

Complaint

22 F. T. C.

IN THE MATTER OF
ARCO SHIRT CORPORATION

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

Docket 2591. Complaint, Oct. 21, 1935—Order, Jan. 23, 1936

Consent order requiring respondent corporation, its officers, etc., in connection with the sale or offer for sale in interstate commerce of shirts, to cease and desist from use of the word "Manufacturers" in its advertisements, letterheads, invoices, business cards, catalogs, bulletins or any other advertising matter distributed in interstate commerce, and from use of the word "Manufacturer" in any way which may have the tendency or capacity to confuse, mislead or deceive purchasers or prospective purchasers into the belief that it owns, operates and controls a factory or factories, wherein its products are made, when such is not the fact.

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. John Darsey for the Commission.

Mr. Daniel J. Levowitz, 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 Arco Shirt Corporation, a corporation, 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. The respondent is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business at 486 Broadway, in the city of New York, State of New York. It is engaged in the sale and distribution of men's shirts, and causes said garments when sold to be transported from its said principal place of business in the State of New York into and through other States of the United States to said vendees at their respective places of business.

In the course and conduct of its said business respondent is in competition with other corporations, individuals, partnerships, and firms engaged in the sale of similar garments between and among various States of the United States,

PAR. 2. In the course and conduct of its said business respondent has caused and causes representations, assertions and advertisements to be made to its customers and prospective customers by its salesmen and agents, and has caused and causes said representations, assertions and advertisements to be set forth on its business stationery, billheads, invoices, catalogs, labels, and other trade literature, to the effect that it controls and operates mills or factories and is the manufacturer of said garments in which it deals. Typical of such representations, assertions and advertisements is that appearing in the letterhead of the business stationery of said respondent, which is as follows:

ARCO SHIRT CORPORATION
Manufacturers of
High Grade Shirts
486 Broadway

PAR. 3. The use by respondent of said representations, assertions and advertisements in the manner set out in paragraph 2 hereof has the capacity and tendency to and does mislead and deceive many of respondent's said customers and prospective customers into the erroneous belief that respondent is a business concern which controls and operates a mill or mills or factory in which aforesaid garments sold by respondent are manufactured, and that persons dealing with respondent are buying said garments directly from the mills and from the manufacturer thereof, thereby eliminating the profits of middlemen and obtaining various advantages, including advantages in service, delivery and adjustment of account that are not obtained by persons purchasing goods from middlemen. The truth and fact is that respondent neither owns, controls, nor operates any mill or factory whatsoever and does not manufacture said garments sold by it, but on the contrary only purchases the materials from which its shirts are made and cut out according to its own patterns, and delivers the cut material, with buttons and thread, to a contractor, who, through the use of his machines and labor, manufactures the shirts and delivers them to respondent, who then resells the same at a profit over and above the cost to respondent of said garments.

PAR. 4. There are among the competitors of respondent referred to in paragraph 1 hereof, many who manufacture the garments which they sell and who rightfully represent that they are the manufacturers thereof. There are others of said competitors who purchase the garments in which they deal and resell the same at a profit to themselves over and above the cost of said garments to said competitors, and who in no wise represent that they manufacture said

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garments. The above alleged acts and practices of respondent as set out in paragraphs 2 and 3 hereof tend to and do divert business from and otherwise injure and prejudice said competitors.

PAR. 5. For several years last past respondent has engaged in the practices under the circumstances and conditions, and with the results all hereinbefore set out.

PAR. 6. 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

The respondent herein having filed its answer to the complaint in this proceeding and having subsequently moved on the record to 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 which has been filed with the Commission; 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, the Arco Shirt Corporation, its officers, representatives, agents, servants and employees in connection with the sale or the offering for sale, by said Arco Shirt Corporation of shirts in interstate commerce, forthwith cease and desist from the use of the word "Manufacturers" in its advertisements, letterheads, invoices, business cards, catalogs, bulletins, or any other advertising matter distributed in interstate commerce; and from the use of the word "Manufacturer" in any way

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which may have the tendency or capacity to confuse, mislead, or deceive purchasers or prospective purchasers into the belief that said corporation owns, operates, and controls a factory or factories, wherein its products are made or manufactured, when such is not the fact.

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.

IN THE MATTER OF
INTERNATIONAL SHEFFIELD WORKS, INC.

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

Docket 2573. Complaint, Oct. 8, 1935—Order, Jan. 25, 1936

Consent order requiring respondent, its officers, etc., in connection with the offer for sale or sale in interstate commerce of silverware or silver-plated ware, to cease and desist from—

- (a) Using a trade or corporate name which includes the word "Sheffield" unless and until it actually manufactures and sells silverware or silver-plated ware produced by the copper-rolled plate process known as "Sheffield";
- (b) Making representations in any manner whatsoever, or from directly or indirectly suggesting, that the silverware or silver-plated ware sold by it is "Sheffield", unless such ware has been manufactured by, or in accordance with, the copper-rolled plate process which originated in Sheffield, England, and which has been and still is associated with the name "Sheffield" in that industry; or
- (c) Making representations through advertisements, etc., or in any manner whatsoever, or from directly or indirectly suggesting, that the silverware or silver-plated ware sold by it is "Sheffield" unless the silverware so offered has been made in accordance with the copper-rolled plate process which originated in Sheffield, England, and shows the place of origin.

Mr. John L. Hornor for the Commission.

Proper & Gottlieb, 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 International Sheffield Works, Inc., a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said Act of Congress and in violation of Section 5 of 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 is a corporation, organized and doing business by virtue of the laws of the State of New York, having its principal office and place of business in the city of New York; and is now and for more than five years last past has been engaged in the