

IN THE MATTER OF
CONSOLIDATED SIGN LETTER 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 3539. Complaint, Aug. 17, 1938—Decision, Aug. 5, 1940

Where a corporation engaged in manufacture of metallic sign letters and numbers, known in trade as "ready-made" products, as distinguished from "hand-letter" work, and in sale and distribution thereof to purchasers in various States and in the District of Columbia, in active and substantial competition with others engaged in commerce, as aforesaid, in sale of similar letters and numbers; in advertising its products through circulars, pamphlets, price lists, and in periodicals and newspapers circulating in various States—

- (a) Made use of statements, in referring to certain of its said sign letters and numbers, "Genuine Gold Leaf Sign Letters" and "Genuine Gold Leaf," and statement that "Our Gold Leaf is Made of Pure 24 Karat and Contains no Alloy," and represented and implied thereby that its said products were composed of 24 carat pure gold exclusively, facts being products in question were not composed of 24 carat pure gold exclusively, and were not, as signified and understood from use of terms "gold leaf" or "genuine gold leaf" to designate, describe or refer to products of type sold by said corporation, signs produced by the more expensive and generally preferred "hand letter" work or process of gold leaf exclusively, but were made of combination of gold leaf and silver leaf mounted on tinfoil, long labeled and sold as "Half Gold" by manufacturers thereof, with gold leaf, under process employed by said corporation, exposed to view and silver leaf concealed between other and tinfoil back; and
- (b) Made use of statement, in describing certain other of its said sign letter and number products, "The New Modernistic One Piece Silver and Black Sign Letters," and represented and implied thereby that signs so designated, described, or referred to were made from silver leaf, notwithstanding fact they contained no silver metal or leaf, as signified and understood from use of word "silver" to designate, describe, or refer to sign letters or numbers of type produced by it;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous belief that such representations were true, and into purchase of substantial quantities of its product as result thereof, and with result that trade in commerce was diverted to it from its competitors who do not use deceptive and misleading representations in connection with sale and distribution of their products:

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 in commerce and unfair and deceptive acts and practices therein.

Before *Mr. W. W. Sheppard* and *Mr. L. C. Russell*, trial examiners.

Mr. E. P. Schrup and *Mr. DeWitt T. Puckett* 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 Consolidated Sign Letter 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, Consolidated Sign Letter Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business located at 416 South Dearborn Street, Chicago, Ill.

Respondent is engaged in the manufacture and sale of metallic sign letters and numbers, and causes said products when sold to be transported from its place of business in Chicago, State of Illinois, to the purchasers thereof located in States of the United States other than the State of Illinois, and in the District of Columbia.

PAR. 2. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in the said metallic sign letters and numbers sold and distributed by it, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is in active and substantial competition with other corporations and with individuals, firms, and partnerships engaged in the sale and distribution of metallic sign letters and numbers and with others engaged in the sale and distribution of gold leaf and silver leaf, all of said competitors being engaged 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 its business, and for the purpose of inducing the purchase of said metallic sign letters and numbers, respondent has made many representations concerning the character and quality of said products, by means of advertising circulars, folders, and price lists circulated generally, and by means of advertisements inserted in magazines and newspapers having an interstate circulation. Among said representations made by the respondent are the following:

Genuine Gold Leaf Sign Letters.

Genuine Gold Leaf.

Our Gold Leaf is made of Pure 24 Karat and Contains no Alloy.

The New Modernistic one piece Silver and Black Sign Letters.

All of said statements, together with similar statements appearing in the respondent's advertising literature, purport to be descriptive of respondent's products and representative of the character and quality thereof. In all of its advertising literature and through other means, respondent, directly or by inference, through the statements and representations herein set out and other statements of similar import and effect represents that its "Genuine Gold Leaf" metallic sign letters and numbers are actually made and composed of genuine gold leaf; that said "Genuine Gold Leaf" is 24 carat pure gold containing no alloy and that "The New Modernistic one piece Silver and Black Sign Letters" actually contain the element of silver.

PAR. 5. The said representations as made by the respondent with respect to the character and quality of its metallic sign letters and numbers are false, misleading and untrue.

In truth and in fact, the products described as being made and composed of "Genuine Gold Leaf" are not made and composed of genuine gold leaf, nor are they made and composed of pure 24-carat gold containing no alloy as represented by the respondent. Further, "The New Modernistic one piece Silver and Black Sign Letters" contain no silver, contrary to respondent's description and representation.

The true facts are that respondent's so-called Genuine Gold Leaf is not the product correctly known, described and accepted as genuine gold leaf nor does it contain gold of the absolute standard of 24 carat fineness and purity. Respondent's "Genuine Gold Leaf" is actually made and composed of a very thin strip of gold superimposed upon a very thin strip of silver, the two strips together forming a single leaf, the top portion being gold and the bottom portion silver. Respondent's so-called piece Silver and Black Sign Letters contain no silver, the same being made and composed entirely of lead foil and tin foil.

The words "Gold Leaf," "Genuine Gold Leaf," "24 Karat," and "Silver" as used herein have a definite well-known, generally understood and accepted meaning. Products so described represent to the purchasing public that they are in fact real gold leaf made and composed entirely of gold; that the gold used therein is pure unalloyed 24 carat fine; that the products as so described contain the element of silver. It is common knowledge that the inherent qualities of genuine gold leaf and real silver are such that they are of superior value and adaptability for the particular usage herein required and for which usage respondent's products are represented to be designed.

PAR. 6. There are among respondent's competitors many who sell and distribute metallic sign letters and numbers who do not misrepresent the character or quality of their respective products, and many who sell and distribute gold leaf and silver leaf who do not misrepresent the character or quality thereof.

PAR. 7. Each and all of the false and misleading statements and representations made by the respondent in describing the character, content, and quality of its products, as hereinabove set out, were and are calculated to have, have had, and now have, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true. As a direct result of this erroneous and mistaken belief, a number of the public have purchased a substantial volume of respondent's products with the result that trade has been diverted unfairly to respondent from competitors likewise engaged in selling and distributing metallic sign letters and numbers, and from competitors engaged in selling and distributing gold leaf and silver leaf, who truthfully advertise their respective products and the character and quality thereof.

Respondent's acts and practices, as herein detailed, serve to place in the hands of unscrupulous or uninformed retail dealers a means and instrumentality whereby said dealers may mislead the purchasing public into the erroneous belief that respondent's products are of the character and quality indicated by respondent's description and representations.

As a consequence thereof, 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 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 August 17, 1938, issued, and subsequently served, its complaint in this proceeding charging respondent, Consolidated Sign Letter Co., Inc., a corporation, 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 respond-

ent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by DeWitt T. Puckett, attorney for the Commission, and in opposition to the allegations of the complaint by John L. Larkin and Rudolph Winter, president and vice president, respectively, of respondent before W. W. Sheppard and L. C. Russell, examiners 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 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. The respondent, Consolidated Sign Letter Co., Inc., is an Illinois corporation with its office and place of business located at 416 South Dearborn Street, Chicago, Ill. Respondent is now, and has been for several years last past, engaged in the manufacture and sale of metallic sign letters and numbers.

Respondent ships its said products, when sold, from its place of business in Chicago, Ill., to purchasers thereof located in various States of the United States and in the District of Columbia. During all the time mentioned herein, respondent has maintained a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

Respondent is in active and substantial competition with other corporations and with partnerships and individuals engaged in the sale of metallic sign letters and numbers, in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business, respondent advertised its products by the use of circulars, pamphlets, price lists, and in magazines and newspapers circulated in various States of the United States. Among the statements used to describe its said products are the following:

Genuine Gold Leaf Sign Letters.

Genuine Gold Leaf.

Our Gold Leaf is Made of Pure 24 Karat and Contains no Alloy.

The New Modernistic One Piece Silver and Black Sign Letters.

PAR. 3. Respondent's sign letters and numbers are known in the trade as "ready-made" products, as distinguished from "hand-letter" work. Respondent's products, designated and described as above set forth, as "Genuine Gold Leaf Sign Letters" and "Genuine Gold Leaf," are made of a combination of gold leaf and silver leaf mounted on tinfoil. The gold leaf and silver leaf combination is made by welding the two leaves together by a heating process. This processing is done by the H. J. Weickman Co. of Hicksville, N. Y., which has been manufacturing the product for many years. That company labels and sells the product as "Half Gold." Respondent purchases this "Half Gold" leaf from said company and cuts the combination of gold leaf and silver leaf in sized letters and numbers and mounts them on a backing of tinfoil which gives added strength and makes them easier to handle. In the finished letter or number the gold leaf is exposed to view but the silver leaf is concealed between the gold leaf and the tinfoil back. This processing is done by the respondent in its factory in Chicago, Ill. Such letters and numbers are then sold to sign painters and others who apply them to glass or other substances by means of a glue which holds the letters in place.

Respondent's "New Modernistic One Piece Silver and Black Sign Letters" are made from a combination of lead and tinfoil. They contain no silver metal. The edges of the letters and numbers are colored with black paint, leaving the center or face thereof a silver color.

PAR. 4. Gold leaf is made from gold alloy. The purest gold leaf known is approximately 23 Carat or 0.999 fine gold. Silver leaf is made from silver alloy and the purest silver leaf known is 0.999 fine silver. Both are used for sign and gilding purposes and are applied to an object such as glass by a brush. A certain degree of skill is required in applying the leaf properly and the application thereof in the sign painting trade is known as "hand-letter" work. "Hand-letter" work is more expensive than, and generally preferred to, "ready-made" letter work such as is sold by respondent.

PAR. 5. The testimony shows and the Commission finds that respondent's aforesaid advertising representations are false, deceptive and misleading. The term "gold leaf" and the word "silver," when used to describe or refer to sign letters or numbers, have well-established and generally understood meanings. The use of the term "gold leaf" or "genuine gold leaf" to designate, describe or refer to sign letters or numbers of the type sold by the respondent or signs produced by the method known as "hand-letter" work means that the leaf used in the manufacture of such letters or numbers is gold leaf exclusively. The use of the word "silver" to designate, describe or refer

to sign letters or numbers of the type produced by the respondent means that silver leaf has been used in the manufacture of such letters and numbers.

The respondent, through the use of the statements "Genuine Gold Leaf Sign Letters" or "Genuine Gold Leaf" and "Our Gold Leaf is Made of Pure 24 Karat and Contains no Alloy," as hereinabove set out, represents and implies that its so-called "gold leaf" sign letters and numbers are composed of 24 Carat pure gold exclusively, and through the use of the statement "The New Modernistic One Piece Silver and Black Sign Letters," represents and implies that the signs so designated, described, or referred to are manufactured from silver leaf.

In truth and in fact, the gold leaf used in respondent's said products is not 24 Carat pure gold and said gold leaf does contain an alloy. The so-called "gold-leaf" sign letters and numbers designated, described, and referred to by the respondent as "gold leaf" and "genuine gold leaf" are not composed exclusively of gold leaf, and the products designated, described, and referred to as "The New Modernistic One Piece Silver and Black Sign Letters" are not composed of silver leaf and contain no silver metal.

PAR. 6. The use by respondent of the foregoing false, deceptive, and misleading representations, disseminated as aforesaid, has the capacity and tendency to mislead and deceive, and has misled and deceived, a substantial portion of the purchasing public into the erroneous belief that such representations are true and into the purchase of substantial quantities of respondent's products as a result of such erroneous belief. As the result thereof, trade in commerce between and among the various States of the United States and in the District of Columbia has been diverted to respondent from its competitors who do not use deceptive and misleading representations in connection with the sale and distribution of their products.

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 and unfair and deceptive acts and practices in commerce within the 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 the respondent, testimony and other evidence taken before W. W. Shep-

pard and L. C. Russell, examiners of the Commission theretofore duly designated by it, and briefs filed herein (oral argument not having been requested), 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, Consolidated Sign Letter 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 metallic sign letters and numbers in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing, through the use of the terms "genuine gold leaf sign letters" or "genuine gold leaf" or any other words of similar import or meaning, that sign letters or numbers composed of a combination of gold and silver leaf on a backing of lead and tinfoil are composed of gold, gold leaf, or genuine gold leaf.

2. Representing that the gold leaf used in the manufacture of its products is 24 Carat fine gold, or that said leaf contains an amount of gold in excess of its actual content.

3. Representing that the gold leaf used in the manufacture of its products is made exclusively from gold and does not contain an alloy.

4. Representing, through the use of the word "silver" in the trade name, or in any other manner, that letters or numbers manufactured from a combination of lead and tinfoil contain, or are composed of, silver metal.

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.

IN THE MATTER OF
SAMUEL SWIMMER, DOING BUSINESS AS SEABOARD
PAINT & VARNISH COMPANY

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

Docket 4014. Complaint, Feb. 5, 1940—Decision, Aug. 5, 1940

Where an individual engaged in reconditioning "Spray Booth Off Fall" paint, or product lost in painting of various products with spray guns, and in sale and distribution of such reconditioned product as outside paint to purchasers in various other States and in the District of Columbia; in letters mailed to prospective purchasers in various States—

- (a) Represented that the usual, regular and customary price of said product was \$2.65 a gallon, and that it was being offered and would be sold at a sacrifice price of \$1.55, and that he had, in a warehouse located in the vicinity of the recipient, some 100, or other specified number, of gallons of such product, accounting for reputed sacrifice in price, facts being regular price thereof was that at which offered, and he did not have said quantity thereof, or any other number of gallons of paint, in a warehouse in recipient's vicinity, but product was warehoused at his place of business in New York State and shipments made therefrom to purchasers; and
- (b) Represented that said product was manufactured for use on surfaces exposed to the weather and was clean, fresh stock in perfect condition and of extremely high quality, and would last practically a lifetime, facts being it was not made for use on outside or exposed surfaces, but for use in the painting of "frigidaires," ice boxes and other articles of merchandise not exposed to the weather, was not clean, fresh stock, as aforesaid, but made from paint lost or wasted in painting of various products with spray guns, and did not last practically a lifetime;

With effect of misleading substantial portion of purchasing public into mistaken and erroneous belief that such representations were true and, by reason of such belief, of causing substantial portion of such purchasing public to buy said products:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. L. C. Russell*, trial examiner.

Mr. Clark Nichols for the Commission.

Mr. Simon Michelet, of Washington, D. C., 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 Samuel Swimmer, an individual doing business under the firm name of Seaboard Paint