

IN THE MATTER OF
UNIVERSAL CORDAGE 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 3612. Complaint, Sept. 28, 1938—Decision, Dec. 27, 1939

Where a corporation engaged in manufacturing remade rope and cordage from reclaimed Manila fiber, and in sale and distribution of its said products to customers in various States and in the District of Columbia—

- (a) Caused the words "Pure Manila" to appear on labels and brands affixed to its remade rope and cordage and made use of said words in designating its products on announcements and invoices to dealers, jobbers, and distributors, and stenciled the same in the branding of burlap containers thereof, facts being its said product, labeled, branded, and advertised as above set out, was not, as understood by substantial portion of purchasing public from words "Pure Manila," rope or cordage made of new and unused fiber or material theretofore unused for rope or cordage, with each fiber going into the product from the beginning of the rope-making process entirely new, but was restranded and assembled by it from reclaimed fiber obtained from old, used and discarded rope, and while there is a difference in appearance of such a product made from new material and one made from that which is used or discarded which expert in trade might detect, substantial portion of purchasing public cannot determine by appearance of rope such difference, and custom and practice, known to purchasers and users of rope and cordage, has been generally adopted by manufacturers, distributors, and sellers thereof of so marking or branding their products as to indicate presence of old or used fiber when employed in manufacture thereof; and
- (b) Represented itself to be "new manufacturers of pure Manila rope" in statements to the trade through the medium of the mail, facts being its factory equipment was less than equipment and machinery used by manufacturers in making rope and cordage of new materials, it eliminated approximately two-thirds of rope-making in its process of using fiber of old product, and about two-thirds of labor cost of making rope from new material by assembling from reclaimed fiber obtained from old, used, and discarded rope, its product so as to be enabled thereby to sell to purchasing public at substantially lower prices than could be offered by manufacturers of Manila rope and cordage of new fiber and material, its products;

With effect of misleading and deceiving many dealers and members of purchasing public into erroneous and mistaken beliefs induced as aforesaid and with result that trade in commerce was thereby diverted unfairly to it from competitors who do not misrepresent the nature, character, and quality of the material used in the manufacture of rope and cordage and otherwise misrepresent their goods; to injury of competitors 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. John R. Phillips, Jr. for the Commission.

Weisman, Celler, Quinn, Allen & Spett, of New York City, for respondent.

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 Universal Cordage Co., Inc., a corporation, hereinafter referred to as respondent, has 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, Universal Cordage Co., Inc., is a corporation created by and existing under the laws of the State of New York, with its principal offices and place of business located at 312 Bridge Street, in the city of Brooklyn, State of New York.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of manufacturing remade rope and cordage from reclaimed Manila fiber, and in the sale and distribution thereof. Respondent causes said rope and cordage when sold to be transported from its place of business in the State of New York to its customers located in other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said rope and cordage sold and distributed by it in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business respondent is in active and substantial competition with other corporations, and with firms, partnerships, and individuals engaged in the sale and distribution of rope and cordage in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its said business, and for the purpose of inducing the purchase of said rope and cordage, respondent has caused the words "Pure Manila" to appear on labels and brands affixed to its remade rope and cordage, and on announcements and invoices to dealers, jobbers, and distributors, and in stenciled brandings on burlap containers for such rope and cordage. Respondent has also represented itself, through the medium of the United States mail, to be "new manufacturers of pure Manila Rope."

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All of said statements, together with similar statements appearing on the labels, brands, announcements, invoices, and the stenciled brandings on its burlap containers, purport to be descriptive of the character, quality, nature, and fiber of respondent's rope and cordage. By use of said labels, brands, announcements, invoices, stenciled brandings, and through other means, the respondent, through the statements and representations as aforesaid, and other statements of similar import and effect, represents that its rope and cordage are in whole manufactured from new pure Manila fiber.

PAR. 5. The representations made by the respondent with respect to the character, quality, nature, and fiber of its rope and cordage are grossly exaggerated, false, misleading, and untrue. In truth and in fact its rope and cordage are not manufactured from new and unused pure Manila fiber, but are restranded and assembled from reclaimed fiber obtained from old, used, and discarded rope and hawsers, which fact is not indicated or disclosed upon its merchandise or in the labels brands, announcements, or other sales-promotional representations used in respect thereto.

The cost to respondent of obtaining old and used rope and hawsers, and the restranding and assembling the reclaimed fiber therefrom as aforesaid, is much less than the cost of manufacturing new rope and cordage made from new Manila fiber, and respondent is thereby enabled to sell its said rope and cordage to retailers, jobbers, and wholesalers and to the purchasing public at substantially lower prices than manufacturers of Manila rope and cordage from new material.

The manufacturers, distributors, and sellers of rope and cordage made from new pure Manila fiber have generally adopted and followed, and they now follow, the common practice and custom of truthfully disclosing the various fibers and materials from which such rope and cordage are made, and this custom and practice on the part of said manufacturers, distributors, and sellers of rope and cordage is understood and relied upon by the purchasing public in its purchase thereof to mean rope and cordage manufactured from new and unused Manila fiber unless otherwise expressly specified.

PAR. 6. There are among respondent's competitors many who manufacture and sell rope and cordage who do not in any way misrepresent the quality or character of their respective ropes and cordage and the materials from which they are made.

PAR. 7. Each and all of the false and misleading statements and representations made by respondent in designating and describing its rope and cordage, as hereinabove set out, have had and now have a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that

all of such representations are true and that its said rope and cordage are made from new and unused pure Manila fiber, and to lead the public into the purchase of a substantial volume of respondent's said rope and cordage because of said mistaken and erroneous belief, with the result that trade in said commerce has been diverted unfairly to the respondent from its competitors, likewise engaged in manufacturing, distributing, and selling rope and cordage in said commerce, who truthfully represent the quality and character of their respective rope and cordage and the material or fiber from which they are manufactured. As a consequence thereof, substantial injury has been done and is now being done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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 the 28th day of September A. D. 1938, issued and served its complaint in this proceeding upon the respondent Universal Cordage Co., Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint, testimony, and other evidence in support of the allegations of said complaint were introduced by John R. Phillips, Jr., attorney for the Commission, before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceedings regularly came on for final hearing before the Commission on said complaint, the testimony and other evidence, and brief in support of the complaint; 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, Universal Cordage Co., Inc., is a corporation created by and existing under the laws of the State of New York, with its principal office and place of business located at 312

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Bridge Street, in the city of Brooklyn, State of New York. It is now, and for more than 1 year last past has been engaged in the business of manufacturing remade rope and cordage from reclaimed Manila fiber, and in the sale and distribution thereof. Respondent causes said rope and cordage, when sold, to be transported from its place of business in the State of New York, to its customers located in various States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said rope and cordage sold and distributed by it in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, in the course and conduct of its said business, and for the purpose of inducing the purchase of said rope and cordage, has caused the words "Pure Manila" to appear on labels and brands affixed to its remade rope and cordage. It has also caused the words "Pure Manila" to appear in designating its products on announcements and invoices to dealers, jobbers, and distributors, and has also stenciled said words in the branding of burlap containers for such rope and cordage; and in statements to the trade through the medium of the United States mail, respondent has also represented itself to be "new manufacturers of pure Manila rope."

PAR. 3. A substantial portion of the purchasing public believe the words "Pure Manila" when used on labels, brands, and advertisements of rope and cordage, mean that the product thus labeled, branded, and advertised, is a rope or cordage made of new and unused fiber, or from material theretofore unused for rope or cordage; that each fiber going into the product, from the beginning of the rope-making process, is entirely new fiber. The words "new manufacturers of pure Manila rope" mean, also, to such substantial portion of the purchasers of rope that the makers of rope or cordage thus branded, labeled, or advertised, are manufacturers of pure Manila rope, and that such makers have ample factory equipment to begin with the raw material and process such raw material into a finished new rope or cordage product.

PAR. 4. Respondent's product, labeled, branded and advertised as shown in paragraph 2 hereof, is not rope or cordage manufactured from new and unused, pure Manila fiber. The respondent restrands and assembles its products from reclaimed fiber obtained from old, used, and discarded rope. Respondent's factory equipment is less than the equipment and machinery used by manufacturers in manufacturing rope and cordage of new materials. In using fiber of old ropes, the preliminary steps of combing or preparing, and the spinning process necessary in making rope of new fiber are eliminated,

which elimination is approximately two-thirds of rope making. Approximately two-thirds of the labor cost of manufacturing rope from new material is eliminated by respondent's methods of assembling its product from reclaimed fiber obtained from old, used, and discarded rope. Respondent is thereby enabled to sell its rope and cordage to the purchasing public at substantially lower prices than can be offered by manufacturers of Manila rope and cordage from new fiber or material.

PAR. 5. While there is a difference in the appearance of rope manufactured from new material and rope manufactured from used or discarded material, which an expert in the rope trade might detect, yet a substantial portion of the purchasing public cannot determine by the appearance of the rope, such difference.

PAR. 6. Manufacturers, distributors, and sellers of rope and cordage have adopted generally the custom and practice, which is generally known to purchasers and users of rope and cordage, of so marking or branding their products as to indicate the presence of old or used fiber when such fiber is used in the manufacture thereof, and to fail to so mark or brand rope and cordage containing old and used fiber leads purchasers to believe that such rope and cordage contain no old or used fiber.

PAR. 7. The use by the respondent of the statements and representations hereinabove set out, in connection with the offering for sale and sale of its rope and cordage 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 induced as above set out. As a result thereof, trade in said commerce has been diverted unfairly to the respondent from competitors who do not misrepresent the nature, character, and quality of the material used in the manufacture of rope and cordage, and who do not otherwise misrepresent their products. In consequence thereof, injury has been done, and is now being done, by respondent to competitors in commerce between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all 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, no answer having been filed by the respondent, testimony and other evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, brief in support of the complaint filed by John R. Phillips, Jr., counsel for the Commission, no brief having been filed on behalf of the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Universal Cordage Co., Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of rope and cordage in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing that rope or cordage made in whole or in part from used or reclaimed Manila fiber is made of new and unused fiber.

2. Using the words "Pure Manila" or any other words of like import and meaning to designate, describe or refer to rope or cordage made in whole or in part from used or reclaimed Manila fiber.

3. Representing, through the use of the words "New manufacturers of Pure Manila rope and fiber" or through the use of any other words importing or implying that respondent is the manufacturer of the products sold by it, that the respondent is the manufacturer of the rope and cordage sold by it, unless and until it actually owns and operates, or directly and absolutely controls, a manufacturing plant wherein said products are manufactured in their entirety by the respondent.

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

Syllabus

IN THE MATTER OF
RALSTON PURINA COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3102. Complaint, Apr. 10, 1937—Decision, Dec. 28, 1939*

Where a corporation engaged in manufacture of livestock feeds, cereal foods for human consumption, and food for dogs and other animals, including its "Purina Dog Chow," and in sale and distribution of its said product to purchasers in other States, in substantial competition with others similarly engaged in sale of like products or of those for the same purposes—

Represented, in pamphlets, circulars, labels, and other advertising matter circulated through the several States and in the District of Columbia, that said "Purina Dog Chow" contained pure beef, pure meat, and meat, facts being ingredient thus referred to, and properly designated as "meat meal" or dehydrated meat meal, purchased by it from packing companies and manufacturers thereof, was made by them under a process by which the meat trimmings, deposits of fat, various organs, incidental bone, etc., were so treated that two of four chemical food elements of meat, namely, fat and moisture, were removed, and any small amount included in original contents placed in vats or containers made use of was changed both physically and chemically, and there was no meat or beef in the meat meal or finished ingredient placed, in form of dry meal or powder, in said dog food;

With tendency and capacity to mislead and deceive substantial part of purchasing and consuming public into erroneous and mistaken belief that said dog food contained pure beef, pure meat, or meat, and with result, as consequence of such belief, that purchasing and consuming public bought substantial amount thereof and trade was unfairly diverted to it from its competitors engaged in manufacture, sale, and distribution of such products, or in sale and distribution thereof, and who truthfully represent the contents of their said products; to the substantial 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 and unfair and deceptive acts and practices in commerce.

Before *Mr. W. W. Sheppard*, *Mr. Miles J. Furnas*, and *Mr. Randolph Preston*, trial examiners.

Mr. S. Brogdyne Teu, II and *Mr. Donovan Divet* for the Commission.

Mr. Crawford Johnson and *Mr. Thomas S. McPheeters, Jr.* of Bryan, Williams, Cave & McPheeters, of St. Louis, Mo., for respondent.