

IN THE MATTER OF
ISADORE H. LUKACHER, TRADING AS CASA BLANCA
CIGAR COMPANY AND BELVEDERE TOBACCO COM-
PANY, AND BERT LUKACHER

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

Docket 3589. Complaint, Sept. 15, 1938—Decision, Aug. 2, 1939

Where (1) word "Havana," or "Habana," when used to or describe tobacco, had been used and understood since time immemorial by cigar manufacturers and dealers and by cigar-consuming public as designating or referring to tobacco grown on Island of Cuba, where is grown cigar tobacco of finest quality, and such Havana tobacco had long been imported into the United States and extensively used and consumed in cigars made in whole or in part therefrom, and had reputation among cigar dealers and cigar-consuming public as cigar tobacco of highest quality and excellence, and last word in quality, aroma, and taste, and cigars made therefrom were in large demand throughout the United States, and cigars containing same were purchased by many of said public in belief that use thereof in cigars added to and increased their quality and desirability, and word "Havana" used as cigar band or label indicated to trade and public clear Havana cigar, or one made entirely of Havana leaf, and was thus used by reputable cigar manufacturers only with such cigars, and term "Havana blend," used in connection with cigar, indicated to trade and consuming public that such cigar contained percentage of Havana leaf or tobacco grown on Island of Cuba; and where (2) term "Vuelta Abajo" was name of district in Cuba, tobacco of which had long been considered by cigar trade and consuming public as of higher and more desirable quality than any other tobacco, and cigars of which were purchased by many of said public in preference to those made from tobacco grown elsewhere, and said term, when used as brand for cigars, signified to trade and public alike very high-grade Havana tobacco; and where (3) expressions "Cuban workmanship" and "made in Tampa" on cigar box container indicated to trade and public high-grade cigar made in Cuban style at Tampa, in which city and immediately surrounding territory, or Tampa District, had long been made cigars manufactured principally from tobacco grown in and imported from Cuba and widely and favorably known as "Tampa cigars"; and

Thereafter, individual, with principal office and place of business in Pennsylvania, and there engaged in manufacturing various brands of cigars and in selling and distributing same to jobbers, chain establishments, and retailers throughout the United States, and son of said individual, associated with him in aforesaid business and participant with him in active management and control thereof, and in formulating its policies as below set forth, and who branded their cigars with various names, to retail at 10 cents or 5 cents, as case might be, depending upon particular brand or label used, and who, as aforesaid engaged, were in competition with others also engaged in manufacture, sale, and distribution of cigars in

commerce, including those who truthfully represent place of origin of tobacco used in their respective cigars, place of manufacture thereof, method of manufacturing, and quality and character of their said products; In making use of various brand names, labels, and other designations purporting to be descriptive of the nature, quality, and character of their said product—

- (a) Made use, among others, in connection with their "Garcia Delight" brand of cigars, of label used on each cigar which read "Garcia Delight—Havana," and set forth on inside lid of container for said brand, in sizeable type and conspicuously displayed with lid open, statements "Havana blend," "10¢ Straight," "Cuban workmanship," and "made in Tampa," and represented thereby, as understood by trade and public from aforesaid expressions as thus used and displayed, that cigars therein contained were of Cuban workmanship and, as such, expensive, since such workmanship is all by hand, and that cigar filler was worked out in a Cuban method known to trade, and that said cigar had Havana tobacco in the blend, and that product was made in Tampa, and, as respects aforesaid label designation with word "blend" lacking therefrom, that individual cigars thus banded were made of clear or all Havana;
- (b) Made use, as aforesaid, and in connection with their "Garcia Supreme" brand, in sizeable type and appearing conspicuously when lid of container was lifted, of statements "Havana blend," "hand made," "exceptional quality" and represented thereby and by words "after dinner," as understood as aforesaid, that said cigars were still made by the famous Garcia family, and that there was a certain percentage of Havana tobacco therein contained;
- (c) Made use, as aforesaid, in connection with their "San Vega" brand, of words, on outside of container and in sizeable and easily legible type, "Vuelta Havana," along with depiction of tobacco field and tropical palms, and displayed said words also around the inner edges of the container, and set forth conspicuously on inside of box top words "Havana blend" and "hand made," together with depiction of field and palms as above set forth, and displayed elsewhere on said container said words "Vuelta Havana," and represented, through depiction of Spanish plantation, words "Vuelta Havana" and words "primeras," "exquisitos," and "selectos tabacos," that said cigars were clear Havana; and
- (d) Made use, as aforesaid, in connection with their "Havana Imperial" brand, of label on each cigar setting forth said words and depiction of tropical palms, and displayed said words conspicuously in white and gold lettering on outside of lid of containers of said brand, and set them forth also with depiction as above described at various other places on the outside and inside of such container, and represented thereby that said cigars were clear Havana;

Facts being they did not import from Cuba or any other foreign country any of the tobacco used in the manufacture of the cigars which they branded and labeled as above set forth, but, as stated by them, made said cigars from scrap tobacco of which one-fifth, neither bought nor sold as Havana tobacco, was purchased from manufacturers using Havana tobacco in making of cigars retailing for 5 and 10 cents, and they did not purchase or use in the manufacture of their said cigars any Havana tobacco as such, or any tobacco which could be designated or identified as Havana tobacco with any reasonable degree of certainty, their cigars were made by hand,

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they had no machinery and did not make any of their cigars by or with Cuban workmanship, and their said cigars, referred to as above as made in Tampa, were not there made;

With effect of misleading and deceiving many dealers and members of purchasing public into erroneous and mistaken beliefs that said representations were true, and into purchase of substantial quantities of their said products in and on account of such beliefs thus induced, and of thereby diverting trade in commerce unfairly to them from competitors who do not misrepresent the nature, quality, or character of the tobacco used in their cigars, and who do not otherwise misrepresent their products; to the injury of competition in commerce:

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

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Marshall Morgan for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that Isadore H. Lukacher, an individual, trading as Casa Blanca Cigar Co. and as Belvedere Tobacco Co., and Bert Lukacher, an individual, hereafter referred to as respondents, have violated the provisions of the said act and it appearing to the 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 Isadore H. Lukacher is an individual doing business under the names Casa Blanca Cigar Co. and Belvedere Tobacco Co. with his principal office and place of business at York, Pa. He is now, and for more than 3 years last past has been, engaged in manufacturing various brands of cigars and in selling and distributing the same to jobbers, chain establishments, and retailers throughout the United States.

Respondent Bert Lukacher is the son of Isadore H. Lukacher and for some 6 years last past has been associated in the aforesaid business. Respondent Isadore H. Lukacher is the owner of the business operated as above described and respondent Bert Lukacher participates in the active management and control of the business and in formulating its policies as hereinafter alleged. Respondents maintain, and for several years last past have maintained, a course of trade in said cigars so sold and distributed by them in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In consummating the sale and distribution of their products, the respondents cause said cigars to be transported and delivered from their aforesaid place of business in York, Pa., through and into various other States to the respective purchasers thereof at their respective points of location in States of the United States other than the State of Pennsylvania.

In the course and conduct of said business, the respondents have been, and are now, in competition with various other individuals and with corporations and partnerships also engaged in the manufacture and in the sale and distribution of cigars in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the conduct of said business, and for the purpose of inducing the purchase of their products by the consuming public, the respondents have made use of various brand names, labels, and other designations purporting to be descriptive of the nature, quality, and character of said cigars. The hereinafter described brand names and labels for individual cigars and cigar containers, among others, have been variously used by respondents in connection with the sale of their cigars in the manner hereinabove described.

In connection with a brand of cigars designated by respondents as "Garcia Delight" a label is used on each cigar which reads "Garcia Delight—Havana." On the inside lid of the container for this brand of cigars there appear the following statements: "Havana blend," "10¢ straight," "Cuban workmanship," and "made in Tampa." These statements are all printed in sizeable type and are conspicuously displayed when the lid of the container is opened.

In connection with a brand of cigars designated by respondents as "Garcia Supreme," the container has branded thereon the following statements: "Havana blend," "hand made," and "exceptional quality." These statements are printed in sizeable type and appear conspicuously when the lid of the container is lifted.

In connection with the brand of cigars designated by respondents as "San Vega," there appear on the outside of the container therefor the words "Vuelta Havana" in sizeable type which is easily legible, together with a pictorial representation of a tobacco field and tropical palms. The words "Vuelta Havana" also appear similarly around all the outer edges of said container. On the inside of the box top appear the words "Havana blend" and "hand made" printed in letters of sizeable type which show conspicuously when the lid is lifted, together with a pictorial representation of a tobacco field and tropical palms. At the back of said container, near the top thereof, in conspicuous type also appear the words "Vuelta Havana."

In connection with a brand of cigars designated by respondents as "Havana Imperial" a label is used on each cigar which reads "Havana Imperial" and which also contains a pictorial representation of tropical palms. On the outside of the lid of the containers in which this brand is placed appear the words "Havana Imperial" in conspicuous white and gold colored lettering. The words "Havana Imperial," together with a pictorial representation of tropical palms, appear at various other places on the outside and inside of said container.

PAR. 4. Through use of the various brand-name designations for its said cigars and the various labels appearing on said cigars and on the containers thereof, as hereinabove set-out, the respondents have represented (1) as to the "Garcia Delight" brand that said cigars are made in Tampa, are hand-made by Cuban workmen, are made from a blend of tobaccos containing a substantial quantity of Havana tobacco, and are of such quality as to be regularly sold for 10 cents each; (2) as to the "Garcia Supreme" brand that said cigars are of exceptional quality, are hand-made and are made from a blend of tobaccos containing a substantial quantity of Havana tobacco; (3) as to the "San Vega" brand that said cigars are made from a blend of tobaccos containing a substantial quantity of Havana tobacco, are hand-made and that said cigars contain a substantial quantity of tobacco grown in the Vuelta Abajo district of Cuba; (4) as to the "Havana Imperial" brand that said cigars are made from Havana tobacco.

PAR. 5. In truth and in fact, none of the cigars manufactured and sold and distributed by the respondents to the public, in the manner hereinabove described, under the trade names or brands of "Garcia Delight," "Garcia Supreme," "San Vega," and "Havana Imperial" contain any Havana or Cuban tobacco whatsoever. The tobacco used by respondents in the manufacture of said cigars so branded, labeled, and described, as hereinabove set-out, is actually grown principally in the State of Pennsylvania and consists largely of "throw-off" material, or cuttings or clippings, from various large cigar manufacturing establishments. The cigars manufactured and sold by the respondents from such material are produced from the same tobacco scrap, cuttings, or clippings, irrespective of the price at which said cigars are sold to the consuming public and irrespective of the particular brand name under which they are sold. None of said cigars are made in Tampa or by Cuban workmen. On the contrary, said cigars are made in respondents' factory in York, Pa. Said cigars are not hand-made and they do not have the quality and workmanship

generally attributed to and associated with genuine hand-made cigars. Such cigars do not contain the quality or type of tobacco employed in the manufacture of cigars ordinarily and regularly selling at retail for 10 cents each and said cigars are not of the quality and standard recognized as 10-cent cigars.

PAR. 6. The cigar originated in the Spanish West Indies and the finest quality of tobacco for cigar-making purposes is grown in Cuba, not far from the city of Havana. The word "Havana" or "Habana," when used to refer to or to describe tobacco, has been used and understood since time immemorial by cigar manufacturers and dealers and by the cigar-consuming public as designating or referring to tobacco which has been grown on the Island of Cuba. Said tobacco has long been imported into the United States and extensively used and consumed in cigars manufactured in whole or in part from such tobacco. Such Havana tobacco has the reputation among cigar dealers and the cigar-consuming public as being cigar tobacco of the highest quality and excellence and cigars made from such tobacco are in large demand throughout the United States. Many of the consuming public prefer to purchase cigars containing Havana tobacco, believing that the use of such tobacco in cigars adds to and increases the quality and desirability thereof.

Vuelta Abajo is a district in the province of Pinar Del Rio, Cuba. Tobacco grown in the Vuelta Abajo district has long been considered by the cigar trade and consuming public to be of a higher and more desirable quality for use in cigars than any other tobacco grown in the Island of Cuba or elsewhere. Many of the consuming public prefer to purchase cigars made from tobacco grown in the Vuelta Abajo district to cigars made from tobacco grown anywhere else in the world.

The words "hand made" when applied to cigars have meant and still mean to the trade and to the purchasing public that such cigars are entirely made by hand. Genuine hand-made cigars usually smoke more evenly and freely than machine-made cigars, are made by operators possessing long experience and great skill, and enjoy a wide reputation for their excellence. There is a preference on the part of a large portion of the cigar-smoking public for cigars that are in fact hand-made. A Cuban hand-made cigar is a cigar made in Cuba by one operator.

For nearly 50 years cigars have been made in the city of Tampa, Fla., and in the territory immediately surrounding said city and known as the Tampa District. Such cigars are known and referred to as "Tampa cigars" and are manufactured principally from tobacco grown in and imported from the Island of Cuba. Such cigars so

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made in said city and district of Tampa have acquired a wide and favorable reputation.

PAR. 7. Among the competitors of respondents, referred to in paragraph 2 hereof, there are many who truthfully represent the place of origin of the tobacco used in their respective cigars, the place of manufacture thereof, the method of manufacturing, and the quality and character of said cigars.

PAR. 8. The use by the respondents of the statements and representations, hereinabove set-out, together with the pictorial representations referred to, in connection with the offering for sale and sale of their cigars in commerce as herein set-out, has had the capacity and tendency to, and does, mislead and deceive many dealers and members of the purchasing public into the erroneous and mistaken beliefs that said representations are true and into the purchase of substantial quantities of respondents' said cigars in and on account of said beliefs induced as above set-out. As a result thereof, trade has been diverted unfairly to the respondents from those competitors named in paragraph 2 hereof who do not misrepresent the nature, character, or quality of the tobacco used in their cigars and who do not otherwise misrepresent their products. In consequence thereof, injury has been done and is now being done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 9. The aforesaid acts and practices of respondents as herein alleged are all 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 15, 1938, issued and thereafter, served its complaint in this proceeding upon respondent Isadore H. Lukacher, trading as Casa Blanca Cigar Co. and as Belvedere Tobacco Co. and Bert Lukacher, an individual, 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, testimony and other evidence in support of the allegations of said complaint were introduced by Marshall Morgan, attorney for the Commission, and in opposition to the allegations of the complaint by respondents Isadore H. and Bert Lukacher, before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, and said testi-

mony 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, brief in support of the complaint, oral argument not having been requested; 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. Respondent Isadore H. Lukacher is an individual doing business under the names Casa Blanca Cigar Co. and Belvedere Tobacco Co. with his principal office and place of business at York, Pa. He is now, and for more than 3 years last past has been, engaged in manufacturing various brands of cigars and in selling and distributing the same to jobbers, chain establishments, and retailers throughout the United States. Respondent Bert Lukacher is the son of Isadore H. Lukacher and for some 6 years last past has been associated in the aforesaid business. Respondent Isadore H. Lukacher is the owner of the business operated as above described and respondent Bert Lukacher participates in the active management and control of the business and in formulating its policies as hereinafter detailed. Respondents maintain, and for several years last past have maintained, a course of trade in said cigars so sold and distributed by them in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In consummating the sale and distribution of their products, the respondents cause said cigars to be transported and delivered from their aforesaid place of business in York, Pa. through and into various other States to the respective purchasers thereof at their respective points of location in States of the United States other than the State of Pennsylvania. In the course and conduct of said business, the respondents have been, and are now, in competition with various other individuals and with corporations and partnerships also engaged in the manufacture and in the sale and distribution of cigars in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the conduct of their said business, and for the purpose of inducing the purchase of their products by the consuming public, the respondents have made use of various brand names, labels, and other designations purporting to be descriptive of the nature, quality, and character of said cigars. The hereinafter described brand names

and labels for individual cigars and cigar containers, among others, have been variously used by respondents in connection with the aforesaid sale of their cigars.

In connection with a brand of cigars designated by respondents as "Garcia Delight" a label is used on each cigar which reads "Garcia Delight—Havana." On the inside lid of the container for this brand of cigars there appear the following statements: "Havana blend," "10¢ straight," "Cuban workmanship," and "made in Tampa." These statements are all printed in sizeable type and are displayed in conspicuous manner when the lid of the container is opened.

In connection with a brand of cigars designated by respondents as "Garcia Supreme," the container therefor has branded thereon the following statements: "Havana blend," "hand made," and "exceptional quality." These statements are also printed in sizeable type and likewise appear conspicuously when the lid of the container is lifted.

In connection with the brand of cigars designated by respondents as "San Vega," there appear on the outside of the container therefor the words "Vuelta Havana" in sizeable type easily legible, together with a pictorial representation of a tobacco field and tropical palms. The words "Vuelta Havana" also appear similarly around all the outer edges of said container. On the inside of the box top appear the words "Havana blend" and "hand made" printed in letters of sizeable type which show conspicuously when the lid is lifted, together with a pictorial representation of a tobacco field and tropical palms. At the back of said container, near the top thereof, in conspicuous type also appear the words "Vuelta Havana."

In connection with a brand of cigars designated by respondents as "Havana Imperial" a label is used on each cigar which reads "Havana Imperial" and which also contains a pictorial representation of tropical palms. On the outside of the lid of the containers in which this brand is placed appear the words "Havana Imperial," in conspicuous white and gold colored lettering. The words "Havana Imperial," together with a pictorial representation of tropical palms, appear at various other places on the outside and inside of said container.

PAR. 4. The finest quality of tobacco for cigar-making purposes is grown in Cuba, not far from the city of Havana. The word "Havana" or "Habana," when used to refer to or to describe tobacco, has been used and understood since time immemorial by cigar manufacturers and dealers and by the cigar-consuming public as designating or referring to tobacco which has been grown on the Island of Cuba. Said tobacco has long been imported into the United States and extensively used and consumed in cigars manufactured in

whole or in part from such tobacco. Such Havana tobacco has the reputation among cigar dealers and the cigar-consuming public as being cigar tobacco of the highest quality and excellence, the last word in quality, aroma, and taste, and cigars made therefrom are in large demand throughout the United States. Many of the consuming public prefer to purchase cigars containing Havana tobacco believing that the use of such tobacco in cigars adds to and increases the quality and desirability thereof.

To the trade and the public, the word "Havana" used as a band or label on cigars indicates a clear Havana cigar, one made entirely of Havana leaf, and the policy of reputable cigar manufacturers is to use the word "Havana" on the label of cigars only when the brand is that of a clear Havana cigar. Vuelta Abajo is a district in the province of Pinar Del Rio, Cuba. Tobacco grown in the Vuelta Abajo district has long been considered by the cigar trade and consuming public to be of a higher and more desirable quality for use in cigars than any other tobacco grown in the Island of Cuba or elsewhere. Many of the consuming public prefer to purchase cigars made from tobacco grown in the Vuelta Abajo district to cigars made from tobacco grown elsewhere. The term "Vuelta Abajo" when used as a brand for cigars signifies to the trade and public alike very high-grade Havana tobacco.

The term "Havana blend" used as a part of a label on a cigar box, or otherwise, indicates to the trade and to the consuming public alike that the cigar carrying such label contains a percentage of Havana leaf or tobacco grown on the Island of Cuba.

For nearly 50 years, cigars have been made in the city of Tampa, Fla., and in the territory immediately surrounding said city and known as the Tampa District. Such cigars are known and referred to as "Tampa cigars," and are manufactured principally from tobacco grown in and imported from the Island of Cuba. Such cigars so made in said city and district of Tampa have acquired a wide and favorable reputation.

The expressions "Cuban workmanship" and "made in Tampa," appearing on a cigar box container, indicate to the trade and the public a high-grade cigar manufactured in the Cuban style at Tampa.

PAR. 5. Respondents state that they manufacture the cigars, which are labeled and branded in the manner herein described, from scrap tobacco. Respondents further state that they purchase a portion of the scrap tobacco which is used in the manufacture of said cigars from factories which use Havana tobacco in the manufacture of cigars retailing for 5 and 10 cents. Respondents do not manufacture, sell, or distribute any "Havana" cigars, that is, cigars made entirely of

tobacco grown on the island of Cuba. Respondents do not import from Cuba or any other foreign country any of the tobacco used in the manufacture of the cigars which they brand and label in the manner herein described. Respondents do not have any invoices, bills of sale, or other documents showing the purchase or acquisition of any Havana tobacco by them. Respondents assume and conclude that the scrap tobacco, which they purchase from factories which use Havana tobacco, contains Havana tobacco. Such scrap tobacco is not bought by the respondents or sold by the sellers as Havana tobacco but as scrap tobacco. Respondents state that they use one part of this scrap tobacco to five parts of other scrap tobacco in the manufacture of all of their cigars. Respondents brand their cigars with various names to retail at various prices, some for 10 cents and others for 5 cents, depending upon the particular brand or label used.

Respondents do not purchase or use in the manufacture of their said cigars, any Havana tobacco, as such, or any tobacco which can be designated or identified as Havana tobacco within any reasonable degree of certainty.

Respondents manufacture cigars by hand—have no machinery. Respondents do not manufacture any of their cigars by or with “Cuban workmanship.”

PAR. 6. Based upon the testimony of experts of long experience in connection with the manufacture, branding, labeling, and sale of cigars and who by reason of long and intimate contacts have been able to learn the viewpoint of the trade and consuming public with respect to the meaning and significance of cigar brands and labels, the Commission finds that the labeling on Commission’s Exhibit No. 1, a cigar box carrying the brand name “Garcia Delight” and the expressions “Cuban workmanship,” “made in Tampa,” “Havana blend,” and “10¢ straight,” is a representation by the respondents that the cigars in the box are Cuban workmanship, expensive because all Cuban workmanship is by hand, that the filler in the cigar is worked out in a Cuban method known to the trade, and that the cigar has Havana tobacco in the blend. Respondents’ “Garcia Delight” cigars are made by respondents at York, Pa., and not at Tampa. The Commission finds from the record that the representation “made in Tampa,” as used by respondents, is admitted to be untrue.

The Commission further finds that Commission’s Exhibit No. 3, a cigar box carrying the brand name “San Vega,” the picture of a Spanish plantation, the words “Vuelta Havana” and the word “primeras” meaning “prime” or “our prime lot in the trade,” the word “exquisitos” meaning “exquisite” and the words “selectos tobaccos”

meaning "selected tobaccos" is a representation by the respondents that the cigars were clear Havana.

The Commission further finds that the labeling on Commission's Exhibit No. 5, a cigar box carrying the brand name "Garcia Supreme," together with the expressions "Havana blend," "hand made," "exceptional quality," and "after dinner" is a representation by the respondents to the trade and to the public that the cigars were still manufactured by the famous Garcia family and that there was a certain percentage of Havana tobacco in the cigars.

The Commission finds further that the labeling on Commission's Exhibit No. 7, a cigar box carrying the brand name "Havana Imperial," without the wording "Havana blend" is a representation by the respondents to the trade, and to the consuming public that the cigars therein are clear Havana; that the word "Havana" appearing on a cigar band or label with the words "Garcia Delight" is a representation by the respondents to the trade and public that such cigar is clear Havana; and that inasmuch as the bands or labels used on respondents' "Havana Imperial" and "Garcia Delight—Havana" cigars, contain no qualification to the effect that such cigars are blended, the purchaser of such cigars, so banded or labeled, has no way of knowing from such bands that the cigars are blended. The cigar boxes, labels, and brands which are referred to in this paragraph are used by the respondents in the sale and distribution of their said cigars.

PAR. 7. One Benjamin Carlson, a cigar manufacturer located in Wrightsville, Pa., owns and has used the label referred to herein as the "Garcia Supreme" label (Commission's Exhibit No. 10) in manufacturing his cigars, and has furnished respondents with such labels, which respondents place on cigars and also on the under side of box containers, as shown in Commission's Exhibit No. 5, with the addition of certain words. It is estimated respondents have used 10,000 of such labels and still use them on their products, selling to Carlson, who is also a cigar broker, and to their trade generally.

PAR. 8. Among the competitors of respondents, referred to previously, there are those who truthfully represent the place of origin of the tobacco used in their respective cigars, the place of manufacture thereof, the method of manufacturing, and the quality and character of said cigars.

PAR. 9. The use by the respondents of the statements and representations, hereinabove set-out, together with the pictorial representations referred to, in connection with the offering for sale and sale of their cigars in commerce as herein set-out, has had the capacity and tendency to, and does, mislead and deceive many dealers and

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members of the purchasing public into the erroneous and mistaken beliefs that said representations are true and into the purchase of substantial quantities of respondents' said cigars in and on account of said beliefs induced as above set-out. As a result thereof, trade in said commerce has been diverted unfairly to the respondents from competitors who do not misrepresent the nature, character, or quality of the tobacco used in their cigars and who do not otherwise misrepresent their products. In consequence thereof, injury has been done and is now being done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondents as herein found are all 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 thereto, testimony and other evidence in support of the allegations of said complaint and in opposition thereto, taken before Robert S. Hall, examiner of the Commissioner theretofore duly designated by it, and brief in support of the complaint (respondents not having filed brief and oral argument not having been requested), and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent Bert Lukacher, individually, and respondent Isadore H. Lukacher, individually and trading as Casa Blanca Cigar Co. or Belvedere Tobacco Co., or under any other name or names, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of cigars in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Havana," or the term "Vuelta Havana," or any other terms or picturizations indicative of Cuban origin, or descriptive of Cuba, alone or in conjunction with any other terms, to describe, designate, or in any way refer to cigars which are not made entirely from tobacco grown on the Island of Cuba.

2. Representing, through the use of the term "made in Tampa," or any other term or terms of similar import or meaning, or in any other manner, that cigars which have not been made in Tampa, Fla., are Tampa cigars or have been made in Tampa, Fla.

3. Using the term "Cuban workmanship" or any other term or terms of similar import or meaning to describe, designate, or in any way refer to cigars which have not been made by Cubans or by the Cuban style of workmanship.

4. Using the term "Havana blend" or any other term or terms of similar import or meaning to describe, designate, or in any way refer to cigars which do not contain a substantial amount of tobacco grown on the Island of Cuba.

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.

IN THE MATTER OF
FEDERAL ORGANIZATION, INC., AND SAMUEL L.
PRESNER

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

Docket 3782. Complaint, May 5, 1939—Decision, Aug. 2, 1939

Where a corporation and an individual, who was president thereof prior to its dissolution, and formulated, controlled, and directed its policies and practices, engaged in sale and distribution of devices and medicinal preparations containing drugs, for treatment of genital and urinary disorders and diseases, and acting together and in cooperation with each other in doing the acts and things below set out; in advertisements which they disseminated and caused to be disseminated concerning their said products, through the mails, through newspapers and periodicals of general circulation and through circulars and other printed or written matter, and which were intended and calculated to induce purchase of their said products—

- (a) Represented, through such typical statements as "We believe our products will be of great help, for more than 20,000 customers have found them effective * * * safe to use. * * * no dangerous drugs and no harmful chemicals of any kind. * * * not habit forming * * * used by countless doctors," and "If weak, nervous, de-energized, suffer from Gland, Kidney, Stomach or other weakness, send for details * * *," etc., and "MEN—STRENGTHEN VITAL POWERS. Increase energy. * * * Confidential information * * *," that their preparations and devices were safe for use, contained no dangerous drugs, were recommended by doctors, constituted a cure or remedy and competent treatment for weak, nervous, and deenergized conditions and for gland, kidney, stomach, and other weaknesses, and would increase sex power, vitality, and manpower without dangerous use of harmful drugs and artificial stimulants;

Facts being their said preparations and devices generally were not safe for use or recommended by doctors, and were not a cure or remedy or competent treatment for aforesaid conditions or gland, kidney, stomach, or other disorders, and would not increase sex power or vitality;

- (b) Represented that their "Vibro Appliance" and other devices named, were aids in the development of the male sexual anatomy and would restore sexual power, and that their "Vitamin E Perles" would prevent impotency and degeneration of said cells, and was a potent tonic and stimulant for men or women, and that their "Spanish Passion Extract" and "Double Strength Spanish Passion Extract" were healthful, and noninjurious, quick-acting stimulants for the organs of sex, and served as a tonic, and were beneficial in treatment of prostate troubles, cystitis, kidney diseases, inflammation of the urinary canal and bladder, and other related ailments and conditions, and that their preparation "African Jungle Tree" was a harmless, powerful sexual stimulant which would restore such vigor in man;