

Complaint

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IN THE MATTER OF
AMERICAN WHITE CROSS LABORATORIES, INC.

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

Docket 2640. Complaint, Nov. 26, 1935—Order, Jan. 30, 1936

Consent order requiring respondent, its officers, etc., in connection with the offer for sale and sale of absorbent cotton in interstate commerce and in the District of Columbia, to cease and desist from—

- (a) Advertising, branding, labeling, or otherwise describing or representing packaged cotton as "sterilized" or "sanitary", or using any other word or words stating or implying that said product is sterilized or sanitary, unless the same is in fact sterilized and free from bacteria after being packaged and while contained in its original unbroken package; or
- (b) Advertising, etc., cotton as manufactured under the best sanitary conditions unless and until such cotton in fact has been so manufactured and packaged under strictest sanitary conditions in which full, and best accepted scientific sanitary precautions have been taken and followed for the removal and exclusion of all bacteria from such cotton after the packaging thereof.

Mr. Marshall Morgan 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 American White Cross Laboratories, 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 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, American White Cross Laboratories, Inc., also known as American Laboratories, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 52 Webster Street in New Rochelle, State of New York, with a branch plant and office located at Cape Girardeau, Mo. Respondent's principal office and place of business was formerly

located at Mount Vernon, N. Y., having been moved to the New Rochelle address during the year 1935.

Respondent is now, and for more than two years last past has been engaged, as hereinafter described, in the business of manufacturing surgical supplies, including the processing of absorbent cotton and the selling of same principally to chain and syndicate stores, and to retail dealers, drug stores, surgical supply companies, and hospitals located in various parts of the United States. The said surgical supplies, including absorbent cotton as aforesaid, are manufactured as stated in New Rochelle, N. Y., and at respondent's branch plant at Cape Girardeau, Mo., where said products are packed, branded, and labeled by respondent for sale and distribution by it to said chain and syndicate stores, retail dealers, drug stores, surgical supply companies, and hospitals located in various parts of the United States, through whom said articles reach and are used by the consuming public. In connection with the sale and distribution of its said products the respondent transports them or causes them to be transported from its places of business in the States of New York and Missouri to the purchasers thereof located in a State or States of the United States other than said States of New York and Missouri.

In the course and conduct of its said business, respondent has been and is now engaged in direct and substantial competition with various corporations, partnerships and individuals likewise engaged in the sale and distribution of surgical supplies, including absorbent cotton, and offering such products for sale in commerce between and among the various States of the United States and within the District of Columbia.

PAR. 2. One of the necessary and important articles employed by hospitals, physicians, surgeons and specialists, and in the homes of the people of the United States, is sterilized absorbent cotton. Health, in fact life, may at times depend on the purity, the sterile quality of absorbent cotton employed in connection with operations, and in dressing wounds, open sores or abrasions.

"Absorbent cotton" is a cotton from which all fatty matter has been extracted by scientific process, so that it readily takes up fluids. High Grade or "Hygrade" means a good grade of absorbent cotton. The best and finest absorbent cotton is made from purified cotton, white, fully bleached, fine filaments, containing no re-worked cotton or cotton linters, and free from lumps and visible impurities such as nibs, streaks of dirt, or other foreign matter. Virgin and peeler comber cotton well carded or bleached are generally used by the principal manufacturers in their higher priced manufactures. Lin-

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ters, fly, strip, nap, and macerated cotton rags are used in the cheaper and inferior qualities of absorbent cotton.

An object is "sterile" when it is free from all living micro-organisms or their spores. Unclean or contaminated septic dressings, including absorbent cotton, may jeopardize life and health. "Sterilization" comprehends the destruction of micro-organisms in and about an object.

"Sanitary" denotes that which is healthful or conducive to health. The terms "sterilized", "sterile", and "sanitary", when applied to absorbent cotton, are considered by consumers and users thereof as being synonymous with the state of being clean, sanitary, and germ-proof at the time of the purchase of the product. Some manufacturers of packages market their absorbent cotton products in cardboard packages and paper rolls, and there are large number of microscopic holes on the surface thereof and light rays can penetrate through such containers, permitting the growth of pathological organisms at some time therein. The terms "sterilized" and "aseptic" are terms not to be used unless and until the product be enclosed in a substantially dust-proof package and rendered completely sterile after packing.

"Emergency", when employed as a brand for absorbent cotton, implies a product that may be used safely in case of a sudden demand for action.

So-called "puffing" in connection with the sale of products, the use of which may affect the life or health of an individual, is at all times inadmissible.

PAR. 3. In the course and conduct of its business as described in paragraph 1 hereof, respondent has sold and distributed in interstate commerce among others of its products various types and grades of absorbent cotton branded and labeled as follows:

(1) A two-ounce carton or package on two sides of which is printed the following:

"HYGRADE
SANITARY
ABSORBENT COTTON
Prepared by
AMERICAN LABORATORIES
Mount Vernon, N. Y.",

together with the picture of a nurse in uniform handling a package of absorbent cotton. The nurse wears a headdress bearing the white cross emblem.

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On another side of the container appears the following legend:

"ABSORBENT
COTTON

2 Ounces Sterilized

BEST
HOSPITAL
QUALITY

'Hydrate' Absorbent Cotton is manufactured under the Best Sanitary conditions and is perfectly suited for all Surgical and Household needs.

SANITARY STERILIZED"

On the other side of the container appear the words:

"ABSORBENT
COTTON"

above a picture of a roll of absorbent cotton and beneath this the words "Sanitary", "Sterilized".

On one end of this container appears a design of a circle with a white cross in the center and around this printed in a circular arrangement the words: "HYGRADE ABSORBENT COTTON".

This absorbent cotton is rolled in blue paper and packed or contained in a pasteboard box.

(2) A three ounce carton or package of absorbent cotton on two sides of which appears the legend:

"3 Ounces Sterilized

EMERGENCY
ABSORBENT
COTTON."

On another side of this container appears the following legend:

"'Emergency' Absorbent Cotton is manufactured under the best sanitary conditions and is suitable for all surgical and household needs.

For a higher grade COTTON we recommend our 'BEST' HOSPITAL QUALITY which is put up in the two ounce package."

On the fourth side of the container appears the following:

"Manufactured by

AMERICAN LABORATORIES

Mount Vernon, N. Y.

and

Cape Girardeau, Mo."

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On either end of this container appears a design of a circle with a white cross in the center, and around this printed in a circular arrangement the words: "HYGRADE ABSORBENT COTTON".

This package of emergency absorbent cotton is rolled in blue paper and packed in an oblong pasteboard carton or container.

PAR. 4. In truth and fact respondent's absorbent cotton branded, labeled, advertised and described as "Sterilized Emergency Absorbent Cotton" and as "Best Hospital Quality Hygrade Absorbent Cotton" is not and has not been properly sterilized by scientific methods under the best sanitary conditions and is not suitable for all surgical and household needs, but on the contrary, said absorbent cotton is and has been found to be contaminated.

PAR. 5. Among the competitors of respondent referred to in paragraph 1 hereof there are many who sell and distribute in competition with respondent, absorbent cotton that is and has been properly sterilized and packaged in dust proof containers which render the product safe for use and in a sanitary condition when opened for use.

Respondent's absorbent cotton branded and labeled as "Best Hospital Quality" and as "Emergency Absorbent Cotton" are displayed, offered for sale and sold to the consuming public by the respondent through the medium of chain stores, drug stores, retail dealers and others, in competition with the said absorbent cotton of competitors.

Respondent's use of the words "Sterilized", "Hygrade" and "Sanitary", as hereinabove described, in relation to its product, absorbent cotton, is false and misleading. As a result of such false and misleading representations on the part of respondent, the consuming public is being and has been injured, trade is being and has been diverted to respondent from such competitors in interstate commerce, and thereby substantial injury is done and has been done by the respondent to substantial competition in interstate commerce, and there is and has been placed in the hands of respondent's dealers and distributors an instrument by means of which they mislead and deceive and have misled and deceived the purchasing public.

PAR. 6. Said representations of respondent in its respective brands, labels, advertisements, circulars or other media through which the trade and consuming public are reached, have resulted in injury to respondent's competitors and to retail dealers and to the prejudice of the buying public, and constitute unfair methods of competition 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."

Order

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 file in lieu thereof as a substitute answer, the draft of a proposed substituted answer attached 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 ordered, That the respondent, American White Cross Laboratories, Inc., its officers, directors, representatives, agents servants and employees in connection with the offering for sale and sale in interstate commerce and in the District of Columbia, of absorbent cotton, do cease and desist from:

(1) Directly or indirectly advertising, branding, labeling, designating, describing, or otherwise representing packaged cotton as "sterilized" or "sanitary" unless and until said cotton is sterilized and free from bacteria after it has been packaged and while contained in its original unbroken package;

(2) Using any other word or words stating, importing, or implying that such cotton is sterilized or sanitary when or if such cotton has not in fact been sterilized and rendered sanitary and free from bacteria after it has been packaged and while contained in its original unbroken package;

(3) Directly or indirectly advertising, branding, labeling, designating, describing or otherwise representing cotton as manufactured under the best sanitary conditions unless and until such cotton in fact has been so manufactured and packaged under strictest sanitary conditions in which full, and best accepted scientific sanitary pre-

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cautions have been taken and followed for the removal and exclusion of all bacteria from such cotton after the packaging thereof.

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

Complaint

IN THE MATTER OF

HARRY KAPUST, TRADING AS ROSELILE MANUFACTURING COMPANY, AND AS ROSELILE CLOTHING MANUFACTURING COMPANY

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

Docket 2653. Complaint, Dec. 10, 1935—Order, Jan. 30, 1936

Consent order requiring respondent individual, his representatives, etc., in connection with the sale or offer for sale of men's suits in commerce among the several States and in the District of Columbia, to cease and desist from—

- (a) Advertising or in any way otherwise representing himself or his company as a manufacturer of men's suits, or using word "manufacturing" as part of or in connection with any trade name under which he carries on his said business, or using words "From maker to wearer" or words of similar import, until and unless he owns, operates, and controls a factory or factories in which such products are made; or
- (b) Advertising or otherwise representing, through advertisements, etc., or salesmen's solicitations or otherwise, that the men's suits of clothing offered for sale and sold by him are "tailored-to-fit" or that said men's suits of clothing are tailored or made to order or to the individual measure of the purchasers thereof, until and unless said suits are actually tailored or made to the order of or to the individual measure of the purchasers thereof.

Mr. J. T. Welch for the Commission.

Mr. Robert R. Scher, of Chicago, Ill., 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 Harry Kapust, trading as Roselile Manufacturing Company and as Roselile Clothing Manufacturing Company, hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the said Commission that a proceeding by it in respect thereof would be in the interest of the public, the said Federal Trade Commission hereby issues its complaint against the respondent and states its charges in that respect as follows:

PARAGRAPH 1. That the respondent, Harry Kapust, is an individual trading under the names and styles of "Roselile Manufacturing Company" and "Roselile Clothing Manufacturing Company", with its