

## Syllabus

## IN THE MATTER OF

## HARRY A. RIPPNER AND LOUIS G. RIPPNER, DOING BUSINESS AS JOHN HANCOCK PEN COMPANY

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

*Docket 3244. Complaint, Oct. 13, 1937—Decision, Aug. 4, 1938*

Where two individuals, engaged in the sale and distribution of fountain pens among the several States and in the District of Columbia, in competition with many who sell and distribute such products and do not misrepresent the character or quality thereof, in advertising the same by circulars sent through the mails—

- (a) Falsely represented that the customary and usual retail value or price of their said pens was greatly in excess of the advertised price, and that said products were obtainable at the price advertised for only a limited time, through such statements as "A \$5.00 VALUE FOR ONLY 60¢—THIS CERTIFICATE is worth \$4.40 To You For a Limited Time Only," facts being that pens in question were intended to be and were sold in usual course of trade without certificate for a price of approximately 60 cents, as advertised, such certificate did not have a value of \$4.40 or any value whatever, and offer to sell was not limited as to time, but was regular or customary offer or price asked for such pens in usual course of trade;
- (b) Represented that their said pens were of a character and quality different from and superior to those of comparable price, and were equal in value to pens costing from \$5 upward, through such statements as "A \$5.00 value," etc., "This certificate and 60 cents entitles the sender to one of our Genuine Indestructible \$5.00 VACUUM FILLER SACKLESS FOUNTAIN PENS," "This pen holds 200% more ink than any ordinary fountain pen on the market," and "Instead of spending our advertising appropriation on Radio," etc., "we have adopted this plan of introducing our pens," facts being pens, as above set forth, did not have a value of \$5, but a much smaller value, were not different from or superior to competitive pens selling for approximately the same amount, and did not hold 200 percent more ink than any ordinary fountain pen on the market;
- (c) Represented, as aforesaid, that the said pens had an unbreakable barrel, and that the nib thereof was of "Duragold," unbreakable and guaranteed for lasting smoothness in writing, facts being that said pen points were not gold or gold alloy, as imported or implied by use of said term, but were very thinly gold plated, and aforesaid statements and representations were misleading;

With capacity and tendency to mislead and deceive a substantial portion of purchasing public into mistaken and erroneous belief that aforesaid representations were true, and into purchase of their said product by reason of such belief, and with result that trade was diverted unfairly to them from competitors who do not adopt, use, or follow similar acts and practices in connection with sale of their respective products; 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.

## Complaint

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Before *Mr. Miles J. Furnas*, trial examiner.

*Mr. Morton Nesmith* for the Commission.

*Mr. Robert S. Garson*, of Cleveland, Ohio, for respondents.

## 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 Harry A. Rippner and Louis G. Rippner, individually, and doing business under the trade name and style of John Hancock Pen Co., hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act of Congress, 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. Respondent, Harry A. Rippner, is and has been, an individual trading under the name of the John Hancock Pen Co. for several years last past, and more recently the respondents Harry A. Rippner and Louis G. Rippner, individuals, have been doing business under the same trade name, with their principal office and place of business at 1514 Prospect Avenue in the city of Cleveland, State of Ohio. The respondents are now, and have been for several years last past, engaged in the business of selling and distributing fountain pens in commerce as hereinafter set out.

PAR. 2. Respondents, being engaged in business as aforesaid, have caused said fountain pens, when sold by them, to be transported from their principal office and place of business in the State of Ohio to the purchasers thereof located at various points in States of the United States other than the State from which said shipments were made, and in the District of Columbia. There is now, and has been, at all times mentioned herein, a constant current of trade and commerce in said fountain pens so sold and distributed by respondents between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of said business, respondents are now and have been in substantial competition with other individuals, firms, and corporations engaged in the business of selling and distributing fountain pens in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of said business, and for the purpose of inducing the purchase of said fountain pens, the respondents

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have advertised their fountain pens by the use of circulars sent through the United States mails to prospective purchasers, in which the following statements appear:

60¢      A \$5.00 VALUE FOR ONLY,      60¢

THIS CERTIFICATE is worth \$4.40 TO YOU

## For a Limited Time Only

\*      \*      \*      \*      \*      \*      \*  
This certificate and 60 cents entitles the sender to one of our Genuine Indestructible \$5.00 VACUUM FILLER SACKLESS FOUNTAIN PENS. Visible ink supply.

\*      \*      \*      \*      \*      \*      \*  
This pen holds 200% more ink than any ordinary fountain pen on the market. AN AMAZING INTRODUCTORY OFFER. Introducing the New John Hancock Indestructible Vacuum Filler, Sackless, Fountain Pen. Instead of spending our advertising appropriation on Radio, Magazine, and Newspaper advertising, we have adopted this plan of introducing our pens.

INTRODUCTORY PRICE ON JOHN HANCOCK SACKLESS FOUNTAIN PENS

60¢

No Repair Bills . No Lever Filler . No Pressure Bar.

And you can write for ONE MONTH on ONE FILLING.

MONEY BACK IF NOT 100% SATISFACTORY. Transparent Barrel. You can see the Ink.

## NOTE THESE FEATURES

Hard, Unbreakable Barrel.

Clip and Band are 14k gold plated Pen Point is of duragold, unbreakable, and guaranteed for lasting smoothness in writing.

Printed Life-Time Guarantee with each Pen.

Embodying the same sensational new principal for filling that is used in the highest priced pens from \$5.00 and up.

Through such statements and others similar thereto not herein set out, respondents represent that the customary and usual retail value or price of said pens are greatly in excess of their advertised price; that said pens are obtainable at the advertised price for only a limited time; that said pens are of a quality and character different from and superior to other pens of comparable price, and that said pens are equal in value to pens costing from \$5 upwards.

PAR. 5. In truth and in fact the respondents' pens are not of \$5 value and are not equal in value of price to pens having such value or price, but are of a type having a value much less than \$5, and are ordinarily sold in the usual course of trade for approximately the

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price advertised as a special introductory price for said pens. The certificate referred to in said advertising does not have a value of \$4.40 or any value whatever, as said pens are intended to be and are sold in the usual course of trade without the certificate, for the price of approximately 60 cents as advertised. Said pens are not different from or superior to competitive pens selling for approximately the same amount. The statement "for a limited time only" is misleading and untrue, and the offer to sell said pens at the price advertised was not and is not limited as to time, but is the regular or customary offer and price asked for said pens in the usual course of trade. The statement that each of said pens "holds 200% more ink than any ordinary fountain pen on the market" is false, misleading, and untrue. The statement that the pen is of "Duragold, unbreakable, and guaranteed for lasting smoothness in writing" is misleading. The use of the word "Duragold" is misleading, because it imports or implies that respondents' pen points are gold or gold alloy, when in truth and in fact said pen points are very thinly gold plated.

PAR. 6. The respondents' foregoing acts and practices, as hereinabove set out, in the sale and distribution of their fountain pens, have had, and have, the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public into the mistaken and erroneous belief that the representations hereinabove set out in paragraph 4 are true and into the purchase of respondents' products on account of said mistaken and erroneous beliefs induced as aforesaid. As a result thereof trade has been, and is, unfairly diverted to respondents from competitors in commerce among and between the various States of the United States who do not adopt, use, or follow similar acts and practices in connection with the sale of their respective products.

PAR. 7. There are among competitors of respondents many individuals, firms, and corporations who sell and distribute fountain pens in commerce as hereinbefore described, who do not misrepresent the character or quality of their fountain pens. As a consequence of respondents' practices substantial competition in commerce among and between the various States of the United States has been substantially injured.

PAR. 8. The above and foregoing acts and practices of the respondents have been and are to the prejudice of the public and of respondents' competitors, as aforesaid, and have been and are unfair methods of competition within the meaning and intent 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 October 13, 1937, issued, and on October 15, 1937, served, its complaint upon the respondents, Harry A. Rippner and Louis G. Rippner, individually, and doing business under the trade name and style of John Hancock Pen Co., charging them 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 respondents' answer thereto, the respondents through their attorney, Robert S. Garson, executed a stipulation as to the facts in and by which the respondents agreed that the facts so stipulated may be taken as the facts in this proceeding and in lieu of the testimony in support of the charges stated in the complaint or in opposition thereto; and that said Commission may proceed upon said statements of facts to make its report stating its findings as to the facts (including inferences which it may draw from said stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding without presentation of argument or the filing of briefs. The facts stipulated embrace all of the material allegations of the complaint. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer, and the stipulation as to the facts, 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. Respondent, Harry A. Rippner, an individual, is and has been trading under the name of John Hancock Pen Co. for several years last past, and more recently the respondents, Harry A. Rippner and Louis G. Rippner, individuals, have been doing business under the same trade name, with their principal office and place of business at 1514 Prospect Avenue, in the city of Cleveland, State of Ohio. Respondents are now and have been for several years past engaged in the business of selling and distributing fountain pens in commerce among and between the several States of the United States and in the District of Columbia.

PAR. 2. Respondents have caused their fountain pens when sold by them to be transported from their principal office and place of business located in the State of Ohio, to purchasers thereof located at various points in the States of the United States other than the State from which said shipments were made, and in the District of Columbia.

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There is now and has been a course of trade and commerce in said fountain pens so sold and distributed by respondents between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business respondents are now, and have been in substantial competition with other individuals, firms, and corporations engaged in the business of selling and distributing fountain pens in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business and for the purpose of inducing the purchase of their fountain pens, respondents have advertised their fountain pens by the use of circulars sent through the United States mails to prospective purchasers in which the following statements appear:

|     |                         |     |
|-----|-------------------------|-----|
| 60¢ | A \$5.00 VALUE FOR ONLY | 60¢ |
|-----|-------------------------|-----|

THIS CERTIFICATE is worth \$4.40 TO YOU  
For a Limited Time Only

\*                      \*                      \*                      \*                      \*                      \*

This certificate and 60 cents entitles the sender to one of our Genuine Indestructible \$5.00 VACUUM FILLER SACKLESS FOUNTAIN PENS. Visible ink supply.

\*                      \*                      \*                      \*                      \*                      \*

This pen holds 200% more ink than any ordinary fountain pen on the market.  
AN AMAZING INTRODUCTORY OFFER. Introducing the New John Hancock Indestructible Vacuum Filler, Sackless, Fountain Pen. Instead of spending our advertising appropriation on Radio, Magazine and Newspaper advertising, we have adopted this plan of introducing our pens.

INTRODUCTORY PRICE ON JOHN HANCOCK SACKLESS  
FOUNTAIN PENS  
60¢

No Repair Bills   .   No Lever Filler   .   No Pressure Bar.

And you can write for ONE MONTH on ONE FILLING.

MONEY BACK IF NOT 100% SATISFACTORY. Transparent Barrel. You can see the Ink.

## NOTE THESE FEATURES

Hard, Unbreakable Barrel.

Clip and Bend are 14k gold plated.

Pen Point is of duragold, unbreakable and guaranteed for lasting smoothness in writing.

Printed Life-Time Guarantee with each Pen.

Embodying the same sensational new principle for filling that is used in the highest priced pens from \$5.00 and up.

Through the use of the above set out statement and others similar thereto, and not herein set out, respondents represent that the custom-

ary and usual retail value or price of said pens are greatly in excess of their advertised price; that the pens are obtainable at the advertised price for only a limited time; that the pens are of a quality and character different from and superior to other pens of comparable price; and that the pens are equal in value to pens costing from \$5 upwards.

PAR. 5. The respondents' pens are not of \$5 value, and are not equal in value or price to pens having such value or price, but are of a type having a value much less than \$5 and are ordinarily sold in the usual course of trade at the price advertised as the introductory price for the pens. The certificate above referred to in respondents' advertising does not have the value of \$4.40, or any value whatever, as the pens are intended to be and are sold in the usual course of trade without the certificate for a price of approximately 60 cents, as advertised. The pens are not different from or superior to competitive pens selling for approximately the same amount. The statement "for a limited time only" is misleading and untrue, and the offer to sell the pens at the price advertised was not and is not limited as to time, but is the regular or customary offer or price asked for said pens in the usual course of trade.

The statement that each of the pens "holds 200% more ink than any ordinary fountain pen on the market" is false, misleading, and untrue; the statement that the pen is of "Duragold, unbreakable and guaranteed for lasting smoothness in writing" is misleading; the use of the word "Duragold" is misleading because it imports or implies that the respondents' pen points are gold or gold alloy and the pen points are not gold or gold alloy, but are very thinly gold plated.

There are among competitors of respondents many individuals, firms and corporations who sell and distribute fountain pens in commerce who do not misrepresent the character or quality of their fountain pens.

PAR. 6. The acts and practices used by respondents in the sale and distribution of their fountain pens and herein described have had, and have, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the mistaken and erroneous belief that the representations herein referred to are true, and into the purchase of respondents' product because of said mistaken and erroneous belief. As a result thereof trade has been diverted unfairly to respondents from competitors in commerce among and between the various States of the United States who do not adopt, use, or follow similar acts and practices in connection with the sale of their respective products. As a consequence of respondents' acts and practices, competition in commerce among and between the various States of the United States and in the District of Columbia has been substantially injured.

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## CONCLUSION

The aforesaid acts and practices of the respondents or Harry A. Rippner and Louis G. Rippner, individually, and doing business under the trade name and style of John Hancock Pen Co., 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 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, the answer of respondents and a stipulation as to the facts in lieu of testimony, the filing of briefs having been waived and oral argument not having been requested, and the Commission having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That respondents, Harry A. Rippner and Louis G. Rippner, individually, and doing business under the trade name and style of John Hancock Pen Co. or under any other name or through any corporate or other device, their servants, agents, employees, and representatives, in connection with the offering for sale, sale, and distribution of fountain pens in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or indirectly:

1. That the customary and usual retail value or price of their fountain pens are greatly in excess of the advertised price, when such is not the fact;

2. That their products are obtainable at a certain advertised price for only a limited time, when in truth and in fact said products can be obtained at the advertised price at all times;

3. That their fountain pens are of a character and quality different from and superior to pens of comparable price, and that their pens are equal in value to pens costing from \$5 upwards;

4. That their fountain pens hold 200 percent, or any other stated amount or percent, more ink than any ordinary fountain pen on the market, unless and until such be the fact;

5. That their fountain pens have an unbreakable barrel, or that the nib thereof is of "Duragold," unbreakable and guaranteed for lasting smoothness in writing, unless and until said barrels are unbreakable and said nibs are of 14 karat gold fineness.

*It is further ordered*, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

## Syllabus

IN THE MATTER OF  
AMERICAN COLLEGE, AMERICAN UNIVERSITY, AND  
DENTON N. HIGBE

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

*Docket 2648. Complaint, Dec. 7, 1935—Decision, Aug. 5, 1938*

Where two corporations which (1) occupied the same building and were headed, managed, controlled, and dominated by the same individual, and different addresses of which, as used by said individual in advertisements thereof, designated merely separate entrances to aforesaid building; (2) conducted correspondence schools and sold courses prepared virtually entirely, if not entirely, by said individual, and faculty of which was limited to such individual with occasional assistance of two part-time employees; (3) were respectively engaged in advertising and selling, to persons in the various States and the District of Columbia, courses of instruction in (a) "physiotherapy," "chiropractics," "nursing," and psychoanalysis," and in (b) making and fitting of arch supports; and (4) conferred variously styled degrees without requiring, as a condition precedent, any term of residence or attendance in their so-called "college" or "university"; in substantial competition with those engaged in the sale of similar courses in such subjects who do not represent themselves as being either a college or university, and with those individuals, colleges, and universities who equip students in the above-named subjects and in proper practice in chiropody and phases of the medical profession involved, and with schools, colleges, and universities which give courses similar to those advertised and sold by them, require actual residence or attendance of students thereof, offer both practical and theoretical training in their courses and maintain faculties and laboratories for personal and practical training, and upon completion of prescribed courses confer variously styled degrees—

**Made** use of their corporate names, respectively including words "College" and "University," in advertising their said business in newspapers and periodicals of national circulation, and in other pamphlets and catalogs of national distribution, and represented therein to the public and prospective students that they were, respectively, a college and a university, and purported to equip students in the proper practice of psychology, psychiatry, nursing, physiotherapy, and in the proper practice of chiropody and those phases of the medical profession dealing with the care, restoration and treatment of feet;

**Notwithstanding** fact both theoretical and practical knowledge of general psychology, pathology, use of electrical apparatus, bacteriology, and similar and allied subjects is necessary to proper understanding of the rudiments essential to proper practice in the before-mentioned field, adequate knowledge of such subjects cannot be obtained by means of correspondence course, and they did not operate a curriculum embracing those various and varied subjects offered by schools and universities as leading to qualification for degree or degrees, as such curricula are generally and popularly understood by members of the public, courses of instruction offered by them as successful basis for qualification for various degrees were not, of themselves, sufficient to en-