secretary of contemplated changes in prices, discounts, etc., sufficiently in advance of their effective date to enable him to advise the other members of such contemplated changes in order that they might put the same into effect;
- (c) Took action through correspondence among themselves, association meetings, and their secretary to rearrange prices, discounts, terms and conditions in a manner agreeable to all, and revised their aforesaid uniform prices, etc., from time to time through association meetings and otherwise, but in such a manner that they remained uniform, and supplied a copy of such uniform prices, etc., to each association member through their said secretary, who compiled lists thereof; and
- (d) Agreed to provide and provided for fining, and did fine, association members who disregarded price lists distributed among them, solicited customers of other members, or violated other association rules and regulations agreed upon by such members;

With the result that competition in the business concerned and territory involved was suppressed, free flow of such products in the channels of commerce was hindered and obstructed, and there were denied to dealers