

IN THE MATTER OF
ROMA WINE COMPANY, INC.

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

Docket 2713. Complaint, Feb. 5, 1936—Decision, Mar. 19, 1936

Where the term "Chateau Yquem" had long had a definite significance to wholesalers and retailers and the consuming public as meaning a wine produced from grapes grown upon the estate of a certain Marquis in the Sauterne Country in the province of Bordeaux, France, and made, aged, processed and bottled at the Chateau Yquem upon said estate, and such wine, by reason of the particular composition of the soil, favorable climatic conditions and extreme care used in growing the grapes, had become known throughout the world for its distinctive taste and flavor, and said name had acquired geographic significance as distinctively designating and distinguishing from all others the aforesaid wine, which was preferred by a substantial portion of the purchasing public to imitations thereof bearing the same name; and thereafter a corporation engaged in California in growing and cultivating grapes and manufacturing, selling and distributing wines therefrom—

Represented through use of words "Chateau Yquem" on stationery, invoices, advertising matter and labels and in various other ways that its product was the specific wine produced and grown in France as aforesaid, and thereby furnished its customers with the means of similarly misrepresenting said domestic product to retailers and consuming public, notwithstanding fact it was not the genuine French wine as hereinabove set forth;

With effect of misleading and deceiving dealers and purchasing public into the belief that its said product was the specific and genuine Chateau Yquem, and of inducing their purchase of its said wines in such belief, and thereby diverting trade to it from competitors, including those who purchase, import and sell genuine Chateau Yquem wines and those who sell wines of that type without thus misrepresenting them, and with capacity and tendency so to mislead and deceive; to the substantial injury of substantial competition:

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

Mr. PGad B. Morehouse for the Commission.

Mr. Albert Picard, of San Francisco, Calif., 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 Roma Wine Company, 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, and it appearing to the 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, existing and doing business under the laws of the State of California, with its principal office and place of business in the city of San Francisco, in said State. It is now, and for more than one year last past has been, engaged in the business of growing and cultivating grapes and of manufacturing wines therefrom, in the State of California, and of selling and distributing said wines in commerce between and among various States of the United States and the District of Columbia, causing said products, in the course and conduct of its business when sold to be shipped from its said place of business in San Francisco, Calif., into and through various States of the United States and the District of Columbia to the purchasers thereof, consisting of wholesalers and retailers located in other States of the United States and the District of Columbia. In the course and conduct of its business aforesaid, respondent is now, and for more than one year last past has been, in substantial competition with other corporations and with individuals, partnerships, and firms engaged in the business of purchasing, importing, and producing wines, and in the sale thereof in trade and commerce between and among the various States of the United States and in the District of Columbia; and in the course and conduct of its business as aforesaid, respondent is, and for more than one year last past has been, in substantial competition with other corporations and with individuals, firms, and partnerships engaged in the business of importing, processing, manufacturing, and bottling still wines and in the sale thereof in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. For a long period of time the term "Chateau Yquem" has had and still has a definite significance and meaning to the minds of wholesalers and retailers and the consuming public, to wit, a wine which is produced from grapes grown upon the estate of the Marquis de Lur-Saluze, located in the Sauterne Country in the Province of Bordeaux, France, and manufactured, aged, processed, and bottled at the Chateau Yquem situated upon said estate. Because of the particular composition of the soil, the favorable climatic conditions,

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the extreme care used in the growing of said grapes, said wine has become known throughout the world for its distinctive taste and flavor, and the said name has acquired a geographic significance, distinctively designating the specific wine aforesaid, and distinguishing it from all other wines, and the use of said name "Chateau Yquem" when applied to any wine not produced in France as aforesaid is false and misleading, and a substantial portion of the purchasing public prefers to buy genuine "Chateau Yquem" produced at the place and in the manner aforesaid rather than imitations thereof bearing the same name. Said original "Chateau Yquem" is sold by said estate to distributors in the city of Bordeaux, France; and sold and shipped by such distributors to importers, wholesalers, and retailers in all parts of the world, including the United States. Said importers in the United States sell said wines in the regular course and conduct of their business to wholesalers, retailers, and consumers in the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, by the use of the words "Chateau Yquem" in designating the brand of wine manufactured and sold by it, as aforesaid, on its stationery, invoices, and advertising matter, on the labels attached to the bottles in which said respondent ships said wine, and in various other ways, said respondent represents to its customers, and furnishes said customers with the means of representing to their vendees, both retailers and the ultimate consuming public, that the said wine so sold is the specific wine distinctively designated "Chateau Yquem" produced and grown in France as aforesaid, when as a matter of fact the said wine so sold by respondent is not that specific wine, but a wine produced by respondent on its place of business from grapes grown in the vineyards of respondent in the State of California.

PAR. 4. Pursuant to an Act of Congress approved August 29, 1935, entitled "Federal Alcohol Administration Act", and for the purposes of administering and giving effect to the provisions thereof, on December 30, 1935, there were promulgated and published by the Administrator certain rules and regulations, duly approved by the Secretary of the Treasury, known as "Regulation No. 4 Wine Misbranding and Advertising Regulations", Section 25 of which reads in part as follows:

(a) A name of geographic significance for a wine of the particular class or type to which it in fact conforms but which is not in and of itself the designation of such class or type, shall be deemed the distinctive designation of a specific wine only if the administrator finds that such name is known to the consumer and to the trade to distinguish a specific wine of a particular place or region from all other wines, and such distinctive designation shall be

used to designate only the specific wine of the particular place or region indicated by such name.

The Administrator has found that "Chateau Yquem" is a name of geographic significance known to the consumer and to the trade to distinguish the specific wine hereinbefore described in paragraph 2 hereof, and has officially deemed it the distinctive designation of that specific wine.

PAR. 5. There are among the competitors of respondent engaged in the sale of wine, as set forth in paragraph 1 hereof, corporations, firms, partnerships, and individuals who purchase, import, and sell in interstate commerce wines under the name of "Chateau Yquem" the specific wine of that distinctive geographical designation as aforesaid, and others who sell in interstate commerce wines conforming to the type of Chateau Yquem, who do not represent such wines as being the specific wine properly and distinctively designated as "Chateau Yquem" on their labels, nor on their stationery, invoices, or other advertising matter.

PAR. 6. The representations by respondent, as hereinabove set forth, are calculated to, and have a capacity and tendency to, and do, mislead and deceive dealers and the purchasing public into the belief that the wine sold by respondent is that specific wine distinctively designated by the geographical term "Chateau Yquem" as aforesaid, and have the capacity and tendency to, and do induce dealers and the purchasing public, acting in such belief, to purchase the said wines of the respondent, thereby diverting trade to respondent from its competitors who do not misuse the said name of "Chateau Yquem" or in any other manner misrepresent the nature, type, source, or origin of their wines, and thereby respondent does substantial injury to substantial competition in interstate commerce.

PAR. 7. The acts and things above alleged to have been done and the false representations alleged to have been made by respondent are to the prejudice of the public and the competitors of respondent 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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 February 5, 1936, issued and served its complaint in this proceeding upon respondent, Roma Wine Com-

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pany, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint respondent answered, stating that it desired to waive hearing on the charges set forth in the complaint and not to contest the proceeding, and further stating that it admitted all of the material allegations of the complaint to be true, and that without further evidence or other intervening procedure the Commission might make, issue, and serve upon the respondent findings as to the facts and an order to cease and desist from the violations of law charged in the complaint, and said answer was duly recorded and filed in the office of the Commission. Thereafter this proceeding regularly came on for consideration by the Commission upon the said complaint and answer thereto, and the Commission having duly considered the same, and being fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation organized, existing, and doing business under the laws of the State of California, with its principal office and place of business in the city of San Francisco, in said State. It is now, and for more than one year last past has been, engaged in the business of growing and cultivating grapes and of manufacturing wines therefrom, in the State of California, and of selling and distributing said wines in commerce between and among various States of the United States and the District of Columbia, causing said products, in the course and conduct of its business when sold to be shipped from its said place of business in San Francisco, Calif., into and through various States of the United States and the District of Columbia to the purchasers thereof, consisting of wholesalers and retailers located in other States of the United States and the District of Columbia. In the course and conduct of its business aforesaid, respondent is now, and for more than one year last past has been, in substantial competition with other corporations and with individuals, partnerships, and firms engaged in the business of purchasing, importing, and producing wines, and in the sale thereof in trade and commerce between and among the various States of the United States and in the District of Columbia; and in the course and conduct of its business as aforesaid, respondent is, and for more than one year last past has been, in substantial competition with other corporations and with individuals, firms, and partnerships engaged in the business of importing, processing, manufacturing, and bottling still wines and in the sale thereof in com-

merce between and among the various States of the United States and in the District of Columbia.

PAR. 2. For a long period of time the term "Chateau Yquem" has had and still has a definite significance and meaning to the minds of wholesalers and retailers and the consuming public, to wit, a wine which is produced from grapes grown upon the estate of the Marquis de Lur-Saluze, located in the Sauterne Country in the Province of Bordeaux, France, and manufactured, aged, processed, and bottled at the Chateau Yquem situated upon said estate. Because of the particular composition of the soil, the favorable climatic conditions, the extreme care used in the growing of said grapes, said wine has become known throughout the world for its distinctive taste and flavor, and the said name has acquired a geographic significance, distinctively designating the specific wine aforesaid, and distinguishing it from all other wines, and the use of said name "Chateau Yquem" when applied to any wine not produced in France as aforesaid is false and misleading, and a substantial portion of the purchasing public prefers to buy genuine "Chateau Yquem" produced at the place and in the manner aforesaid rather than imitations thereof bearing the same name. Said original "Chateau Yquem" is sold by said estate to distributors in the city of Bordeaux, France, and sold and shipped by such distributors to importers, wholesalers and retailers in all parts of the world, including the United States. Said importers in the United States sell said wines in the regular course and conduct of their business to wholesalers, retailers and consumers in the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, by the use of the words "Chateau Yquem" in designating the brand of wine manufactured and sold by it, as aforesaid, on its stationery, invoices and advertising matter, on the labels attached to the bottles in which said respondent ships said wine, and in various other ways, said respondent represents to its customers and furnishes said customers with the means of representing to their vendees, both retailers and the ultimate consuming public, that the said wine so sold is the specific wine distinctively designated "Chateau Yquem" produced and grown in France as aforesaid, when as a matter of fact, the said wine so sold by respondent is not that specific wine, but a wine produced by respondent on its place of business from grapes grown in the vineyards of respondent in the State of California.

PAR. 4. Pursuant to an Act of Congress approved August 29, 1935, entitled "Federal Alcohol Administration Act", and for the purposes of administering and giving effect to the provisions thereof, on

December 30, 1935, there were promulgated and published by the Administrator certain rules and regulations, duly approved by the Secretary of the Treasury, known as "Regulation No. 4, Wine Misbranding and Advertising Regulations", Section 25 of which reads in part as follows:

(a) A name of geographic significance for a wine of the particular class or type to which it in fact conforms but which is not in and of itself the designation of such class or type, shall be deemed the distinctive designation of a specific wine only if the administrator finds that such name is known to the consumer and to the trade to distinguish a specific wine of a particular place or region from all other wines, and such distinctive designation shall be used to designate only the specific wine of the particular place or region indicated by such name.

The Administrator has found that "Chateau Yquem" is a name of geographic significance known to the consumer and to the trade to distinguish the specific wine hereinbefore described in paragraph 2 hereof, and has officially deemed it the distinctive designation of that specific wine.

PAR. 5. There are among the competitors of respondent engaged in the sale of wine, as set forth in paragraph 1 hereof, corporations, firms, partnerships and individuals who purchase, import and sell in interstate commerce wines under the name of "Chateau Yquem", the specific wine of that distinctive geographical designation as aforesaid, and others who sell in interstate commerce wines conforming to the type of Chateau Yquem, who do not represent such wines as being the specific wine properly and distinctively designated as "Chateau Yquem" on their labels, nor on their stationery, invoices or other advertising matter.

PAR. 6. The representations by respondent, as hereinabove set forth, are calculated to, and have a capacity and tendency to, and do, mislead and deceive dealers and the purchasing public into the belief that the wine sold by respondent is that specific wine distinctively designated by the geographical term "Chateau Yquem" as aforesaid, and have the capacity and tendency to, and do induce dealers and the purchasing public, acting in such belief, to purchase the said wines of the respondent, thereby diverting trade to respondent from its competitors who do not misuse the said name of "Chateau Yquem" or in any other manner misrepresent the nature, type, source or origin of their wines, and thereby respondent does substantial injury to substantial competition in interstate commerce.

CONCLUSION

The acts and practices of the said respondent, under the conditions and circumstances hereinbefore described, are to the prejudice of

the public and respondent's competitors, are unfair methods of competition in interstate commerce, and constitute a violation 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

This proceeding having come on to be heard by the Federal Trade Commission upon the complaint of the Commission issued and served February 5, 1936, and the answer of respondent thereto admitting to be true all of the material allegations of the complaint and waiving all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that respondent has violated an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its power and duties, and for other purposes."

It is ordered, That the respondent, Roma Wine Company, Inc., its agents, salesmen, and employees, in connection with the offering for sale or sale by it in interstate commerce of wines, do forthwith cease and desist from:

Representing by statements on its stationery, invoices, advertising matter, labels attached to the bottles in which respondent ships said wine, or in any other manner, that any wine by it sold is "Chateau Yquem" except when the wine so labeled, designated, and advertised is produced from grapes grown upon the estate of the Marquis de Lur-Saluze, located in the Sauterne country in the Province of Bordeaux, France, and manufactured, aged, processed, and bottled at the the Chateau Yquem situated upon said estate.

It is further ordered, That the said respondent, within 30 days from and after 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.

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IN THE MATTER OF
FEDERAL DISTILLED PRODUCTS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SEC. 3
OF TITLE I OF AN ACT OF CONGRESS APPROVED JUNE 16, 1933

Docket 2413. Complaint, May 24, 1935—Decision, Mar. 24, 1936

Where a corporation engaged as rectifier and wholesaler of liquors—
Featured its corporate name including words "Distilled Products" and "Federal" with phrases "Prepared by" or "Bottled by", in smaller type on labels and together with smaller type legends "Rectifiers and Blenders" on stationery and "Manufacturing Rectifiers", on price lists, and set forth words "A Federal Product" on bottle caps and, at one time, "A Federal Product . . . Federal Distilled Products, Milwaukee", on paste board cartons in which bottles were shipped, and sold bottled liquor thus labeled and contained in substantial competition with actual producers of distilled spirits from the grain and with rectifiers who do not by use of such words as "Distilled" misrepresent their status to the trade;

With effect of misleading and deceiving dealers and purchasing public into belief that it was engaged in manufacture of distilled spirits from the grain and of inducing retailers and public to purchase liquors bottled and sold by it in such belief, and thus divert trade to it from competitors who do not thus misrepresent themselves as manufacturers, and with capacity and tendency so to mislead, deceive, and induce; to the substantial injury of substantial competition:

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

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

Mr. PGad B. Morehouse for the Commission.

Mr. Ralph J. Gutgsell, of Chicago, Ill., for respondent.

COMPLAINT¹

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 Federal Distilled Products, 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, and in violation of the Act of Congress approved June 16, 1933, known as the "National Industrial Recovery Act", and it appearing to the said Commission that a proceeding by it in respect thereof would be in the public

¹ Dismissed as to count two, charging violation of National Industrial Recovery Act.