

Syllabus

IN THE MATTER OF
MAJESTIC DISTILLING COMPANY, 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 2376. Complaint, July 1, 1935¹—Decision, Nov. 17, 1936*

Where two partners and their corporate successor, acting upon their direction, engaged in purchasing, rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages, and in the sale thereof to wholesalers and retailers, in substantial competition with those engaged in the manufacture by true distillation of whiskies, brandies, rums, and other spirituous beverages, and in the sale thereof, and with those engaged in rectifying, blending, and bottling whiskies and other spirituous beverages, and never engaged in distillation of alcoholic beverages by original and continuous distillation from mash, wort, or wash, as long understood from word "distilling" in the trade as meaning manufacture of such liquors by process of distillation from some kind of mash, and with no stills or other apparatus for the production of distilled spirits—

Represented, through use of word "Distilling" in their corporate name, printed on their stationery and on the labels attached to the bottles in which they sold and shipped their said products, and furnished their wholesale customers with the means of representing to the retailer and ultimate purchaser that the said whiskies, brandies, and other spirituous beverages contained in such bottles were by them made through process of distillation, notwithstanding fact they were not distillers and did not distill said whiskies or other liquors thus bottled, sold, and transported by them;

With tendency to mislead and deceive wholesalers, retailers, and ultimate purchasers into belief that in buying said liquors they were purchasing a product bottled at a distillery by the original distiller thereof, as preferred by a substantial portion of purchasers, and with effect of unfairly diverting trade to them from their competitors, including those who manufacture spirituous liquors by process of original and continuous distillation from mash, wort, or wash, and truthfully designate themselves as "distilling" companies, and those who, engaged as rectifiers, do not untruthfully designate themselves as "distilleries," "distillers," or "distilling companies":

Held, That such acts and practices were to the prejudice of the public and competitors, and constituted unfair methods of competition.

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

Mr. PGad B. Morehouse and *Mr. DeWitt T. Puckett* for the Commission.

Nash & Donnelly, of Washington, D. C., for respondent.

¹ Amended and supplemental.

AMENDED AND SUPPLEMENTAL COMPLAINT

Whereas 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 heretofore on the 24th day of April 1934, issued its complaint charging Morris Brown and Max M. Berkowitz, individuals, trading under the name and style of Majestic Distilling Company, with using certain unfair methods of competition in commerce, as "commerce" is defined in said act, and it since having appeared to the Commission that Majestic Distilling Company, a body corporate, with the aforesaid individuals as directors thereof, on, to wit, the 11th day of March 1935, became and was the successor to the business theretofore carried on by the aforesaid individuals, now therefore, pursuant to the provisions of the aforesaid act, the Commission having reason to believe that Majestic Distilling Company, a corporation, as well as Morris Brown and Max M. Berkowitz, individuals, hereinafter referred to as respondents, have been and are 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 this, its amended and supplemental complaint, stating its charges in that respect as follows:

PARAGRAPH 1. From April 1934, until March 11, 1935, respondents, Morris Brown and Max M. Berkowitz, individuals operating as a partnership under the firm name and style Majestic Distilling Company, under the laws of the State of Maryland, and having their office and principal place of business in Baltimore, in said State, were engaged in the business of purchasing, rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages, and in the sale thereof in constant course of trade and commerce between and among the various States of the United States and in the District of Columbia. Respondent, Majestic Distilling Company, is a corporation organized in August 1934, existing and doing business under the laws of the State of Maryland, with its office and principal place of business in the city of Baltimore, in said State, and on the 11th day of March 1935, said corporation became and was the successor to the business theretofore carried on by the aforesaid individuals, and thereafter was and has been engaged in the business of purchasing, rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages, and in the sale thereof in constant course of trade and commerce between and among the various States of the United States and in the District of Columbia.

The matters and things hereinafter alleged to have been done and performed, were done and performed by the individual respondents, Morris Brown and Max M. Berkowitz, operating as a partnership between the dates of April 1934, and the 11th day of March 1935; and the matters and things hereinafter alleged to have been done and performed, were done and performed by Majestic Distilling Company, a corporation, in its own right and upon the direction of Morris Brown and Max M. Berkowitz, on and after the 11th day of March 1935.

In the course and conduct of the business of Majestic Distilling Company, both as a partnership and as a body corporate, as hereinbefore set out, Morris Brown, Max M. Berkowitz and Majestic Distilling Company, a corporation, and each of them, now cause and have caused the aforesaid products when sold to be transported from their place of business in Baltimore aforesaid into and through various other States of the United States to the purchasers thereof, consisting of wholesalers and retailers, located in other States of the United States and in the District of Columbia. In the course and conduct of the business as aforesaid, respondents, and each of them, are now and have been in substantial competition with other corporations, individuals, partnerships, and firms engaged in the manufacture by true distillation of whiskies, brandies, rums, and other spirituous beverages 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 the business as aforesaid, respondents, and each of them, are and have been in substantial competition with other corporations, individuals, partnerships, and firms engaged in the business of rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages 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 word "distilling" when used in connection with the liquor industry and with the products of such industry has had and still has a definite significance and meaning to the minds of wholesalers and retailers in such industry and to the ultimate purchasing public, to wit, the manufacturing of such liquors by the process of original and continuous distillation from mash, wort, or wash through continuous closed pipes and vessels until the manufacture thereof is completed, and a substantial portion of the purchasing public prefers to buy spirituous liquors prepared and bottled by distillers.

PAR. 3. In the course and conduct of the business as aforesaid, by use of the word "distilling" in their partnership and corporate name, printed on their stationery and on the labels attached to the bottles in

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which they sell and ship their said products, and in various other ways, respondents, and each of them, represent and have represented to their customers and furnished the latter with the means of representing to their vendees, both retailers and the ultimate consuming public, that they, respondents, are distillers and that the said whiskies, brandies, rums, and other spirituous beverages therein contained were by them manufactured through the process of distillation from mash, wort, or wash, as aforesaid, when, as a matter of fact, the respondents are not and have not been distillers, do not now and never did distill the said whiskies, or other spirituous liquors by them so bottled, labeled, sold, and transported, and do not now and never did own, operate, or control a place or places where such beverages are manufactured by the process of distillation from mash, wort, or wash.

PAR. 4. There are among the competitors of respondents engaged in the sale of spirituous liquors, as mentioned in paragraph 1 hereof, corporations, firms, partnerships, and individuals who manufacture and distill whiskies, brandies, rums, and other spirituous beverages sold by them and who truthfully use the words "distillery," "distilleries," "distillers," or "distilling" as a part of their corporate or trade names and on their stationery and on the labels of the bottles in which they sell and ship such products. There are also among such competitors corporations, firms, partnerships, and individuals engaged in the business of rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages who do not use the words "distilleries," "distillery," "distilling," or "distillers" as a part of their corporate or trade names nor on their stationery nor on the labels attached to the bottles in which they sell and ship their said products.

PAR. 5. The representation by respondents as set forth in paragraph 3 hereof, is calculated to and has a capacity and tendency to and does mislead and deceive dealers and the purchasing public into the beliefs that respondents are distillers and that the whiskies, brandies, rums, and other spirituous beverages sold by the respondents are manufactured and distilled by them and is calculated to and has the capacity and tendency to and does induce dealers and the purchasing public, acting in such beliefs, to purchase the whiskies, brandies, rums, and other spirituous beverages rectified, blended and bottled by the respondents, thereby diverting trade to respondents from their competitors who do not by their corporate or trade names or in any other manner misrepresent that they are manufacturers by distillation of whiskies, brandies, rums, and other spirituous beverages, and thereby respondents do substantial injury to substantial competition in interstate commerce.

PAR. 6. The acts and things above alleged to have been done and the false representations alleged to have been made by respondents are to the prejudice of the public and the competitors of respondents 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 April 24, 1935, issued and served its complaint in this proceeding upon Morris Brown and Max M. Berkowitz, individuals, trading under the name and style of Majestic Distilling Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Thereafter, it appearing that Majestic Distilling Company, a body corporate, with the aforesaid individuals as directors thereof, on, to wit, the 11th day of March 1935, became and was the successor to the business theretofore carried on by the aforesaid individuals, the Federal Trade Commission, on July 1, 1935, issued and served its amended and supplemental complaint in this proceeding upon the respondents, Majestic Distilling Company, a corporation, and Morris Brown and M. M. Berkowitz, individuals, trading under the name and style of Majestic Distilling Company. After the issuance of said amended and supplemental complaint, and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by PGad B. Morehouse, attorney for the Commission, before John W. Bennett, an examiner of the Commission, theretofore duly designated by it, and in opposition to the allegations of the complaint by Horace J. Donnelly, Jr., attorney for the respondents; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto, and the oral arguments of counsel aforesaid; and the Commission having duly considered the same, and being now 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. Respondents, Morris Brown and Max M. Berkowitz, are individuals who, from January 4, 1934, up to approximately March 11, 1934, traded under the name and style of Majestic Distilling Company, with place of business at No. 10 E. Lombard Street, Baltimore, Md. During said time they were engaged in the business of purchasing, rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages, and in the sale thereof in constant course of trade and commerce between and among the various States of the United States and in the District of Columbia.

Respondent, Majestic Distilling Company, is a corporation organized in August 1934, existing and doing business under the laws of the State of Maryland, with its office and principal place of business at No. 10 E. Lombard Street, Baltimore, Md. On March 11, 1935, said corporation became and was the successor to the business as above described which had theretofore been carried on by the aforesaid individuals Morris Brown and Max M. Berkowitz and thereafter was, has been, and still is, engaged in the business of purchasing, rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages, and in the sale thereof in constant course of trade and commerce between and among the various States of the United States and in the District of Columbia.

The matters and things hereinafter alleged to have been done and performed, were done and performed by the individual respondents, Morris Brown and Max M. Berkowitz, operating as a partnership between the dates of April 1934, and the 11th day of March 1935; and the matters and things hereinafter alleged to have been done and performed, were done and performed by Majestic Distilling Company, a corporation, in its own right and upon the direction of Morris Brown and Max M. Berkowitz, on and after the 11th day of March 1935.

In the course and conduct of the business of Majestic Distilling Company, both as a partnership and as a body corporate, as hereinbefore set out, Morris Brown, Max M. Berkowitz, and Majestic Distilling Company, a corporation and each of them, now cause and have caused the aforesaid products, when sold to be transported from their place of business in Baltimore aforesaid into and through various other States of the United States to the purchasers thereof, consisting of wholesalers and retailers, located in other States of the United States and in the District of Columbia. In the course and conduct of the business as aforesaid, respondents, and each of them, are now and have been in substantial competition with other corpora-

tions, individuals, partnerships, and firms engaged in the manufacture by true distillation of whiskies, brandies, rums, and other spirituous beverages, 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 the business as aforesaid, respondents, and each of them, are, and have been, in substantial competition with other corporations, individuals, partnerships, and firms engaged in the business of rectifying, blending, and bottling whiskies, brandies, rums, and other spirituous beverages, 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. Since the repeal of prohibition, there has been, and still is, a sharp distinction in the trade between the processes of distilling and rectifying. Distilling is confined to the manufacture of alcoholic spirits by an original and continuous process from grain, or other raw materials, in a mash to a cistern room, in the case of whiskey. Rectifying deals wholly with subsequent modifications of the product not involving the process of distillation. This distinction in trade significance has been recognized by the Government through its issuance of two separate kinds of basic permits to those engaging in the two respective operations.

Rectifying in the distilled spirits rectifying industry means the mixing of whiskies of different ages or the mixing of other ingredients with whiskies but reducing proof of whiskey by adding water is not rectifying. Rectifiers also blend whiskies with neutral spirits (grain alcohol).

A distiller, in the sense ordinarily understood by the liquor industry, is one who prepares distilled spirits by a process of original and continuous distillation from mash, wort, or wash, through continuous closed pipes and vessels until the manufacture thereof is complete. Many distillers operate a separate establishment 600 feet or more away from their distillery, known as a rectifying plant, wherein they operate in the same manner as described above, for a rectifier—sometimes exclusively with spirits of their own distillation, and sometimes with spirits purchased from other distillers, or both. Some distilleries have a tax-paid bottling room on the distillery bonded premises, wherein their distilled spirits are bottled straight as they come from the still, or in a bonded warehouse after aging, or after reduction of proof. Any rectifying by a distiller, however, must be done in his rectifying plant under his rectifier's permit. On all bottled liquors, whether bottled at the distillery rectifying plant or at any other rectifying plant, appear the words "Bottled" or "Blended" (as the case may be) "by the -----"

Company." If the distilled spirits therein contained are bottled by a distiller either in his distillery or are spirits of his own distillation bottled in his rectifying plant, the distiller may, and does, put "Distilled and Bottled by ----- Company." If, in the distiller's rectifying plant other spirits have been blended or rectified, he puts "Blended and Bottled by ----- Company." Finally, blown (usually in the bottom) in each bottle is a symbol, consisting of a letter followed by a number, identifying the bottler, viz, a "D" for a distillery, and "R" for a rectifier, the number following said letter corresponding with the distiller's or rectifier's permit. Thus "R-397" designates these respondents. A distiller who also operates a rectifying plant, having both kinds of permits, may use either symbol, depending upon whether the liquor contained in the bottle was produced and bottled under his distiller's or his rectifier's permit.

Knowledge of these details is not widespread among the retail trade, and is very limited to the general public.

It is not possible to determine from the presence of the phrase "Blended and Bottled by" alone, or the phrase "Bottled by" alone, on the label, whether the package was bottled by a rectifier who is a distiller, or by a rectifier who is not a distiller.

These respondents purchase their distilled spirits from distillers both within and outside of Maryland, do little rectifying, and mostly bottle the purchased whiskies straight at 100 proof.

None of these respondents had, nor ever has, distilled alcoholic beverages by an original and continuous distillation from mash, wort, or wash, and does not now, and has never had stills or other apparatus for the production of distilled spirits. For a long period of time, the word "distilling" in connection with the liquor industry has had, and still has, a definite significance to the minds of purchasers, both wholesale and retail, to wit: the manufacture of such liquors by the process of distillation from some kind of mash.

PAR. 3. Approximately thirty witnesses who had had no connection with the liquor industry were subpoenaed at the instance of the Commission to ascertain whether or not there existed a preference of a substantial portion of purchasers and potential purchasers to buy whiskies and other alcoholic beverages, bottled at, or by, a distillery or distilling company. These witnesses were fairly representative, and included men from practically every walk of life, namely: a banker, stockroom clerk, sales manager, superintendent of fertilizer plant, salesman, Government employee, pastry shop owner, electrical engineer, telephone man, real estate broker, postal clerk, department store manager, paper carrier, insurance man, a professor of anatomy,

a syrup salesman, an assistant train yardmaster, coal merchant, and a graduate law student. Their testimony showed that the word "distilling," or similar words in connection with the liquor industry, meant to them a person or concern which manufactured by distillation, and twenty-two of them testified that in a corporate name such as respondents', such a word as "distilling" would imply to them that respondents were such a manufacturer, and they indicated a distinct preference to buy distillery-bottled packages of liquor, usually for the reason that they felt more confidence in the goods, as the manufacturer, in their judgment, was likely to be more trustworthy and have more at stake than any middle-man. A liquor dealer with thirty-one years of experience in making contacts with the trade and the public was of the opinion, based upon such experience, that in the majority of cases, the ultimate consumer prefers to buy distillery-bottled goods. The respondents produced approximately ten witnesses who were retail liquor dealers, and who, from their experience with the public, stated it as their observation that customers paid no attention to the corporate or trade name of the seller as shown upon the labels, but made their purchases because of other considerations. Such testimony is not contradictory to that given by the thirty witnesses as aforesaid, from all of which the Commission concludes it to be true that there is a substantial portion of purchasers which prefers to buy beverages bottled by the original distiller or manufacturer thereof.

PAR. 4. In the course and conduct of their business as aforesaid, by the use of the word "Distilling" in their corporate name, printed on their stationery, and on the labels attached to the bottles in which they sell and ship such products, respondents represent, and furnish their wholesale customers in the District of Columbia with the means of representing to the retailer and ultimate purchaser that the said whiskies, brandies, rums, and other spirituous beverages therein contained, were by them manufactured through the process of distillation, when, as a matter of fact, the respondents are not distillers and did not distill the said whiskies, brandies, rums, or other spirituous liquors by them so bottled, sold, and transported.

PAR. 5. The Commission finds that because the trade, as well as the public, has a substantial preference to buy liquors bottled by the actual distillers, the tendency to diversion of trade by respondents' use of the word "Distilling" in their name is plain, particularly with reference to any prospective purchaser who does not know from other sources the particular status of respondents, and the name readily lends itself as a tool to any salesman to be used by him for the pur-

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pose of gaining an unfair competitive advantage in competing with an actual distilling company for any particular order of whiskey.

The use by respondents of the term "Distilling" in their trade or corporate name upon their invoices, stationery, advertising, and upon the labels attached to the bottles in which they sell and ship their spirituous liquors, has a tendency to mislead and deceive wholesalers, retailers, and the ultimate purchasers into the belief that in purchasing the same they are purchasing a product bottled at a distillery by the original distiller thereof, and this, in turn, tends to, and does, unfairly divert trade from respondents' competitors to the respondents. Among such competitors, there are those who, manufacturing spirituous liquors by a process of original and continuous distillation from mash, wort or wash, do truthfully designate themselves as distilling companies, and also among such competitors are those in the same class with these respondents, to wit: those engaged in that branch of the industry known as the distilled spirits rectifying industry who, as rectifiers do not untruthfully designate themselves as "distilleries," "distillers," or "distilling companies."

CONCLUSION

The aforesaid acts and practices of the respondents, Majestic Distilling Company, a corporation, and Morris Brown and Max M. Berkowitz, individuals, trading under the name and style of Majestic Distilling Company, are to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in 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

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, Majestic Distilling Company, a corporation, and Morris Brown and Max M. Berkowitz, individuals, trading under the name and style of Majestic Distilling Company, testimony and other evidence taken before John W. Bennett, an examiner of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by PGad B. Morehouse, counsel for the Commission, and by Horace J. Donnelly, Jr., counsel for respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of

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Congress approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the respondents, Majestic Distilling Company, a corporation, its officers, representatives, agents, and employees, and Morris Brown and Max M. Berkowitz, individuals, trading under the name and style of Majestic Distilling Company, and each of them, in connection with the offering for sale, sale, and distribution of whiskies, brandies, rums, and other spirituous beverages in interstate commerce or in the District of Columbia do forthwith cease and desist from:

Representing through the use of the word "Distilling" in their respective corporate or trade names on their stationery, advertising, on the labels attached to the bottles in which they sell and ship their products, or in any other way by word or words of like import, (a) that they are distillers of whiskies, brandies, rums, or any other spirituous beverages; (b) that the said whiskies, brandies, rums, or other spirituous beverages were by them, or any of them, manufactured through the process of distillation; or (c) that they own, operate, or control a place, or places, where any such products are by them manufactured by a process of original and continuous distillation from mash, wort, or wash, through continuous closed pipes and vessels until the manufacture thereof is completed, unless and until respondents shall actually own, operate, or control such a place or places.

It is further ordered, That the said respondents, within 60 days from, and after, the date of the service upon them of this order, shall file with the Commission a report, or reports, in writing, setting forth in detail the manner and form in which they are complying and have complied with the order to cease and desist hereinabove set forth.

IN THE MATTER OF

C. O. TAYLOR DISTRIBUTING COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2803. Complaint, May 15, 1936—Decision, Nov. 17, 1936*

Where a corporation engaged as wholesale distributor of alcoholic liquors, purchasing bottled whiskies and other distilled spirits and selling the same in substantial competition with those engaged in the manufacture by distillation of whiskies and other distilled spirits or in purchasing and bottling such products and selling the same, thus manufactured or purchased, among the various States and in the District of Columbia, and including among its said competitors those who (1) manufacture the whiskies and other distilled spirits sold by them by process of original distillation from mash, wort, or wash, and truthfully use words "Distillery," "Distilleries," "Distillers," "Distilling," or "Distilled Products," as a part of their corporate or trade names or on their stationery, cartons, and labels of the bottles in which they sell and ship such products; those who, (2) engaged in purchasing, rectifying, blending, and bottling such products, do not use aforesaid words as above set forth; and those who, (3) engaged in the sale of said products, do not misrepresent the kind, quality or proof of the whiskies sold by them or the manner or method by which their products are bottled; and not engaged in "distilling" said whiskies and other spirits sold and transported by it, as long definitely understood in trade and by ultimate purchasing public as meaning manufacture of whiskies and other distilled spirits by process of original distillation from mash, wort, or wash, and not a distiller of the aforesaid products, for purchase of which, direct from the actual distiller, there is a preference on the part of a substantial portion of the purchasing public, and neither owning, operating, nor controlling any place or places where such spirits are made by process of distillation as hereinabove explained—

- (a) Represented, through abbreviation of word "Distributing" to "DIST." in its corporate name and by the printing thereof on stationery, cartons, labels, contracts, and advertising matter used by it, and in various other ways, to its customers, and furnished the same with the means of thus representing to their vendees, both retailers and ultimate consuming public, that it was a distilling company and that the whiskies and other distilled spirits by it sold were by it manufactured through process of distillation from mash, wort, or wash as aforesaid, notwithstanding the fact it was not a distiller and did not thus distill its said products as hereinbefore set out;
- (b) Labeled its said whiskey as "A 100 Percent Straight Bourbon Whiskey 90 Proof," notwithstanding fact that said product was not, as implied to trade and purchasing public from term "100 percent straight whiskey," 100 proof, and was not 100 percent straight whiskey; and
- (c) Set forth on the labels attached to the bottles of whiskies sold and distributed by it that it carefully supervised the bottling thereof, notwithstanding fact it did not thus supervise same and had nothing to do with either its blending or bottling;