

Complaint

IN THE MATTER OF
JOSEPH LEWIN, TRADING AS LEE-V-NO-RING CHEMICAL
COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2924. Complaint, Sept. 17, 1936—Decision, Feb. 17, 1937*

Where an individual, engaged in preparation of cleaning fluid, and offer and sale thereof—

Caused his trade name, including words "Leev-No-Ring" to appear on labels affixed to containers of his product, and featured same in circulars, folders, and other forms of printed matter published and circulated by him among the general public, and represented that his said fluids could be used safely and without injury to the most delicate fabrics or materials, and would remove all grease spots instantly and without injury to such fabrics, and would not in any instance leave a ring, facts being his said product, used on fabrics dyed with non-fast or fugitive dyes, did affect colors thereof by causing same to bleed or run, and in case of certain fabrics did leave appearance of a mark or ring thereon;

With capacity and tendency to mislead and deceive purchasers and prospective purchasers thereof into belief that said fluids could be used safely and without injury and with results claimed therefor, as above set forth, and to induce purchase of his said products in such erroneous beliefs, and with effect of thereby diverting trade to him from competitors, including those who, as manufacturers, compounders, sellers, and distributors of like and similar products, truthfully advertise and represent the nature, merit, and value of their respective products, or do not advertise and represent that the same have merit or value which they do not possess; to the substantial injury of competition in commerce:

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

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Joseph C. Fehr for the Commission.

Mr. Clyde L. Rogers, of Washington, D. C. and *Mr. David S. Andron*, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission having reason to believe that Joseph Lewin has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public

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interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Joseph Lewin, hereinafter referred to as respondent, is an individual trading as Leev-No-Ring Chemical Company, having his office and principal place of business located at 207 West 17th Street, in the city of New York, in the State of New York. Respondent for more than one year last past has been, and still is, engaged in the preparation of Cleaning Fluids and offering said products for sale and selling the same, in commerce between the State of New York and the several States of the United States and in the District of Columbia. When said products are sold, respondent transports or causes the same to be transported from his place of business in the State of New York to the purchasers thereof located in States of the United States other than the State of New York and in the District of Columbia. There has been for more than one year last past, and still is, a constant current of trade and commerce in said products so compounded by respondent, between and among the various States of the United States and in the District of Columbia. Respondent is now and for more than one year last past has been in substantial competition with other individuals, and with partnerships, corporations, and firms engaged in the manufacture and compounding of like and similar products 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. In the course and conduct of his business, as aforesaid, the respondent, in soliciting the sale of and selling his cleaning fluids and for the purpose of creating a demand upon the part of the consuming public for said products, adopted as and for a trade name under which to carry on business the words, "Leev-No-Ring Chemical Company." Respondent causes and for more than one year last past has caused said trade name containing the hyphenated words "Leev-No-Ring" to appear on labels affixed to the containers of his products. Said trade name is also featured in circulars, folders, and other forms of printed matter relating to such products which respondent issues, publishes, and circulates and has issued, published, and circulated to and among the general public of the United States. The respondent makes and has made to the general public many other unfair, false, and misleading statements with reference to the value and merits of his said products, a portion of which are as follows:

LEE-NO-RING The Perfect Cleaning Fluid **NON-INJURIOUS** To The Most Delicate Materials.

LEE-NO-RING is safe on silks and artificial silks as well as on all delicate fabrics. Dries thoroughly leaving **NO-RING**.

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Removes all grease spots instantly without injury to the most delicate fabric.
Will not injure the most delicate fabrics.

PAR. 3. The statements and representations set forth in paragraph 2 hereof have the capacity and tendency to mislead and deceive purchasers and prospective purchasers of respondent's products into the belief:

(a) That the respondent's cleaning fluids can be used safely and without injury to the most delicate fabrics or materials;

(b) That respondent's cleaning fluids when used will remove all grease spots instantly without injury to the most delicate fabrics;

(c) That the respondent's cleaning fluids when used will not in any instance leave a ring;

whereas, in truth and in fact, respondent's said products when used on fabrics dyed with certain kinds of dye, such as non-fast or fugitive dyes, does affect the colors of such fabrics by causing the same to bleed or run. Nor is it true, as represented, that the use of respondent's said products on certain fabrics does not result in the appearance of a mark or ring on such fabrics. In truth and in fact, in either or in both of these ways such fabrics are in fact injured by the use of respondent's said products thereon.

PAR. 4. There are among the competitors of the respondent in interstate commerce manufacturers, compounders, and distributors of like and similar products who truthfully advertise and represent the nature, merit, and value of their respective products. There are also among such competitors of the respondent manufacturers compounders and distributors of like and similar products who do not advertise and otherwise represent that such products have merit or value which they do not have.

PAR. 5. The above alleged acts and practices of respondent have the capacity and tendency to mislead and deceive purchasers and prospective purchasers into the erroneous beliefs described in paragraph 3 hereof and into the purchase of respondent's products in such beliefs. Thereby trade is diverted by respondent from respondent's competitors in interstate commerce referred to in paragraph 4 and as a consequence thereof substantial injury is done by respondent to competition in interstate commerce.

PAR. 6. Said acts and practices of respondent are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

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 September 17, 1936, issued, and on September 21, 1936, served its complaint in this proceeding upon respondent, Joseph Lewin, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer briefs and oral arguments of counsel having been waived, 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. Joseph Lewin, hereinafter referred to as respondent, is an individual trading as Leev-No-Ring Chemical Company. His office and principal place of business is located at 207 West 17th Street, in the city of New York, in the State of New York. For more than one year last past he has been, and still is, doing business under the name and style of Leev-No-Ring Chemical Company. In the operation of this business he has been and is engaged in the preparation of cleaning fluids and offers and has offered said products for sale and sells same in commerce between the State of New York and the several States of the United States, and in the District of Columbia.

When said products are sold, respondent transports or causes the same to be transported from his place of business in the State of New York to purchasers thereof located in States of the United States other than the State of New York, and in the District of Columbia. There has been for more than one year last past, and there still is, a constant current of trade and commerce in said products so compounded by respondent, between and among the various States of the United States, and in the District of Columbia. Respondent is now, and for

more than one year last past has been, in substantial competition with other individuals, and with partnerships, corporations, and firms engaged in the manufacture and compounding of like and similar products 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. In the course and conduct of his business, as aforesaid, the respondent, in soliciting the sale of and selling his cleaning fluids and for the purpose of creating a demand upon the part of the consuming public for said products, adopted as and for a trade name under which to carry on business the words, "Leev-No-Ring Chemical Company." Respondent causes and for more than one year last past has caused said trade name containing the hyphenated words "Leev-No-Ring" to appear on labels affixed to the containers of his product. Said trade name is also featured in circulars, folders, and other forms of printed matter relating to such products which respondent issues, publishes and circulates and has issued, published, and circulated to and among the general public of the United States. The respondent makes and has made to the general public many other deceptive and misleading statements with reference to the value and merits of his said products. Among the claims thus advertised by respondent for the purpose of inducing members of the public to purchase his products, are the following:

LEE-NO-RING The Perfect Cleaning Fluid NON-INJURIOUS To The Most Delicate Materials.

LEE-NO-RING is safe on silks and artificial silks as well as on all delicate fabrics. Dries thoroughly leaving NO-RING.

Removes all grease spots instantly without injury to the most delicate fabric.

Will not injure the most delicate fabrics.

PAR. 3. The statements and representations set forth in paragraph 2 hereof have the capacity and tendency to mislead and deceive purchasers and prospective purchasers of respondent's products into the belief:

(a) That the respondent's cleaning fluids can be used safely and without injury to the most delicate fabrics or materials;

(b) That respondent's cleaning fluids when used will remove all grease spots instantly without injury to the most delicate fabrics;

(c) That the respondent's cleaning fluids when used will not in any instance leave a ring;

In truth and in fact, respondent's said products when used on fabrics dyed with certain kinds of dye, such as non-fast or fugitive dyes, does affect the colors of such fabrics by causing the same to bleed or run. Nor is it true, as represented, that the use of respondent's said products on certain fabrics does not result in the appearance of

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a mark or ring on such fabrics. In truth and in fact, in either or in both of these ways such fabrics are in fact injured by the use of respondent's said products thereon.

PAR. 4. There are among the competitors of the respondent in commerce as herein set out, manufacturers, compounders, sellers and distributors of like and similar products who truthfully advertise and represent the nature, merit, and value of their respective products. There are also among such competitors of the respondent, manufacturers, compounders, sellers and distributors of like and similar products who do not advertise and otherwise represent that such products have merit or value which they do not have.

PAR. 5. The above alleged acts and practices of respondent have the capacity and tendency to mislead and deceive purchasers and prospective purchasers into the erroneous beliefs described in paragraph 3 hereof and into the purchase of respondent's products in such beliefs. Thereby trade is diverted by respondent from respondent's competitors in interstate commerce referred to in paragraph 4 and as a consequence thereof substantial injury is done by respondent to competition in interstate commerce.

CONCLUSION

The aforesaid acts and practices of the respondent, Joseph Lewin, are to the prejudice of the public and of respondent's 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 and the answer filed herein, dated January 26, 1937, by respondent, admitting all the material allegations of the complaint to be true, and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated 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."

It is ordered, That the respondent, Joseph Lewin, trading as Leev-No-Ring Chemical Company, his representatives, agents, and em-

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ployees, in connection with the offering for sale, sale, and distribution of his cleaning fluids in interstate commerce or in the District of Columbia do forthwith cease and desist from:

Representing through the use of the phrase "Leev-No-Ring" in its trade name, on its stationery, advertising matter or on the labels attached to the containers in which it sells and ships its said cleaning fluid, or in any other manner by words or phrases of like import that:

(a) The respondent's cleaning fluids can be used safely and without injury to the most delicate fabrics or materials;

(b) Respondent's cleaning fluids when used will remove all grease spots instantly without injury to the most delicate fabrics;

(c) The respondent's cleaning fluids when used will not in any instance leave a ring;

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
GULF COAST OIL COMPANY OF MISSISSIPPI, INC., AND
ANTHONY PACIERA

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

Docket 2860. Complaint, June 30, 1936—Decision, Mar. 3, 1937

Where a corporation, long engaged in sale and distribution of gasoline and motor oils in bulk to retail dealers for resale and to consumers for use in States of Louisiana, Mississippi, and Alabama, had built up, as Gulf Refining Company, a wide reputation and extensive good-will among users of its products, and said products were well and favorably known to public generally, and sign, in form of metal disk colored orange and bearing the one word "Gulf" in large black or dark blue shaded letters, and usually suspended in front of stations selling its products and on its equipment generally, constituted special feature of its advertising, used to great advantage for many years, and prospective customers had long been urged, through various mediums, to buy "At the Sign of The Orange Disk", and printed reproduction thereof was used to identify all its products and was painted upon its tanks, trucks and other equipment in letters of same character and color as those on the disk itself, and where its said products included brands designated by it as "Gulf Supreme Motor Oil" and "Gulf-pride Oil", and said names had long been featured by it in all forms of its advertising, at great expense, and were definitely associated with and formed an important part of general public's conception of it and its products, as similarly had been featured and was associated, etc., name of its "Gulf No-Nox Ethyl," under and by which name it designated "ethyl" gas composed of mixture of gasoline and tetraethyl lead, in common with other competitors who used word "ethyl" as part of their brand names under which they offered their respective "ethyl," 75 octane, or better, premium, and well and favorably known gasolines to consuming public; and thereafter a corporate competitor engaged in sale and distribution of gasoline and motor oils to dealers purchasing in bulk for resale and to consumers for use, and in supplying filling stations which it operated in Louisiana, Mississippi, and Alabama in substantial competition with said first-named corporation and with others similarly engaged, and the president of said corporate competitor, in active charge of its affairs and controller and director of all its policies and business operations, and originator of the various forms of advertising and business methods adopted by such competitor—

(a) Featured in all of said competitor's display advertising and on signs at various of its stations and on gasoline pumps, trucks, and other equipment, word "Gulf," either alone or in printed letters substantially larger than those of other words in connection with which used, and invariably in shaded letters of same type and color, substantially, as those used by said first-named corporation in its printing and use of word "Gulf," and extensively advertised as "Gulf Supreme Gasoline" one brand, and in its advertising thereof on signs posted in and about the various filling stations,