

## Complaint

## IN THE MATTER OF

## GENERAL HANDKERCHIEF MFG. 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 2772. Complaint, Apr. 17, 1936—Decision, May 20, 1936*

Where a corporation, engaged in the sale and distribution of handkerchiefs—  
Included in its corporate name the letters "Mfg." and displayed said name on  
circulars, advertising matter and otherwise in all of its dealings with  
customers or prospective customers, and set forth on circulars distributed  
to such customers the words "Manufactured exclusively by General Hand-  
kerchief Manufacturing Co., Inc. \* \* \* Chicago, Illinois; Factory  
\* \* \* Newark, New Jersey. We manufacture \* \* \* and welcome  
an opportunity of quoting you \* \* \*", and also distributed, as afore-  
said, a circular containing words "We manufacture a complete line  
\* \* \*" etc., and printed on its billheads, circulated by it, following its  
corporate name, word "Manufacturers", facts being it did not make the  
products dealt in by it, nor own or control any factory at Newark, Chi-  
cago, or any other place making the same, but sold products made by  
persons or concerns other than itself;

With tendency and capacity to confuse, mislead, and deceive a substantial  
number of the purchasers of its products into the belief that it was a  
manufacturer and to purchase its said products in such erroneous belief,  
and in belief that in buying from it they were dealing with a manufacturer  
of established business standing and thereby gaining the advantages nor-  
mally had by dealing with a manufacturer rather than one not a manu-  
facturer, and benefitting, according to common belief among such pur-  
chasers, by assurance of more uniform line of goods and greater contract  
reliability and greater desirability and advantage of such dealing, and  
with effect of diverting trade to it from competitors, among whom there  
are those who make and distribute such products dealt in by them, and  
similarly engaged jobbers, who respectively do not misrepresent their  
status as manufacturers; to the substantial injury and prejudice of  
substantial competition:

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

*Mr. T. H. Kennedy* for the Commission.

*Meyers & Lesser*, of Newark, N. J., for respondent.

## COMPLAINT

Pursuant to the provisions of an Act of Congress approved Sep-  
tember 26, 1914, entitled "An Act to create a Federal Trade Com-  
mission, to define its powers and duties, and for other purposes",

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the Federal Trade Commission, having reason to believe that the General Handkerchief Mfg. Company, Inc., a corporation hereinafter called the respondent, has been or 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 General Handkerchief Mfg. Company, Inc., a corporation organized in or about 1933 and existing under and by virtue of the laws of the State of Illinois, with its principal place of business located at 919 West Roosevelt Road, Chicago, Ill. It is and for more than one year last past has been engaged in the sale and distribution of handkerchiefs in commerce between and among the various States of the United States, causing the same when sold to be shipped from its place of business in the State of Illinois or other State of origin to purchasers thereof located in various States of the United States other than the State of Illinois or other State of origin. In the course and conduct of its business said respondent was at all times herein referred to, in competition with other corporations, individuals, firms, and partnerships likewise engaged in the sale and distribution in interstate commerce of similar products.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, said respondent included within its corporate name, under which to carry on its business, the letters "mfg." an abbreviation of the word "manufacturing". It has used continuously since in or about 1933, and is now using said corporate name, containing the said letters "mfg." in soliciting the sale of and selling its products in interstate commerce. Respondent has caused its corporate name "General Handkerchief Mfg. Company, Inc." to appear on its letterheads, bill heads, business cards, circulars, advertising matter, and otherwise, and has caused its said name to appear in trade directories. All of said printed matter has been and is distributed in interstate commerce to customers and prospective customers of respondent. Respondent has also solicited sales of its product by means of circulars distributed in interstate commerce to customers and prospective customers, said circulars containing the following representation:

Manufactured exclusively by General Handkerchief Mfg. Company, Inc., 919 West Roosevelt Road, Chicago, Illinois. Factory—22-24 Prospect St., Newark, N. J.

We manufacture a full line of sanitary packed handkerchiefs and welcome an opportunity of quoting you on your special requirements.

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Respondent has caused the following representation to be published in the annual directory of the handkerchief industry, 1935-1936:

General Handkerchief Manufacturing Company,  
Factory—919 West Roosevelt Road,  
Chicago, Illinois.

Said directory of the handkerchief industry was published by the Handkerchief Industry Association, Inc., and was and is circulated in interstate commerce to customers and prospective customers of respondent. Respondent has circulated in interstate commerce to its customers and prospective customers, a circular containing the following representation:

We manufacture a complete line of sanitary boxed men's handkerchiefs.

On respondent's bill heads, following the aforesaid corporate name of respondent, respondent has caused to be printed the word "manufacturers". In truth and in fact the said respondent does not make or manufacture the products sold by it, nor has it ever made or manufactured said products, nor does the respondent own or control a factory at Chicago, Ill., or Newark, N. J., nor does it own or operate or directly and absolutely control any factory at either of said places or elsewhere wherein the products sold by it are made or manufactured, but on the contrary respondent has filled and now fills orders with products made or manufactured in a factory which it does not own, operate, or control.

PAR. 3. There is a preference on the part of certain purchasers or prospective purchasers located in different States of the United States, for products similar to those sold by respondent to be resold by retail to the public for buying directly from the manufacturer thereof. There is an impression and belief existing among certain of said purchasers or prospective purchasers of handkerchiefs, that a more uniform line of goods may be purchased from a manufacturer than from one not a manufacturer; that more reliance can be placed on a manufacturer with regard to the carrying out of contracts than can be placed on one not a manufacturer, and that dealing with a manufacturer is preferable and more advantageous to the purchaser than is dealing with one not a manufacturer. The use by the respondent of "mfg." in respondent's corporate name, and the use by the respondent of the words "manufactured", "manufacture" and "factory", as described in paragraph 2 hereof, has a tendency and capacity to mislead and deceive purchasers who are customers and

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prospective customers of respondent by causing them to believe that respondent actually owns and operates, or directly and absolutely controls the factory in which products sold by respondent are made or manufactured, or that respondent itself makes or manufactures its products and that as a result thereof they will secure an advantage in dealing with respondent. The aforesaid representations by respondent have a tendency and capacity unfairly to divert trade to respondent from other corporations, associations, individuals, firms, and partnerships who are actually manufacturing products similar to the products of respondent, and those competitors of respondent who do not manufacture similar or like products to those of respondent for sale and distribution in interstate commerce, but who truthfully advertise and label their products and who do not claim and represent themselves to be manufacturers.

PAR. 4. The practices of respondent described hereinabove are all to the prejudice of the public and of respondent's competitors, and have been and are unfair methods of competition in interstate commerce in violation of the provisions 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."

## 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 April 17, 1936, issued and served its complaint in this proceeding upon the respondent, General Handkerchief Mfg. Co. Inc., a corporation charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondent answered said complaint and in said answer admitted the allegations of the complaint and the facts therein set forth to be true, and stated that it waived hearings on the charges set forth in the complaint; that it refrained from contesting the proceeding and that it consented that the Commission make, enter, issue and serve upon it without hearing or other intervening procedure findings as to the facts and an order to cease and desist from the methods of competition alleged in the complaint.

Thereafter the proceeding came on regularly for final hearing before the Commission on the said complaint and the answer thereto, and the Commission having duly considered the same and being

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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

Since in or about 1933 the respondent, General Handkerchief Mfg. Co. Inc., has been organized and exists as a corporation under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 919 West Roosevelt Road, Chicago, Ill. Since said 1933 respondent has been engaged in the sale and distribution of handkerchiefs and has sold its products to various firms, persons, associations or corporations located not only in the State of Illinois, but other States of the United States, and after sales have been consummated the respondent has shipped the purchased goods or caused them to be shipped from its place of business in the State of Illinois, or from other States of the United States, to purchasers thereof located in States other than the State of Illinois, or than the State of origin of the shipment.

During all the time that respondent has been engaged in the foregoing business there have been other firms, associations, partnerships, or corporations engaged in similar business to that of respondent, to wit, the sale and distribution of handkerchiefs in interstate commerce. The respondent during all of the aforesaid time was and still is in competition in commerce in the sale of said products with other individuals, firms, and corporations likewise engaged in the sale and distribution of said or similar products in interstate commerce.

In soliciting the sale of its products, respondent has continuously included within its corporate name the letters "Mfg.", which is an abbreviation of the word "Manufacturing." This corporate name "General Handkerchief Mfg. Co. Inc." has appeared on respondent's letterheads, billheads, business cards, circulars, advertising matter, and otherwise in all of its dealings with respondent's customers or prospective customers.

Since in or about 1933 the respondent has also carried the following representations on the circulars distributed in interstate commerce to customers or prospective customers "Manufactured exclusively by General Handkerchief Manufacturing Co. Inc., 919 West Roosevelt Road, Chicago, Illinois; Factory—22-24 Prospect Street, Newark, New Jersey. We manufacture a full line of sanitary packed handkerchiefs and welcome an opportunity of quoting you on your special requirements." There has also appeared in the Annual Directory of the Handkerchief Industry for 1935-1936 the following: "General Handkerchief Manufacturing Company—Factory 919 West

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Roosevelt Road, Chicago, Illinois." Said directory of the handkerchief industry was and is circulated in interstate commerce to customers and prospective customers of respondent.

Respondent has also circulated in interstate commerce to its customers and prospective customers a circular containing the following representation: "We manufacture a complete line of sanitary boxed men's handkerchiefs."

Respondent has also caused to be printed on respondent's billheads following its corporate name the word "Manufacturers." These billheads have likewise been circulated in interstate commerce in ordinary business transactions of the respondent.

As a matter of fact at no time since 1933 has the respondent ever made or manufactured the products which it has sold, nor has it ever owned or absolutely controlled any factory during said time. Respondent has not owned or controlled factories at either Newark, N. J., Chicago, Ill., or any other place, nor does it now own or control any factory where the products sold and shipped by it in interstate commerce have been made or manufactured. However, respondent has at all times since 1933 sold products which have been made or manufactured by persons, firms or corporations other than itself.

The representations above referred to which have been made by respondent by the use of the letters "Mfg." the words "Manufacturers", "Manufactured", "Manufacture", "Factory—22-24 Prospect Street, Newark, New Jersey" and "Factory—919 West Roosevelt Road, Chicago, Illinois" have been made in such a way that respondent's customers or prospective customers were and are led to believe that respondent operates a factory or is a manufacturer.

It is the common belief among purchasers or prospective purchasers of respondent's products located in various States of the United States that handkerchiefs can be purchased directly from a manufacturer with assurance of a more uniform line of goods than can be obtained from one not a manufacturer; that more reliance can be placed upon a manufacturer with regard to the carrying out of contracts than can be placed upon one not a manufacturer; and that dealing with a manufacturer is preferable and more advantageous to the purchaser than is dealing with one not a manufacturer. The representations made by respondent above referred to have the capacity and tendency to mislead and deceive the purchaser of respondent's products into believing that when purchasing said products from respondent they are dealing with a manufacturer of established business standing and that such purchasers are thereby gaining all of the advantages that they normally gain by dealing with a manufacturer rather than one not a manufacturer.

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## Order

The representations of respondent, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive a substantial number of the purchasers of respondent's products into the belief that respondent is a manufacturer, and to purchase respondent's products in such erroneous belief.

There are many competitors of respondent who manufacture and distribute products similar to those sold by respondent in interstate commerce who do not misrepresent their status as a manufacturer, who likewise sell and distribute products similar to those sold and distributed by respondent in various States of the United States, and there are jobbers engaged in business similar to that conducted by respondent who do not represent themselves to be manufacturers.

Respondent's acts and practices as hereinabove set forth tend to and do divert trade to respondent from such competitors to the substantial injury and prejudice of such competitors.

## CONCLUSION

The practices of the respondent under the conditions and circumstances set forth in the foregoing findings are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in commerce and constitute a violation 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

This matter coming on to be heard by the Federal Trade Commission upon the complaint of the Commission, answer of respondent, said answer admitting all the allegations of the complaint and the facts therein set forth to be true and stating that the said respondent desires to waive hearing on the charges set forth in the complaint, that it refrains from contesting the proceedings and that it consents that the Commission may make, enter, issue, and serve upon it, without hearing or other intervening procedure, findings as to the facts and an order to cease and desist from the methods of competition alleged in the complaint, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated 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" and being fully advised in the premises;

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*It is now ordered,* That the respondent, General Handkerchief Manufacturing Company, Inc., and its agents, representatives, servants and employees in connection with the offering for sale and sale of handkerchiefs in interstate commerce, cease and desist from:

Representing directly or indirectly through and by use of its corporate name, letterheads, circulars, advertising literature or in any other manner that it is a manufacturer.

*It is further ordered,* That the respondent above named within 30 days after the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner in which this order has been complied with.

## Syllabus

## IN THE MATTER OF

F. A. MARTOCCIO COMPANY, IN ITS OWN NAME AND  
RIGHT AND TRADING AS HOLLYWOOD CANDY  
COMPANY

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

*Docket 2283. Complaint, Jan. 23, 1935—Decision, May 26, 1936*

Where a corporation engaged in the manufacture and sale of candy, including "straight" merchandise and "draw" or "deal" assortments composed of small bars, middle sized bars, and larger bars, and punch boards or push cards so arranged that number punched by chance from 100-disc board or card determined which size bar purchaser was to receive by lot or chance in return for five cents paid, and in accordance with legend set forth on the explanatory display card supplied with assortment—

Sold said assortments, along with said boards and display cards, to wholesale dealers or jobbers, so assembled and packed that they could be displayed by retailer vendees without alteration or rearrangement, and be by them offered and sold to consuming and purchasing public by means of said push cards, and with knowledge and intent that they would and should thus be resold to such public by said retailers, including small dealers whose stores, frequently located near schools, attract trade of school children, principal consumers or purchasers of lottery or prize-package candy, and purchasers thereof in preference to "straight goods" product, by reason of lottery or gambling feature connected with former and possibility of becoming a winner, and who constitute source of a substantial demand therefor;

With result that competitors, including those who, along with many retail and wholesale dealers and jobbers, regard such method of sale and distribution as morally bad and as encouraging gambling, especially among children, and as injurious to the industry in merchandising a chance or lottery instead of candy and as providing retail merchants with means of violating the laws of the several States, and who refuse, in common with various dealers, to sell candy so packed and assembled that it can be resold to public by lot or chance, were put to a disadvantage in competing, and retailers who found that they could dispose of more candy by the draw or deal method, bought its products and those of others employing such methods and trade was diverted to it and such others, from said competitors, whose sales of "straight goods" candy showed continued decrease and who can compete on even terms only by giving same or similar devices to retailers, which they are unwilling to do, and some competitors began sale and distribution of candy packed and assembled for resale to public by lot or chance in order to meet competition of candy sold and distributed by such methods and in constant demand; to the prejudice and injury of the public and competitors and in restraint upon and to the detriment of freedom of fair and legitimate competition in said industry, and in violation of the public policy of the United States Government: