

IN THE MATTER OF
MORRIS E. NEWMAN, INDIVIDUALLY, AND TRADING AS
AUTOMOTIVE TEST LABORATORIES OF AMERICA

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

Docket 3328. Complaint, Feb. 9, 1938—Decision, Apr. 29, 1938

Where an individual engaged in preparation, printing and sale of so-called "Certificates of Merit" and "Seals of Approval" to manufacturers of various products, for their use in advertising same in interstate commerce, and customarily typing in said certificates the claims made by the various manufacturers, and not the results of scientific, impartial tests, and customarily soliciting and accepting suggestions made by such manufacturers as to contents and wordings of said certificates and changing same to correspond with wishes and requests of such manufacturers, without investigation of or regard to truth or falsity of statements—

- (a) Used word "Laboratories" in his trade-name and displayed same in his letterheads, advertising and correspondence cards, and depicted on his letterheads lithographed pictures of scientists and scientific equipment to imply and suggest that he had a laboratory, notwithstanding fact he neither owned nor operated any laboratory, but only office space in the rear of an automotive trade school, and employed no technicians;
- (b) Represented that he made independent, impartial and scientific tests of products submitted, in a laboratory containing apparatus necessary for testing products involved in each case, notwithstanding fact he neither made nor was equipped to make such tests, and issued fictitious "Certificates of Merit" and "Seals of Approval" and mailed same to individual concerns throughout the United States;
- (c) Referred to himself, in his correspondence with prospective customers and in other advertising matter, as a "safety engineer," and as president of his organization and referred to his laboratory as an engineering department, and represented that he had in his employ "Laboratory Engineers," and had laboratory equipment, and made a practice of having various individuals sign the so-called "Certificates of Merit" as "Laboratory Engineers," notwithstanding fact he was not an engineer of any kind, and his organization was nothing more than a trade-name used by him and was not a corporation and he had neither engineering department, laboratory, nor laboratory engineers;
- (d) Listed in his advertising and letterheads a Consultant Advisory Board of 11 men, with their respective official titles, and held out and represented same as assistants and consultants who assisted him in conducting tests, notwithstanding fact that some of them had never given their consent to the use of their names and none of them had ever received anything to test;
- (e) Represented in correspondence with prospective customers and in his advertising matter that his organization was the only one of its kind in the country and was comparable to the Good Housekeeping Institute, and was recognized currently as the adopted standard in the automotive, chemical and accessories field, and used on personal cards and letterheads picture of

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the seven-story building belonging to said automotive school, with words: "7 floors of modern test automotive equipment," notwithstanding fact his said organization had no standing whatever in the field of testing automotive products and accessories, and occupied only one small room of the building in question, and his apparatus consisted of a filing cabinet and a few pieces of furniture; and

- (f) Represented in correspondence with prospective customers that he received on an average of from 200 to 300 letters of inquiry monthly from manufacturers of some products, and, in connection with products he was seeking to test, that he had received inquiries relative thereto, facts being he never received any such number of inquiries a month and had had no such inquiries as to tests sought by him;

With capacity and tendency to mislead and deceive manufacturers and distributors of automotive products and others respecting the status, character and organization of his said business and the value, truth, impartial and scientific character of said "Certificates of Merit" and "Seals of Approval" issued by him, and with result that manufacturers and distributors of automotive products and others were thereby induced to have their products tested by him, and to purchase said so-called certificates and seals, to their detriment and injury and that of purchasing public, and that of competitors who do not and will not use such false and fictitious certificates, and of legitimate scientific testing laboratories engaged in business of testing such and other products and devices, and in sale of printed matter containing approval of products, after having been scientifically tested, to manufacturers of said products for their use in advertising same in interstate commerce, and with result of furnishing dishonest customers with vehicle for misbranding and falsely and misleadingly advertising articles in commerce, and thereby deceiving and exploiting purchasing public, and of unfairly diverting trade to him from competitors truthfully engaged, as aforesaid, in testing such and other products, and who conduct their tests in an impartial and scientific manner, and from manufacturers and distributors of such and other products who will not and do not use such false and fictitious certificates, to those who will and do use same; to the substantial injury of competition in commerce among the various States and in the District of Columbia:

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

Mr. Merle P. Lyon for the Commission.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Morris E. Newman, individually and as sole trader under the style and name of Automotive Test Laboratories of America, hereinafter sometimes referred to as respondent Newman, 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

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in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The said respondent, Morris E. Newman, is an individual trading under the style and name of Automotive Test Laboratories of America, having his office and principal place of business in the rear of Greer College, an automotive trade school located at 2024 South Wabash Avenue, Chicago, Ill.

Said respondent, for more than two years last past, has been, and is now, engaged in the business of preparing, printing and selling so-called "Certificates of Merit" and "Seals of Approval" to manufacturers of various products to be used by said manufacturers in advertising their products sold in interstate commerce. Said respondent causes his said "Certificates of Merit" and "Seals of Approval," when sold, to be transported from his said place of business in the State of Illinois to the purchasers thereof located in the several States of the United States other than the State of Illinois.

Said respondent, in the course and conduct of his said business, has been, for more than two years last past, and is now, in competition with other individuals, firms, and partnerships engaged in the business of testing automotive and other products and devices and in preparing, printing and selling printed matter and labels containing approval of products, after they have been scientifically tested, to manufacturers of various products to be used by said manufacturers in advertising their products sold in interstate commerce.

PAR. 2. In the course of his said business, and for the purpose of inducing individuals, firms and corporations to purchase his said "Certificates of Merit" and "Seals of Approval" to be used in advertising their respective products, respondent makes the following representations in letters sent to prospective customers:

Would you be interested in learning how our organization could help your men sell your automotive product with reduced sales resistance? And this at very small cost to you. Countless manufacturers and sales organizations are now using our "Certificate of Merit" and "Seal of Approval." How about you?

The enclosed facsimile of our "Certificate of Merit" and "Seal of Approval" should interest you, as it has over three hundred nationally known manufacturers of automotive products. Bolster up your sales by breaking down sales resistance; give your men, agents, salesmen something to talk about, instill confidence in the product through an unbiased testimonial; the result will be additional business.

Can refer you to anyone of over hundreds of satisfied users who will gladly attest to our claims.

You should be interested in learning how more than 400 nationally known automotive manufacturers are using our "Certificate of Merit" and "Seal of Approval" as an aid to better merchandising. Recognized throughout the United States by the vast automotive trade, sales resistance can best be met through the service offered you, and your men will welcome such cooperation.

Furthermore, said respondent in issuing said "Certificates of Merit" habitually and customarily types in said Certificates the claims made by the various manufacturers and not the result of scientific, impartial tests conducted by respondent. Respondent habitually and customarily solicits and accepts suggestions made by the various manufacturers as to the contents and wording of said "Certificates of Merit," and makes changes in the Certificates to correspond with the wishes and requests of said manufacturers; without investigation of, or regard to, the truth or falsity of the statements.

PAR. 3. Said respondent, in the course and conduct of his said business engages in the following false and misleading representations, acts and practices:

1. Uses the word "Laboratories" in his trade name, which appears in his trade name, which appears in his letterheads, advertising cards and correspondence, when in truth and in fact he does not own or operate any laboratories but only occupies office space in the rear of said Greer College; carries on his letterheads, lithographed pictures of scientists and scientific equipment to imply and suggest that he has a laboratory, when in fact he does not have a laboratory and does not employ any technicians.

2. Represents that he makes independent, impartial and scientific tests of products submitted to him for tests in a laboratory containing apparatus necessary for testing products involved in each case, when in truth and in fact he does not make independent, impartial or scientific tests, but issues fictitious "Certificates of Merit" and "Seals of Approval" and mails the same to individuals and firms throughout the United States.

3. Refers to himself in his correspondence with prospective customers, and in other advertising matter, as a "safety engineer," when in truth and in fact he is not an engineer of any kind.

4. Refers to himself in his correspondence with prospective customers, and in other advertising matter, as the president of his organization, when in fact his organization is nothing more than a trade name used by respondent as an individual and is not a corporation or incorporated; and refers to his laboratory and engineering department, and represents that he has in his employ laboratory engineers and equipment; makes a practice of having various individuals sign the so-called "Certificates of Merit" as "Laboratory Engineers," when in truth and in fact respondent does not have an engineering department, laboratory or laboratory engineers.

5. Lists in his advertising and letterheads a Consultant Advisory Board of eleven men, with their respective official titles, whom he

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holds out and represents to be assistants and consultants to assist respondent in conducting tests, when in truth and in fact some of them have never given consent to the use of their names, and none of them have ever received anything to test.

6. Represents in correspondence with prospective customers, and in his advertising matter, that his organization is the only one of its kind in the country, and is comparable to the Good Housekeeping Institute, and is recognized today as the adopted standard in the automotive, chemical and accessories field; uses on personal cards and letterheads the picture of the seven story building belonging to the Greer College with the words "7 floors of modern test automotive equipment," when in truth and in fact said respondent's organization has no standing whatever in the field of testing automotive products and accessories, and respondent's organization occupies only one small room of the building belonging to Greer College and his apparatus consists of a filing cabinet and a few pieces of furniture.

7. Represents in correspondence with prospective customers that he receives on an average from 200 to 300 letters of inquiry per month from manufacturers of some products, when as a matter of fact respondent never received any such number of inquiries per month.

8. Represents in correspondence with prospective customers that he has received several inquiries relative to the products he is seeking to test, when as a matter of fact no such inquiries have been received.

PAR. 4. The use by said respondent of each and all of the false and misleading statements, representations and practices in the manner hereinabove described in paragraphs 2 and 3 of this complaint has had, and still has, the capacity and tendency to mislead and deceive manufacturers and distributors of automotive products and others regarding the status, character and organization of said respondent, and the value, truth, impartiality and scientific character of the "Certificates of Merit" and "Seals of Approval" issued by said respondent. As a direct consequence of the said false, misleading statements and representations and the deceptive acts and practices of said respondent, as hereinabove set forth, and the erroneous and mistaken beliefs induced thereby, manufacturers and distributors of automotive products and others have been induced to have their products tested by respondent and to purchase the so-called "Certificates of Merit" and "Seals of Approval" issued by him to their detriment and injury, as well as to the detriment and injury of the purchasing public, and to the detriment and injury of competitors who do not and will not use such false and fictitious certificates, and to the injury of legitimate, scientific testing laboratories engaged in the business of testing automotive and other products and devices,

and in the sale of printed matter containing approval of products after they have been scientifically tested to manufacturers of various products used by said manufacturers in advertising their products sold in interstate commerce.

The issuance by respondent of his false and misleading so-called "Certificates of Merit" and "Seals of Approval" furnishes dishonest customers with vehicles for misbranding and falsely and misleadingly advertising articles moving in commerce between and among the various States of the United States and thus to deceive and exploit the purchasing public, and the use of such deceptive, misleading, and false certificates has tended to result and has resulted, in unfairly diverting trade to the respondent from competitors engaged in the testing of automotive and other products who truthfully advertise their laboratories and equipment and the value of their tests and certificates, and who conduct their tests in an impartial and scientific manner; and also in unfairly diverting trade from manufacturers and distributors of automotive and other products who will not and do not use false and fictitious certificates to competitors who will, and do, use the so-called "Certificates of Merit" and "Seals of Approval" issued by the respondent.

As a result thereof injury has been, and is now being done, by the respondent to commerce between and among the various States of the United States and the District of Columbia.

PAR. 5. The foregoing said acts, practices and representations 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 the Federal Trade Commission Act, the Federal Trade Commission, on February 9, 1938 issued, and on February 10, 1938 served, its complaint in this proceeding upon the respondent, Morris E. Newman, individually and as sole trader under the style and name of Automotive Test Laboratories of America, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance and service of said complaint, the respondent filed an answer admitting all the material allegations of the complaint to be true, and stated that he waived hearing on the charges set forth in the complaint and the taking of further evidence and all other intervening procedure, which answer was duly filed in the office of the Commission on March 18, 1938. Thereafter this proceeding regu-

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larly came on for final hearing before the Commission on the said complaint and answer, and the Commission, having duly considered the matter 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. The respondent, Morris E. Newman, is an individual trading under the style and name of Automotive Test Laboratories of America, having his office and principal place of business in the rear of Greer College, an automotive trade school located at 2024 South Wabash Avenue, Chicago, Ill. He is and for more than 2 years last past has been, engaged in the business of preparing, printing, and selling so-called "Certificates of Merit" and "Seals of Approval" to manufacturers of various products to be used by said manufacturers in advertising their products sold in interstate commerce. Said respondent causes his said "Certificates of Merit" and "Seals of Approval," when sold, to be transported from his place of business in the State of Illinois to the purchasers thereof located in the several States of the United States other than the State of Illinois.

In the course and conduct of his said business, the respondent has been, for more than two years last past, and is now, in competition with other individuals, firms, and partnerships engaged in the business of testing automotive and other products and devices, and in preparing, printing, and selling printed matter and labels containing approval of products, after they have been scientifically tested, to manufacturers of various products to be used by said manufacturers in advertising their products sold in interstate commerce.

PAR. 2. In the course of his said business, as described in paragraph 1 hereof, and for the purpose of inducing individuals, firms, and corporations to purchase his said "Certificates of Merit" and "Seals of Approval" to be used in advertising their respective products, respondent makes the following representations in letters sent to prospective customers:

Would you be interested in learning how our organization could help your men sell your automotive product with reduced sales resistance? And this at very small cost to you. Countless manufacturers and sales organizations are now using our "Certificates of Merit" and "Seals of Approval." How about you?

Furthermore, said respondent in issuing said "Certificates of Merit," habitually and customarily types in said Certificates the claims made by the various manufacturers and not the result of scientific, impartial tests conducted by respondent. Respondent

habitually and customarily solicits and accepts suggestions made by the various manufacturers as to the contents and wording of said "Certificates of Merit," and makes changes in the Certificates to correspond with the wishes and requests of said manufacturers, without investigation of, or regard to, the truth or falsity of the statements.

PAR. 3. Said respondent, in the course and conduct of his said business engages in the following false and misleading representations, acts, and practices:

1. Uses the word "Laboratories" in his trade name, which appears in his letterheads, advertising cards and correspondence, when in truth and in fact he does not own or operate any laboratories but only occupies office space in the rear of said Greer College; carries on his letterheads, lithographed pictures of scientists and scientific equipment to imply and suggest that he has a laboratory, when in fact he does not have a laboratory and does not employ any technicians.

2. Represents that he makes independent, impartial and scientific tests of products submitted to him for tests in a laboratory containing apparatus necessary for testing products involved in each case, when in truth and in fact he does not make independent, impartial or scientific tests, but issues fictitious "Certificates of Merit" and "Seals of Approval" and mails the same to individuals and firms throughout the United States.

3. Refers to himself in his correspondence with prospective customers, and in other advertising matter, as a "safety engineer," when in truth and in fact he is not an engineer of any kind.

4. Refers to himself in his correspondence with prospective customers, and in other advertising matter, as the president of his organization, when in fact his organization is nothing more than a trade name used by respondent as an individual and is not a corporation or incorporated; and refers to his laboratory and engineering department, and represents that he has in his employ laboratory engineers and equipment; makes a practice of having various individuals sign the so-called "Certificates of Merit" as "Laboratory Engineers," when in truth and in fact respondent does not have an engineering department, laboratory or laboratory engineers.

5. Lists in his advertising and letterheads a Consultant Advisory Board of 11 men, with their respective official titles, whom he holds out and represents to be assistants and consultants to assist respondent in conducting tests, when in truth and in fact some of them have never given consent to the use of their names, and none of them have ever received anything to test.

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6. Represents in correspondence with prospective customers, and in his advertising matter, that his organization is the only one of its kind in the country and is comparable to the Good Housekeeping Institute, and is recognized today as the adopted standard in the automotive, chemical, and accessories field; uses on personal cards and letterheads the picture of the seven-story building belonging to the Greer College with the words "7 floors of modern test automotive equipment," when in truth and in fact said respondent's organization has no standing whatever in the field of testing automotive products and accessories, and respondent's organization occupies only one small room of the building belonging to Greer College and his apparatus consists of a filing cabinet and a few pieces of furniture.

7. Represents in correspondence with prospective customers that he receives on an average from 200 to 300 letters of inquiry per month from manufacturers of some products, when as a matter of fact respondent never received any such number of inquiries per month.

8. Represents in correspondence with prospective customers that he has received several inquiries relative to the products he is seeking to test, when as a matter of fact no such inquiries have been received.

PAR. 4. The use by said respondent of each and all of the false and misleading statements, representations and practices in the manner hereinabove described in paragraphs 2 and 3 hereof has had, and still has, the capacity and tendency to mislead and deceive manufacturers and distributors of automotive products and others regarding the status, character and organization of said respondent, and the value, truth, impartiality and scientific character of the "Certificates of Merit" and "Seals of Approval" issued by said respondent. As a direct consequence of the said false, misleading statements and representations and the deceptive acts and practices of said respondent, as hereinabove set forth, and the erroneous and mistaken beliefs induced thereby, manufacturers and distributors of automotive products and others have been induced to have their products tested by respondent and to purchase the so-called "Certificates of Merit" and "Seals of Approval" issued by him to their detriment and injury, as well as to the detriment and injury of the purchasing public, and to the detriment and injury of competitors who do not and will not use such false and fictitious certificates, and to the injury of legitimate, scientific testing laboratories engaged in the business of testing automotive and other products and devices, and in the sale of printed matter containing approval of products after they have been scientifically tested, to manufacturers of various products used by said manufacturers in advertising their products sold in interstate commerce.

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The issuance by respondent of his false and misleading so-called "Certificates of Merit" and "Seals of Approval" furnishes dishonest customers with vehicles for misbranding and falsely and misleadingly advertising articles moving in commerce between and among the various states of the United States and thus to deceive and exploit the purchasing public, and the use of such deceptive, misleading and false certificates has tended to result, and has resulted, in unfairly diverting trade to the respondent from competitors engaged in the testing of automotive and other products who truthfully advertise their laboratories and equipment and the value of their tests and certificates, and who conduct their tests in an impartial and scientific manner; and also in unfairly diverting trade from manufacturers and distributors of automotive and other products who will not and do not use false and fictitious certificates to competitors who will, and do, use the so-called "Certificates of Merit" and "Seals of Approval" issued by the respondent.

As a result thereof substantial injury has been, and is now being done, by the respondent to competition in commerce between and among the various States of the United States and the District of Columbia.

CONCLUSION

The foregoing acts and practices of the respondent, Morris E. Newman, individually and as sole trader under the style and name of Automotive Test Laboratories of America, 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 the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of the complaint to be true, and states that he waives hearing on the charges set forth in said complaint and that, without further evidence or other intervening procedure, the Commission may issue and serve upon him findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the complaint, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent Morris E. Newman, individually and as a sole trader under the style and name of Automotive Test

Laboratories of America, or under any other trade name, in connection with the offering for sale, sale and distribution of so-called "Certificates of Merit" and "Seals of Approval" or in connection with the offering for sale, sale, and distribution of a so-called testing service for automotive or other products or writings purporting to evidence the result of tests, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or by implication:

1. That the respondent makes independent, impartial, and scientific tests of automotive and other products submitted to him for tests, unless such is the fact;

2. That the respondent is a safety engineer and president of an organization operating or controlling a laboratory or engineering department equipped with the necessary apparatus, and manned by trained scientists and technicians, for testing automotive and other products, unless such are the facts;

3. That respondent has a Consultant Advisory Board of 11 men to assist him in conducting tests; that he receives on an average from 200 to 300 letters of inquiry per month from manufacturers of automotive and other products; and that he has received several inquiries relative to the products he is seeking to test, unless such are the facts;

4. That respondent's organization is the only one of its kind in the country, and is comparable to the Good Housekeeping Institute, and is recognized today as the adopted standard in the automotive, chemical, and accessories field, unless such are the facts;

It is further ordered, That the respondent do forthwith cease and desist from:

(a) Using on his letterheads, personal cards, or otherwise the word "Laboratories," pictures of purported scientists and scientific equipment, or the picture of the seven-story building occupied by Greer College, either alone or in conjunction with the words "7 floors of modern test automotive equipment," unless and until respondent in fact conducts a scientific laboratory and employs trained scientists and technicians, and unless and until respondent has some actual connection with the said Greer College as owner or employee or otherwise through which he actually uses all the facilities and equipment of said Greer College in said business.

(b) Preparing and issuing to sellers of automotive or other products in said commerce so-called "Certificates of Merit" and "Seals of Approval" or other instruments in writing purportedly showing the result of tests conducted by the respondent, unless and until respondent owns, operates or controls a laboratory and employs trained scientists and technicians and is equipped to test and does test such

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automotive and other products in the manner and with the methods used by recognized scientific laboratories.

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
WEST PENN DISTILLING 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 2620. Complaint, Nov. 9, 1935—Decision, May 9, 1938

Where a corporation engaged as wholesaler and rectifier in purchasing, rectifying, blending, and bottling whiskies, gins, and other alcoholic beverages, and in the sale thereof in a course of trade and commerce between and among the various states and in the District of Columbia, in substantial competition with (a) others engaged in manufacture, by true distillation, of whiskies, gins, and other such beverages from mash, wort, or wash, and in sale thereof as aforesaid, and who truthfully use words "Distillery," "Distilleries," "Distillers," or "Distilling" as part of their corporate or trade names, and on their stationery and catalogs, and on labels of bottles in which they sell and ship their products and (b) with those engaged in business of purchasing, rectifying, blending, and bottling whiskies, etc., and in sale thereof as hereinbefore set forth, and who do not thus use said words; and engaged, in course of its said business, in redistillation of alcohol, purchased but not produced by it, over juniper berries and other aromatics, through use of still for production of gins by process of rectification as aforesaid, but neither operating nor controlling any place or places where spirituous beverages are made by process of original and continuous distillation from mash, wort, or wash and neither a distillery nor a distiller, as defined in section 3247 of the revised statutes regulating internal revenue, nor as commonly understood by trade and public—

Represented, through use of corporate name including word "Distilling," printed on stationery, catalogs, and labels attached to bottles in which it sold and shipped its said products, and in various other ways, to its customers, and furnished same with means of similarly representing thereby to their retailer-vendees and to ultimate vendees of consuming public, that it was a distiller and that such whiskies, gins, and other alcoholic beverages were by it made through process of distillation from mash, wort, or wash; notwithstanding fact it was not a distiller and was not engaged, as long definitely understood from word "Distilling" by wholesale and retail trade and ultimate purchasing public, as meaning manufacture of spirituous liquors by original and continuous distillation from mash, wort, or wash, through continuous closed pipes and vessels until manufacture is complete, in distilling the said whiskies, etc., thus bottled, labeled, sold, and transported by it;

With capacity and tendency to mislead and deceive dealers and purchasing public into the belief that it was a distiller and that said whiskies, gins, and other spirituous beverages sold by it were by it made or distilled from mash, etc., by one continuous process, as above set forth, and to induce dealers and purchasing public, in such belief, and in response to preference of a substantial portion of latter for purchase from distillers, to buy its said whiskies, gins, and other alcoholic beverages, rectified and bottled by it, and thereby unfairly divert trade to it from its competitors who do