

Syllabus

IN THE MATTER OF

LAWRENCE L. KELLER, TRADING UNDER THE NAME
UNITED SOAP COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4184. Complaint, July 12, 1940—Decision, Sept. 20, 1940*

Where an individual engaged under trade name in manufacture of soap and in sale thereof from city concerned to purchasers in other States and in District of Columbia; in purportedly describing said product and makers and source of origin thereof on boxes or containers in which same was sold and distributed to the purchasing public throughout various States—

- (a) Represented that said soap was made by different concerns with offices in different cities including, as the case might be, Los Angeles, New York, San Francisco, Seattle, Cincinnati, and London and Paris, and was imported and consisted of different varieties and qualities, through such statements as "HAWAIIAN ROSE * * * Hawaiian Rose Products, Los Angeles, Calif.," "HOT SPRINGS MINERAL SOAP * * * Union Soap Company, Importers, New York—Los Angeles—San Francisco," "MARVOLA CREME SOAP Made for Union Soap Co., Cincinnati, Seattle, San Francisco," and "CREME BOUQUET * * * Made for Sani Soap Co., Inc., New York, London, Paris," and use of such words and designations as "Vitamized" and "Medicinal," facts being his said product was all made from same formula and sold under different names as above indicated, he had no other place of business than that in aforesaid city, and none of his said soap was vitamized or medicated, with result that ultimate consumer was led to believe that business conducted by him was a large substantial one and that soaps concerned were made at various points as above indicated, and many of consuming public were led to believe that said product had been vitamized or medicated in some manner so as to render same more beneficial than ordinary soaps;

- (b) Represented that said soaps were of high quality and had actual retail value and selling price of 75¢ each, through words and figures "Combination Price 75¢," "Price 75¢," and "75¢," on box tops of product in question, with result consumer was led to believe that soap and washing powder, which was sold by peddlers or canvassers who paid approximately 5 cents therefor, for price, usually, of 25 cents to ultimate consumer in house-to-house canvass, was led to believe that he was securing soap and washing powder at a price much less than usual, regular and customary price therefor, which was not 75 cents but much smaller sum;

With effect of deceiving and misleading substantial portion of purchasing public into erroneous and mistaken belief that all of said false and mistaken representations were true and with tendency and capacity so to do and to induce substantial portion of such public to buy said products because of such belief as above set forth:

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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.

Mr. John M. Russell 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 Lawrence L. Keller, an individual, trading under the name United Soap Company, hereinafter referred to as respondent, has 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. The respondent, Lawrence L. Keller, is an individual trading under the name United Soap Co., having his office and principal place of business located at 4726 Ballard Avenue, Seattle, Wash.

He is now, and for several years last past has been, engaged in the business of manufacturing and selling soap under the brand names "Hot Springs Mineral Soap," "Hawaiian Rose," "Velvette," and other similar names. He changes each of the names under which he sells said soap after the demand for the soap under a given name has declined. All of said soap, regardless of the name under which it is sold, is made from the same formula.

Respondent causes said product, when sold, to be transported from his said place of business in the State of Washington to purchasers thereof at their respective points of location in various States of the United States other than in the State of Washington and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in commerce in said soap among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his said business, in connection with the promotion of the sale and sale of his said soap in said commerce and as an inducement for the purchase thereof, by members of the purchasing public, respondent has caused, and is now causing, advertisements to be printed on the tops of the boxes in which his said product is sold and distributed to the purchasing public throughout the various States of the United States, containing many false and misleading statements and representations respecting the nature and location of his business, and the retail price at which his said product is customarily sold. Among and typical of the statements and repre-

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sentations contained in said false advertisements, used and disseminated as aforesaid, are the following:

HAWAIIAN ROSE

75 cents

Hawaiian Rose Products

Los Angeles, Calif.

HOT SPRINGS MINERAL SOAP

Combination

Price

75 cents

Vitamized

Union Soap Company

Importers

New York—Los Angeles—San Francisco

Combination Price 75¢

VELVETTE

The Modern Soap

Velvette Products

Seattle, U. S. A.

Combination Price

75¢

MARVOLA

Creme Soap

Made for

United Soap Co.

Cincinnati

Seattle San Francisco

CREME BOUQUET

Price 75¢

Made for

Sani Soap Co., Inc.

New York London Paris

MEDICINAL

CREME

SAVON

Wilson Soap Co.

San Francisco California.

MENTHA

Mentholated

SKIN SOAP

United Soap Co.

Seattle U. S. A.

PAR. 3. By the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent represents, directly and indirectly, to customers

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and prospective customers that said Hawaiian Rose soap is manufactured and sold by a company named Hawaiian Rose Products of Los Angeles, Calif.; that said Hot Springs Mineral soap is "vitamized" and imported by the Union Soap Co., importers having offices in New York, N. Y., and Los Angeles and San Francisco, Calif.; that said Veltette soap is manufactured and sold by Veltette Products, a company in Seattle, Wash.; that said Marvola Creme soap is made for and sold by the United Soap Co. which has offices in Seattle, Wash.; Cincinnati, Ohio; and San Francisco, Calif.; that said Creme Boquet soap is made for Sani Soap Co., Inc., which has offices in New York, N. Y.; London, England; and Paris, France; that said Creme Savon soap is a medicated soap manufactured and sold by the Wilson Soap Co. of San Francisco, Calif.; and that said Mentha soap is manufactured and sold by the United Soap Co. of Seattle, Wash. By the words and figures "Combination Price 75¢," "Price 75¢" and "75¢" on said box tops, the respondent represents that the said boxes of soap have an actual retail value or retail selling price of 75 cents each, that such price is the usual and customary retail selling price thereof and that said soaps are of high quality.

PAR. 4. The statements and representations so made and used by the respondent in connection with the sale of his product are false and misleading. In truth and in fact, all the names of said companies are fictitious and are used by the respondent to mislead and deceive the purchasing public as to the origin and value of his said product. None of respondent's said soap is imported, or manufactured anywhere except in respondent's said place of business in Seattle, Wash., and he has no factory or office in any other place, and none of respondent's soap is "vitamized" or medicated.

The price of said soap of 75 cents printed by respondent on said boxes of soap in no sense represents the actual value or retail selling price per box thereof, but is wholly fictitious and greatly in excess of the actual value and selling price thereof. Said price is far in excess of the price for which said soap is customarily sold in the normal and regular course of business. Said boxes of soap are never sold or offered for sale at said price nor are they intended to be sold at such price. Said soap is not high quality toilet soap but is inferior in grade and quality and is regularly sold by the respondent to peddlers and canvassers for 20 cents per basket of four boxes of soap and four boxes of washing powder or at the rate of 6¼ cents per box. These peddlers or canvassers in turn sell and distribute the soap and washing powder to ultimate consumers by house-to-house canvass, usually for 25 cents for a box of soap and a package of washing powder. The soap and the washing powder are not ordinarily and customarily sold

to the ultimate customer for 75 cents but for a sum much less than 75 cents, and the ultimate consumer is thereby led to believe that he is securing the soap and the washing powder at a price much less than the usual, regular, and customary price for the soap.

The use by the respondent of the various fictitious names and addresses as hereinabove alleged leads the ultimate consumer to believe that the business conducted by the respondent is a large, substantial one and that the soaps are made or manufactured at the various points indicated, including London, England, and Paris, France. Many members of the consuming public are led to believe that the soap so marked has been "vitamized" or medicated in some manner so as to render it more beneficial than ordinary soaps.

PAR. 5. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, disseminated as aforesaid, has had, and now has, a tendency and capacity to, and does, deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such false statements and representations are true and to induce a substantial portion of the purchasing public to purchase respondent's said products because of such erroneous and mistaken belief engendered as above set forth.

PAR. 6. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and constitute 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 issued, and thereafter, on the 30th day of July 1940, served its complaint in this proceeding upon respondent, Lawrence L. Keller, an individual, trading under the name, United Soap Co., charging him with the use of unfair and deceptive acts and practices, in commerce, in violation of the provisions of said act. On the 12th day of August 1940, the respondent filed his answer, in which answer he admitted all the material allegations of fact set forth in said complaint and waived all hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, and the answer thereto, and the Commission, having duly considered the same 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, Lawrence L. Keller, is an individual trading under the name United Soap Co., having his office and principal place of business located at 4726 Ballard Avenue, Seattle, Wash.

He is now, and for several years last past has been, engaged in the business of manufacturing and selling soap under the brand names "Hot Springs Mineral Soap," "Hawaiian Rose," "Velvette," and other similar names. He changes each of the names under which he sells said soap after the demand for the soap under a given name has declined. All of said soap, regardless of the name under which it is sold, is made from the same formula.

Respondent causes said product, when sold, to be transported from his said place of business in the State of Washington to purchasers thereof at their respective points of location in various States of the United States other than the State of Washington and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said soap 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 his said business, in connection with the promotion of the sale of his said soap in said commerce and as an inducement for the purchase thereof by members of the purchasing public, respondent has caused, and is now causing, advertisements to be printed on the tops of the boxes in which his said product is sold and distributed to the purchasing public throughout the various States of the United States, which contain many false and misleading statements and representations respecting the nature and location of his business, the retail price at which his said product is customarily sold and the grade and quality of said product. Among and typical of the statements and representations so made and used are the following:

HAWAIIAN ROSE

75 cents

Hawaiian Rose Products,
Los Angeles, Calif.

HOT SPRINGS MINERAL SOAP

Combination

Price

75 cents

Vitamized

Union Soap Company
Importers

New York—Los Angeles—San Francisco.

Findings

Combination Price 75¢

VELVETTE

The Modern Soap
Velvette Products
Seattle U. S. A.

Combination Price

75¢

MARVOLA

Creme Soap
Made for
United Soap Co.
Cincinnati
Seattle San Francisco.

CREME BOQUET

Price 75¢

Made for

Sani Soap Co., Inc.
New York London Paris

MEDICINAL

CREME

SAVON

Wilson Soap Co.
San Francisco California

MENTHA

Mentholated

SKIN SOAP

United Soap Co.

Seattle U. S. A.

PAR. 3. By the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, respondent represents, directly and indirectly, to customers and prospective customers that said Hawaiian Rose soap is manufactured and sold by a company named Hawaiian Rose Products of Los Angeles, Calif.; that said Hot Springs Mineral Soap is "vitamized" and imported by the Union Soap Co., importers having offices in New York, N. Y., and Los Angeles and San Francisco, Calif.; that said Velvette soap is manufactured and sold by Velvette Products, a company in Seattle, Wash.; that said Marvola Creme soap is made for and sold by the United Soap Co. which has offices in Seattle, Wash.; Cincinnati, Ohio; and San Francisco, Calif.; that said Creme Boquet soap is made for Sani Soap Co., Inc., which has offices in New York, N. Y.; London, England; and Paris, France; that said Creme Savon soap is a medicated soap manufactured and sold by the Wilson Soap Co. of San Francisco, Calif.; and that said

Mentha soap is manufactured and sold by the United Soap Co. of Seattle, Wash. By the words and figures "Combination Price 75¢," "Price 75¢," and "75¢" on said box tops, the respondent represents that the said boxes of soap have an actual retail value or retail selling price of 75 cents each, that such price is the usual and customary retail selling price thereof and that said soaps are of high quality.

PAR. 4. The statements and representations so made and used by the respondent in connection with the sale of his product are false and misleading. In truth and in fact, all the names of said companies are fictitious and are used by the respondent to mislead and deceive the purchasing public as to the origin and value of his said product. None of respondent's said soap is imported, or manufactured anywhere except in respondent's said place of business in Seattle, Wash., and he has no factory or office in any other place, and none of respondent's soap is "vitamized" or medicated.

The price of said soap of 75 cents printed by respondent on said boxes of soap in no sense represents the actual value or retail selling price per box thereof, but is wholly fictitious and greatly in excess of the actual value and selling price thereof. Said price is far in excess of the price for which said soap is customarily sold in the normal and regular course of business. Said boxes of soap are never sold or offered for sale at said price nor are they intended to be sold at such price. Said soap is not high quality toilet soap but is inferior in grade and quality and is regularly sold by the respondent to peddlers and canvassers for approximately 5 cents per box of soap and a box of washing powder. These peddlers or canvassers in turn sell and distribute the soap and washing powder to ultimate consumers by house-to-house canvass, usually for 25 cents for a box of soap and a package of washing powder. The soap and the washing powder are not ordinarily and customarily sold to the ultimate consumer for 75 cents but for a sum much less than 75 cents, and the ultimate consumer is thereby led to believe that he is securing the soap and the washing powder at a price much less than the usual, regular, and customary price for the soap.

The use by the respondent of the various fictitious names and addresses, as hereinabove set forth, leads the ultimate consumer to believe that the business conducted by the respondent is a large, substantial one, and that the soaps are made or manufactured at the various points indicated, including London, England, and Paris, France. Many members of the consuming public are led to believe that the soap so marked has been "vitamized" or medicated in some manner so as to render it more beneficial than ordinary soaps.

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PAR. 5. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, disseminated as aforesaid, has had, and now has, a tendency and capacity to, and does, deceive and mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of such false statements and representations are true, and to induce a substantial portion of the purchasing public to purchase said products because of such erroneous and mistaken belief engendered as above set forth.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and 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 and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Lawrence L. Keller, an individual, trading under the name United Soap Co., or trading under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of toilet soap in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through the use of fictitious names and addresses, or through the use of different brand or trade names, or in any manner, that respondent sells more than one grade or quality of soap, or that said soap is imported or that it is manufactured at any place other than at respondent's place of business in the city of Seattle, State of Washington.

2. Representing that respondent operates a place of business or that he has an office at any place other than in the city of Seattle, State of Washington.

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3. Representing that said soap is "vitamized" or medicated in any way, or that said soap has any medicinal or curative value, or that it is in any manner more beneficial than any ordinary toilet soap.

4. Representing that said soap retails for, or has a retail value of, any price in excess of the usual and customary price at which said soap is sold to ultimate users.

5. Representing that the usual and customary retail price of said soap is in excess of 25 cents per box.

6. Representing that said soap is a high quality toilet soap, or that it is anything other than ordinary toilet soap.

7. Representing, through the use of fictitious names and addresses, or in any other manner, that respondent produces large and substantial quantities of soap.

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

Syllabus

IN THE MATTER OF

AUTOMATIC RADIO MANUFACTURING COMPANY, INC.,
GALVIN MANUFACTURING CORPORATION, FERGUSON
RADIO AND TELEVISION COMPANY, INC., AND PEP
BOYS—MANNY, MOE, AND JACK, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3762. Complaint, Apr. 14, 1939—Decision, Sept. 24, 1940*

Where name "Remington" was the name or part of the name of a number of corporations transacting and doing business in the United States, which were and had been well and favorably known to the purchasing public and were and had been long established in various industries, and was used by some of them as a trade name, mark, or brand for their products, and there was a preference among the purchasing public for products made and sold by the well and favorably known and long established concerns whose identity was connected with said name "Remington" and whose products were well and favorably known for quality, workmanship, and performance, and products bearing the names, marks, and brands adopted and used by said concerns had long been recognized by the purchasing public as being of superior quality, workmanship, and performance; and thereafter (1) corporation engaged in manufacture and sale of radio sets and radio parts bearing said name and sold exclusively by it to dealer operator engaged in sale through its fifty-two stores in seven states of radios, radio tubes and other radio parts, and (2) second manufacturers, engaged in manufacture and sale of such products, including automobile radios, on which it placed, at request of said dealer operator, name "Remington" and which, as thus named, it sold exclusively to said dealer operator, in furtherance of a scheme engaged in by them in cooperation with each other and with said dealer operator to deceive the public and compete unfairly with other distributors engaged in sale in commerce of radios, radio tubes and other radio parts—

(a) Adopted and used in cooperation with each other and with said dealer operator, name "Remington" to identify and designate radios sold by them to such operator for resale to purchasing public, without authority or consent of any of aforesaid corporations which had used word "Remington" in their corporate names or as trade or brand names, and with intent and effect of deceiving purchasing public into belief that their said radios were made or sold by one of said long established concerns using said name as trade name, mark or brand; and

Where said dealer operator, to carry into effect aforesaid scheme and with intent of inducing purchase of its said radios, radio tubes and other radio parts—

(b) Featured name "Remington" as brand name or mark of its said radios, radio tubes, and other radio parts in advertisements in catalogs and newspapers published and circulated among prospective customers throughout the United States and the District of Columbia and distributed by mail and otherwise; and