

Complaint

IN THE MATTER OF

THE STETSON SHOE COMPANY, INC., TRADING AS M. N.
ARNOLD SHOE COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4050. Complaint, Mar. 6, 1940—Decision, Feb. 27, 1941*

Where a corporation engaged in manufacture of shoes and in interstate sale and distribution thereof—

Falsely represented that certain of its shoes were made from the hide of an alligator, through use, in catalogs and price lists, of legend "Alligator Calf," for shoes of which there is marked preference on part of substantial portion of purchasing public over those made from other leather, when in fact products in question were not thus made, but were composed of other leather so embossed as to simulate that of alligator;

With effect of misleading and deceiving a substantial portion of purchasing public into the erroneous and mistaken belief that its said products were made of certain designated kinds of materials when such was not the fact, and thereby of inducing such public to purchase substantial quantity of its 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.

Mr. B. G. Wilson for the Commission.

Harrington, Huxley & Smith, of Youngstown, Ohio, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by the virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that the Stetson Shoe Co., Inc., a corporation trading as M. N. Arnold Shoe Co., 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, The Stetson Shoe Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts with its office and principal place of business at South Weymouth, Mass. The respondent trades under the style and name of M. N. Arnold Shoe Co. The respondent is now and has been for more than 1 year last past engaged in the

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manufacture, sale, and distribution of shoes. Respondent causes and has caused its said products, when sold, to be shipped or transported from its place of business in the State of Massachusetts to the purchasers thereof located in various 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 shoes in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business and for the purpose of inducing the purchase of its said products, the respondent has made false and misleading representations with respect to the materials of which certain of its shoes are made, such representations being made by means of catalogs and price lists distributed among prospective purchasers and by other means.

Among and typical of such false representations is the legend "Alligator Calf" which the respondent uses to designate and describe certain of its shoes. Through the use of such legend the respondent represents that such shoes are made from the hide of an alligator. In truth and in fact such shoes are not made from the hide of an alligator but are made from a leather material other than the hide of an alligator which has been embossed in such manner that it simulates alligator leather.

PAR. 3. There is a marked preference on the part of a substantial portion of the purchasing public for shoes made from the hide of an alligator over shoes made from other leather materials.

PAR. 4. The use by the respondent of the acts and practices herein set forth has had, and now has, the capacity and tendency to; and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's products are made of certain designated kinds of materials, when such is not the fact. As a result of such erroneous and mistaken belief, the purchasing public has been induced to, and has, purchased a substantial quantity of respondent's products.

PAR. 5. The aforesaid acts and practices of the 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 on the 6th day of March 1940, issued and subsequently served its complaint in this proceeding upon said

respondent, The Stetson Shoe Co., Inc., a corporation, trading as M. N. Arnold Shoe Co., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the said act. On March 26, 1940, the respondent filed its answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by Harrington, Huxley & Smith, counsel for the respondent, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed, 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH. 1. Respondent, The Stetson Shoe Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts with its office and principal place of business at South Weymouth, Mass. The respondent trades under the style and name of M. N. Arnold Shoe Co. The respondent is now and has been for more than 1 year last past engaged in the manufacture, sale, and distribution of shoes. Respondent causes and has caused its said products, when sold, to be shipped or transported from its place of business in the State of Massachusetts to the purchasers thereof located in various 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 shoes in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business and for the purpose of inducing the purchase of its said products, the respondent has made

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false and misleading representations with respect to the materials of which certain of its shoes are made, such representations being made by means of catalogs and price lists distributed among prospective purchasers and by other means.

Among and typical of such false representations is the legend "Alligator Calf" which the respondent uses to designate and describe certain of its shoes. Through the use of such legend the respondent represents that such shoes are made from the hide of an alligator. In truth and in fact such shoes are not made from the hide of an alligator but are made from a leather material other than the hide of an alligator which has been embossed in such manner that it simulates alligator leather.

PAR. 3. There is a marked preference on the part of a substantial portion of the purchasing public for shoes made from the hide of an alligator over shoes made from other leather materials.

PAR. 4. The use by respondent of the acts and practices herein set forth has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondent's products are made of certain designated kinds of materials, when such is not the fact. As a result of such erroneous and mistaken belief, the purchasing public has been induced to purchase, and has purchased, a substantial quantity of respondent's products.

CONCLUSION

The aforesaid acts and practices of the 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, the answer of the respondent, and a stipulation as to the facts entered into between Harrington, Huxley & Smith, counsel for the respondent herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondent herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, 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, The Stetson Shoe Company, Inc., a corporation, trading as M. N. Arnold Shoe Co., or trading under any other name, 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 its shoes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "alligator," or any other word of similar import or meaning, to designate or describe shoes not made from the hide of an alligator, or otherwise representing that shoes made from other leathers or materials, are made from alligator hide: *Provided, however,* That said word "alligator" may be used to describe the finish of shoes which are made from other materials and which are finished or embossed to resemble alligator leather, when said word is immediately accompanied by another word or words clearly indicating that said designation refers only to the pattern embossed on such materials.

2. Representing that the materials or leathers of which respondent's shoes are made are other than the actual materials or leathers used in such shoes.

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
THE RU-EX COMPANY

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

Docket 4387. Complaint, Nov. 25, 1940—Decision, Feb. 27, 1941

Where a corporation engaged in interstate sale and distribution of its "Ru-Ex" medicinal preparation; in advertisements disseminated through the mails, in newspapers, circulars, and other advertising literature, and by various other means—

- (a) Represented, directly and by implication, that its said product was entirely safe and harmless and might be used without danger to health of user, through statements captioned "LEMON JUICE RECIPE CHECKS RHEUMATIC PAIN QUICKLY" and inviting sufferers "from rheumatic, arthritis or neuritis pain" to "try this simple inexpensive home recipe" (of Ru-Ex with lemons and water) "that thousands are using," and through use of other statements of similar import;
- Facts being such preparation was not in all cases safe or harmless, due to potassium iodide content in quantity sufficient to cause, in some instances, injury to health if used under conditions prescribed in said advertisements or under such conditions as are customary or usual, and including use by those with goiter or tuberculosis in either active or arrested stage; and
- (b) Failed to reveal facts material in light of representations contained in said advertisements, and that use of such preparation, under conditions prescribed in said advertisements or under such conditions as are customary or usual, might result in injury to health, in that they contained neither caution against its use by persons having such ailments, nor to effect that it should be used only as directed on label;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false representations were true, and into purchase of substantial quantities of its said preparation:

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

Mr. Maurice C. Pearce for the Commission.

Frank E. & Arthur Gettleman, of Chicago, Ill., 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 The Ru-Ex Co., 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,