

IN THE MATTER OF
UNITED STATES BUSINESS CARD COMPANY, UNITED
STATES STATIONERY CORPORATION, LEWIS WEIS-
MAN, INDIVIDUALLY AND TRADING AS INCOME
RECORD PUBLISHING COMPANY

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

Docket 3784. Complaint, May 6, 1939—Decision, May 31, 1940

Where two corporations, and an individual who was president and treasurer thereof and majority stockholders and director, and controlled sales policy and acts and practices of corporation still active as below set forth, engaged for a number of years in sale of stationery and business forms to buyers in the District of Columbia and in other States, in substantial competition with others engaged in sale and distribution of similar products for similar purposes in commerce as aforesaid, and who neither misrepresent their goods as approved by the United States Government nor themselves as the world's largest manufacturers of business cards exclusively—

- (a) Represented that certain of their business forms were approved by the United States Government through placing thereon the phrase "U. S. Approved," facts being none of the forms sold by them was ever approved by or made according to the specifications of the Government or any agency thereof, and they were not sellers of merchandise approved by the United States Government, purchase of which many buyers prefer; and

Where one of said corporations which, as aforesaid, subsequently became inactive—

- (b) Represented that it was the world's largest manufacturer of business cards exclusively, facts being neither it nor its successor made such cards exclusively during period of time concerned, and corporation in question was not world's largest manufacturer of such products during entire period of time involved;

With capacity and tendency to mislead and deceive a substantial portion of purchasing public into erroneous and false belief that such representations were true and to induce number of said public to buy substantial quantity of said stationery and business forms which, lacking such belief, they would not purchase, and with result, as direct consequence of such belief, induced by representations as aforesaid, that number of said public were caused to buy substantial quantities of said products, and trade was diverted unfairly to them from their competitors aforesaid, who truthfully advertise their stationery and forms:

Held, That such acts and representations were to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive practices therein.

Before *Mr. John W. Addison*, trial examiner.

Mr. L. E. Creel, Jr., for the Commission.

Mr. R. Robert Hochman, of New York City, for respondents.

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Complaint

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 the United States Business Card Co., a corporation, United States Stationery Corporation, a corporation, and Lewis Weisman, individually and trading as Income Record Publishing Co., hereinafter referred to as respondents, have violated the provisions of 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 United States Business Card Co. is a corporation organized and existing under and by virtue of the laws of the State of New York and having its principal office and place of business in the city of New York, State of New York. Respondent United States Stationery Corporation is a corporation organized and existing under and by virtue of the laws of the State of New Jersey and having its office and principal place of business in the city of Elizabeth, State of New Jersey. Respondent Lewis Weisman is president and treasurer of both of said corporate respondents and directs and controls the sales policies and other acts and practices herein described of said corporate respondents. Respondent Lewis Weisman also does business under the firm name and style of Income Record Publishing Co., having his office and principal place of business in the city of Elizabeth, in the State of New Jersey. Respondents are now, and have been for a number of years last past, engaged in the business of selling and distributing stationery and business forms in commerce among and between the various States of the United States and in the District of Columbia. Respondents cause and have caused said stationery and business forms, when sold, to be transported from their aforesaid places of business to the purchasers thereof at their respective points of location in various States of the United States, other than the State of the origin of the shipment thereof, and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in commerce in said stationery and business forms among and between the various States of the United States and in the District of Columbia.

PAR. 2. Respondents are now, and during all the times mentioned herein have been, engaged in substantial competition in commerce among and between the various States of the United States and in the District of Columbia with other corporations and individuals and

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with firms and partnerships engaged in the sale and distribution of similar merchandise. Among said competitors are many who truthfully advertise and represent their merchandise and who do not make any false and misleading statements and representations in connection with the sale and distribution of their merchandise.

PAR. 3. In the course and conduct of their business as aforesaid, respondents, in soliciting the sale of and selling their merchandise, have caused pamphlets, business forms, and other printed matter to be distributed among and between the various States of the United States and in the District of Columbia. On certain of said business forms and other printed matter, respondents place or cause to be placed the term "U. S. Approved." The use of this term by the respondents in the matter aforesaid serves as a representation by respondents that their said business forms have been approved by the United States Government or an agency thereof. In truth and in fact said business forms of the respondents have not been approved by the United States Government or any agency thereof.

PAR. 4. There is now, and has been during all the times mentioned herein, a preference on the part of a substantial number of the purchasing public situated in various States of the United States and in the District of Columbia for merchandise, including business forms, which has been approved by the United States Government or an agency thereof because of their belief that such merchandise has been examined by representatives of the United States Government and has been found to be of good quality and material and desirable for use.

PAR. 5. In the course and conduct of its business as aforesaid, respondent, United States Business Card Co., has distributed pamphlets and other printed matter among and between the various States of the United States and the District of Columbia on which was printed the statement "World's Largest Manufacturers of Business Cards Exclusively." The use of this statement by said respondent in the manner aforesaid serves as a representation that said respondent is and was the world's largest manufacturer engaged exclusively in the manufacture of business cards. In truth and in fact the said respondent is not and was not the world's largest manufacturer engaged exclusively in the manufacture of business cards.

PAR. 6. The use by the respondents of the aforesaid false and misleading statements and representations, in the manner aforesaid, has the capacity and tendency to, and does, mislead and deceive members of the purchasing public situated in various States of the United States and in the District of Columbia into the erroneous and mistaken belief that the aforesaid statements and representations are true and into the purchase of respondents' merchandise because of said erroneous

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Findings

and mistaken belief. As a direct result thereof, trade in commerce, as commerce is defined in the Federal Trade Commission Act, has been diverted unfairly to the respondents from their competitors who do not falsely represent their respective merchandise. In consequence thereof, injury has been, 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. 7. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' 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 6th day of May 1939, issued and served its complaint in this proceeding upon respondents United States Business Card Co., a corporation, United States Stationery Corporation, a corporation, and Lewis Weisman, individually and trading as Income Record Publishing Co., charging them with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices 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 the complaint were introduced by L. E. Creel, Jr., attorney for the Commission, and in opposition thereto by R. Robert Hochman, 233 Broadway, New York, N. Y., attorney for the respondents, before John W. Addison, an examiner of the Commission duly designated by it, and said testimony 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, briefs in support of the complaint and in opposition thereto, 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, Lewis Weisman, is an individual trading under the firm name and style of Income Record Publishing Co.

with office and principal place of business at Elizabeth, N. J. He is also president and treasurer of respondents' United States Business Card Co. and United States Stationery Corporation. The former of these is a New York Corporation, inactive since sometime in 1937, with office and principal place of business in the State and city of New York; the latter is a New Jersey corporation, successor to said New York corporation, with office and principal place of business at Elizabeth, N. J. Said Weisman, besides being president and treasurer of each corporation, owns a majority of its stock and directs and controls its sales policy and other acts and practices herein described.

PAR. 2. Respondents, excepting that the United States Business Card Co. became inactive in 1937, as aforesaid are, and have been for several years last past, engaged in the business of selling stationery and business forms to buyers in the District of Columbia and in States of the United States other than the States of New York and New Jersey, and of shipping and transporting the goods so sold from their said places of business into and through other States and said District and there delivering them to the buyers.

PAR. 3. Respondents are in substantial competition with other corporations, partnerships, and individuals engaged in the sale and distribution of similar products used for similar purposes in commerce between and among the various States of the United States who neither misrepresent their goods as approved by the United States Government nor themselves to be "world's largest manufacturers of business cards exclusively."

PAR. 4. Respondents, in promoting the sale of goods in commerce as aforesaid, did, for several years prior to the early part of 1939, represent that certain of their business forms were approved by the United States Government by placing on said forms the phrase "U. S. Approved." The respondent United States Business Card Co. also represented that it was the world's largest manufacturer of business cards exclusively.

PAR. 5. In truth and in fact, none of the business forms sold by the respondents was ever approved by or made according to the specifications of the United States Government or any agency thereof. Neither the United States Business Card Co. nor its successor manufactured business cards exclusively during all the period of time in which it represented that it did manufacture business cards exclusively. The United States Business Card Co. was not the world's largest manufacturer of business cards during the entire period of time it represented that it was the world's largest manufacturer of such cards.

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Order

PAR. 6. Many buyers prefer merchandise that has been approved by the United States Government.

PAR. 7. The false and misleading representations made by respondents, as set forth above, have had and now have the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and false belief that said representations are true, and to induce a number of the purchasing public to buy a substantial quantity of said stationery and business forms which they would not buy except for such erroneous and false belief. Further, said representations have the capacity and tendency, as a direct consequence of such erroneous false belief, induced by the representations of respondents as aforesaid, to cause a number of the purchasing public to buy substantial quantities of said stationery and business forms, with the result that trade has been diverted unfairly to respondents from their said competitors who truthfully advertise and represent their stationery and business forms.

CONCLUSION

Said acts and representations of respondents Lewis Weisman, United States Business Card Co., and United States Stationery Corporation have been and are to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and unfair and deceptive practices 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, testimony and other evidence taken before John W. Addison, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents United States Business Card Co., a corporation; United States Stationery Corporation, a corporation; their officers, representatives, agents, and employees; and Lewis Weisman, individually and trading as Income Record Publishing Co.; his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of stationery and business forms in commerce, as

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“commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist:

From representing that said products are approved by, or manufactured according to specifications of, the United States Government or any agency thereof.

It is further ordered, That the respondent United States Business Card Co., 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 printed business cards in commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist:

From representing that it is the world’s largest manufacturer of business cards.

From representing that it is the world’s largest manufacturer which is engaged solely in the manufacture of business cards.

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
SOUTHERN VITRIFIED PIPE ASSOCIATION ET AL.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3868. Complaint, Aug. 8, 1939¹—Decision, May 31, 1940*

Where nine corporations engaged in the manufacture and sale of vitrified clay sewer pipe, and members of an association which included most of the manufacturers of said product located in that part of the United States lying east of the Mississippi and south of the Ohio and Potomac Rivers, and who (1) sold product in question, important item in modern construction, sanitation, and community development and frequently bought and used by municipalities and by State and Federal governments for improvement of their own properties and by governmental emergency relief agencies, such as the Works Progress Administration of the United States Government, and other agencies dealing with the relief of unemployment and other results of the depression, direct to municipalities, counties, States and the Federal Government, and to dealers at the same prices, terms, and conditions of sale, and direct to large contractors, (2) had control of a large, valuable, and continuous trade and commerce among the several States in such product, large quantities of which they sold and shipped and caused to be transported and delivered to purchasers across State lines, and (3) were in a position, to the extent that they acted concertedly and cooperatively in the production and price of their products, both to dominate and manipulate the market in which Governmental agencies and unorganized consumers must buy such products in territory in which said manufacturers did business;

Acting concertedly and by agreements among themselves, and through their said association, as the case might be, and continuing, pursuant to agreement, understanding, and cooperation among themselves, acts, practices, and agreements which were in effect, mostly, during the period covered by the Code for the Industry under the National Industrial Recovery Act, and with intent of substantially suppressing and restricting competition as to price and otherwise in sale of vitrified clay sewer pipe in commerce among the several States where they did business—

- (a) Fixed and agreed among themselves on prices, terms, and conditions of sale to be quoted and collected for their products, and caused such prices, etc., to be filed with their said association and to be compiled and distributed among themselves and their customers, and agreed to and did adhere to such prices, etc., pending the filing of changes therein with association aforesaid;
- (b) Agreed among themselves that quotations and sales should be made upon a delivered basis only, with freight equalized from members' respective shipping points, so that cost of their products to any given buyer when delivered from any point was identical at any given destination, regardless of variations in freight from different places of production and shipment, and

¹ Amended.