

## Syllabus

IN THE MATTER OF  
H. N. HEUSNER & SON

## MODIFIED CEASE AND DESIST ORDER

*Docket 2355. Order, Mar. 25, 1940*

Modified order, pursuant to provisions of Section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which original order issued on May 29, 1937, 24 F. T. C. 1370, and in which Court of Appeals for Third Circuit, on Aug. 10, 1939, in *H. N. Heusner & Son v. Federal Trade Commission*, 106 F. (2d) 596, 29 F. T. C. 1580, rendered its decree modifying order of the Commission in question so as to allow respondent two years from date thereof within which to eliminate word "Havana" from brand name and labels of its cigars not made of Havana tobacco, sold by it as "Heusner's Original Havana Smokers" and "Martinez Havana Smokers"—

Requiring respondent, its officers, representatives, employees, or agents, on and after two years from Aug. 10, 1939, and in connection with offer for sale and distribution of cigars in interstate commerce and in the District of Columbia, to cease and desist from representing, through use of words "Havana" or "Habana," or otherwise as below set forth, that cigars not manufactured entirely from tobacco grown in Cuba are Havana cigars.

## MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on May 29, 1937, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on August 10, 1939, the United States Circuit Court of Appeals for the Third Circuit rendered its decree modifying the aforesaid order of the Commission so as to allow the respondent 2 years from the date thereof within which to eliminate the word "Havana" from the brand name and labels of cigars not made of Havana tobacco and sold by it as "Heusner's Original Havana Smokers" and "Martinez Havana Smokers."

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said Court decree;

*It is ordered*, That the respondent, H. N. Heusner & Son, a corporation, its officers, representatives, employees, or agents, individually or corporate, on and after 2 years from August 10, 1939, shall cease and desist, in connection with the offering for sale, sale, and distribution of cigars in interstate commerce and in the District of Columbia;

Order

30 F. T. C.

From representing, through the use of words "Havana" or "Habana," alone or in conjunction with any other word or words, or through the use of any other words of similar import and effect, or in any other manner, that cigars not manufactured entirely from tobacco grown on the Island of Cuba are Havana cigars.

*It is hereby further ordered,* That within the period of 2 years and 30 days from August 10, 1939, the respondent, H. N. Heusner & Son, a corporation, be, and it hereby is, directed and ordered to file with the Commission a report in writing setting forth with particularity the manner in which it has complied with the terms of the modified order herein.

## Order

IN THE MATTER OF  
BEAR MILL MANUFACTURING COMPANY, INC.

## MODIFIED CEASE AND DESIST ORDER

*Docket 2578. Order, Mar. 25, 1940*

Modified order, pursuant to provisions of Section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which original order issued on April 5, 1937, 24 F. T. C. 912, and in which Circuit Court of Appeals for the Second Circuit, on July 5, 1938, in *Bear Mill Manufacturing Company, Inc. v. Federal Trade Commission*, 98 F. (2d) 67, 27 F. T. C. 1685, rendered its opinion and on July 26, 1938, issued its order modifying Commission order aforesaid in certain particulars and affirming same in certain other particulars—

Requiring respondent, its officers, representatives, agents and employees, in connection with sale and distribution of cotton and rayon fabrics in interstate commerce, or in the District of Columbia, to forthwith cease and desist from representing through use of words "mills" or "manufacturing," as part of its corporate or trade name, or in any other way that it manufactures the product sold by it, until and unless it owns and operates, etc., as below provided, mill or factory in which such products are made and subject to permitted use of its corporate name, as below set forth, when words "Converters, Not Manufacturers of Textiles" are appended thereto and used in connection therewith.

## MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on April 5, 1937 the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of section 5 of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on July 5, 1938, the United States Circuit Court of Appeals for the Second Circuit rendered its opinion and on July 26, 1938 issued its order modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars.

Now, therefore, Pursuant to the provisions of subsection (i) of section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with the said Court order:

*It is ordered*, That the respondent, Bear Mill Manufacturing Co., Inc., its officers, representatives, agents, and employees, in connection with the sale and distribution of cotton and rayon fabrics, in interstate commerce or in the District of Columbia, do forthwith cease and desist from: