

IN THE MATTER OF
PETERSON CORE OIL & MFG. CO., AND HENRY S. PETER-
SON AND HAROLD A. PETERSON

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

Docket 3989. Complaint, Jan. 4, 1940—Decision, Apr. 3, 1941

Where a corporation and an individual, who was its president, treasurer, and principal stockholder and managed, controlled, and directed its policies and operation, and a second individual, who was sales manager of said corporation and, as such, participated in its management and operation, engaged in manufacture of core oil for foundry use and in interstate sale and distribution thereof—

- (a) Falsely represented, on letterheads, that offices or branches were owned, maintained or operated in St. Louis, Buffalo, Philadelphia, and Detroit, and in Hamilton, Ontario, facts being it did not own, maintain or operate offices or branches in cities named or elsewhere; and
- (b) Falsely thus represented that corporation's place of business was substantially larger than was the fact, through including in depictions on such letterheads of its purported place of business buildings in no way connected therewith;

With capacity and tendency to mislead and deceive purchasers or prospective purchasers, of whom many are unfamiliar with precise composition of product and depend upon responsibility of seller as guarantee of quality and serviceability thereof for use intended, and to whom representations as to size of plant and scope of business operations are frequently of importance as indicative of resources, permanence and stability of seller, and unfairly to divert to themselves trade from substantial competitors:

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

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Eckert & Peterson, of Chicago, Ill., for respondents.

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 Peterson Core Oil & Mfg. Co., a corporation, and H. S. Peterson and H. A. Peterson, individuals, 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. The respondent, Peterson Core Oil & Mfg. Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 704 South Kolmar Ave., Chicago, Ill. Respondent H. S. Peterson, of the same address, is president and treasurer of the corporate respondent above named, is the principal stockholder therein and manages, controls, and directs the policies and operation of said corporate respondent. Respondent H. A. Peterson, of the same address, is the son of the respondent H. S. Peterson, and is the sales manager of the respondent corporation.

PAR. 2. The respondents are now, and for more than 1 year last past have been, engaged in the business of manufacturing, selling and distributing core oil for use in foundries. Respondents sell said products to foundries situated in various States of the United States and the District of Columbia, and cause said products, when sold, to be transmitted from their aforesaid place of business in the State of Illinois to the purchasers thereof at their respective points of location in various States of the United States other than Illinois and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in commerce in said products between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business, as aforesaid, in connection with the sale and distribution of their product in commerce as herein described, the respondents represent by the use of the letterheads of the corporate respondent, Peterson Core Oil & Mfg. Co., that the said corporation maintains branches in St. Louis, Buffalo, Philadelphia, and Detroit, and through the use of an exaggerated pictorial representation of their place of business appearing on said letterheads showing large buildings as a part of their plant, that their business is larger, more extensive and more pretentious than is actually the fact.

PAR. 4. In truth and in fact respondents do not maintain places of business in any of the cities mentioned in the preceding paragraph hereof—St. Louis, Buffalo, Philadelphia, or Detroit or in any city other than Chicago, Ill.—with the exception of a branch at Ontario, Canada, and the large buildings shown in the picturization of their plant on said letterheads have no connection with the business of respondents and do not form a part thereof.

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PAR. 5. A substantial portion of the purchasing public has shown a marked preference for dealing with, and purchasing products and merchandise from, manufacturers or other dealers who operate on a large scale, have branches and do a large volume of business, believing that by purchasing from such large concerns superior quality, better service, lower prices, and other advantages can be obtained.

PAR. 6. In the course and conduct of their said business, the respondents, in connection with the sale and distribution of their product in commerce as aforesaid have solicited and conducted business, and are soliciting and conducting business, under the fictitious trade names of "United States Linseed Oil" and "United States Linseed Oil Products" in a manner so as to import or imply that said trade names are those of independent competitors, when in fact such implied competitors or independents are bogus and do not exist. Such representations are made in part by the use of letterheads which read as follows:

UNITED STATES LINSEED OIL

FOUNDRY DIVISION

Manufacturers
of
Linseed Oil
Products

Address Reply:
Executive Offices
R. 406—179 W.
Washington St.
Chicago, Illinois.
U. S. A.

UNITED STATES LINSEED OIL PRODUCTS
179 W. Washington St. Room 406
Chicago, Illinois

FOUNDRY DIVISION

The names of fictitious persons are signed to the correspondence for the business conducted in said manner. Business is further solicited and conducted by respondents under said fictitious trade names by sending printed cards from Chicago, Ill., through the United States mails to prospective customers in various States of the United States other than Illinois and in the District of Columbia, which cards constitute orders for respondents' product and are to be returned by said prospective customers without the necessity of placing postage thereon, and which cards carry the following address printed thereon:

UNITED STATES LINSEED OIL PRODUCTS,
Room 406, 179 West Washington Street,
Chicago, Ill.

PAR. 7. In truth and in fact, the purported concerns "United States Linseed Oil" and "United States Linseed Oil Products" are not manufacturers of linseed oil products, or of any other products. No such business exists as "United States Linseed Oil" or "United States Linseed Oil Products." All business or orders received under said names are handled by the respondent H. A. Peterson, sales manager of the corporate respondent, Peterson Core Oil & Mfg. Co. Peterson Core Oil & Mfg. Co. fills said orders and makes shipments thereof from its place of business in the State of Illinois to the purchaser located in States other than Illinois and in the District of Columbia, said shipments being made in the fictitious trade names of "United States Linseed Oil" or "United States Linseed Oil Products," with no means of permitting the purchasers to detect that they are actually dealing with Peterson Core Oil & Mfg. Co., and are not purchasing from "United States Linseed Oil" or "United States Linseed Oil Products" as independent competitors of Peterson Core Oil & Mfg. Co. Said correspondence referred to herein has been conducted from the home of the respondent H. A. Peterson, or the plant of the respondent Peterson Core Oil & Mfg. Co., and not from 179 W. Washington St., the address printed on the letterheads described above, and none of the respondents is a tenant, occupant or owner of that address, but the respondents have an arrangement with the occupant of said address to accept any mail reaching that address in the names of "United States Linseed Oil" and "United States Linseed Oil Products" and deliver the same to the respondent H. A. Peterson, the sales manager of the corporate respondent, Peterson Core Oil & Mfg. Co.

PAR. 8. The use by respondents of the foregoing false, deceptive, misleading, and fraudulent statements, representations and implications with respect to respondents' business 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 said statements, representations, and implications are true, and that respondents' business is as represented, and into the purchase of respondents' said product because of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices 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 January 4, 1940, issued and subsequently served its complaint in this proceeding upon respondents, Peterson Core Oil & Mfg. Co., a corporation, Henry S. Peterson, an individual, and Harold A. Peterson, an individual, charging them with the use of 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 said complaint were introduced by counsel for the Commission and in opposition to the allegations of the complaint by counsel for respondents, before Miles J. Furnas, an examiner 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 said complaint, the answer thereto, testimony and other evidence, and brief in support of the complaint (respondent not having filed brief and oral argument not having been requested); and the Commission, having duly considered the matter and now being 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 Peterson Core Oil & Mfg. Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 704 South Kolmar Ave., Chicago, Ill. Respondent Henry S. Peterson, of the same address, is the individual named in the complaint as H. S. Peterson, is president and treasurer of Peterson Core Oil & Mfg. Co., is the principal stockholder therein, and manages, controls, and directs the policies and operation of that corporation. Respondent Harold A. Peterson, of the same address, is the individual named in the complaint as H. A. Peterson, is the son of respondent Henry S. Peterson, is the sales manager of respondent Peterson Core Oil & Mfg. Co., and as such participates in the management and operation of the business of such corporation.

PAR. 2. The respondents are now, and at all times mentioned in the complaint have been, engaged in the manufacture, sale, and distribution of core oil for use in foundries and have caused said

products, when sold, to be transported from their place of business in Chicago, Ill., to purchasers located in the several States of the United States and in the District of Columbia, and have maintained a constant course of trade and commerce in said products sold and distributed between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the conduct of the aforesaid business respondents, in connection with the sale and distribution of said products, have in the course of such commerce represented by use of letterheads of the corporate respondent that offices or branches thereof are owned, maintained, or operated in St. Louis, Mo.; Buffalo, N. Y.; Philadelphia, Pa.; Detroit, Mich.; and Hamilton, Ontario; when in truth and in fact no such offices or branches are owned, maintained, or operated in the cities named or elsewhere; and, further, by the same means have represented the place of business of Peterson Core Oil & Mfg. Co., as being substantially larger than it is in fact by placing on such letterheads a pictorial representation of the purported place of business of the Peterson Core Oil & Mfg. Co., and including in such picture as constituting a part of such place of business buildings not owned, occupied, or in any way connected with the business of the Peterson Core Oil & Mfg. Co.

PAR. 4. Many purchasers of core oil are unfamiliar with the precise composition thereof and depend upon the responsibility of the seller as a guaranty of the quality of the product and its serviceability for the use intended. In such circumstances representations as to the size of the physical plant owned or operated and the scope of the business operations of the seller may be, and frequently are, of importance to purchasers as being indicative of the resources, permanence, stability, and responsibility of the seller.

PAR. 5. The aforesaid misrepresentations and false implications have the capacity and tendency to mislead and deceive purchasers or prospective purchasers and to unfairly divert trade to respondents from competitors with whom they are in active and substantial competition.

CONCLUSION

The aforesaid acts and practices of respondents as herein found are to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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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 in support of the allegations of said complaint and in opposition thereto taken before an examiner of the Commission theretofore duly designated by it, brief filed by counsel for the Commission (respondents having failed to file brief and oral argument not having been requested); 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 respondent Peterson Core Oil & Mfg. Co., a corporation, its officers, representatives, agents, and employees; respondent Henry S. Peterson, an individual, and respondent Harold A. Peterson, an individual, and their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of core oil in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing by the use of letterheads of the corporate respondent, or otherwise, that offices or branches are owned, maintained, or operated in any city or locality when no such office or branch is owned, maintained, or operated.

2. Representing pictorially, or otherwise, that the physical plant, equipment, and facilities owned, used, or occupied are greater than is the fact.

It is further ordered, That respondents shall, within 60 days after the 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.

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IN THE MATTER OF

MITCHELL A. BAZELON AND JACOB L. BAZELON, TRADING AS EVANS NOVELTY COMPANY AND PREMIUM SALES COMPANY

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

Docket 3711. Complaint, Feb. 14, 1939—Decision, Apr. 11, 1941

Where two partners for a time, and one of said individuals thereafter, as partnership successor, engaged in interstate sale and distribution of radios, fishing tackle, clocks, and a general line of merchandise, and in advertising their business in trade literature; in soliciting sale of and in selling their said products through various plans and devices which involved operation of games of chance, gift enterprises, or lottery schemes for sale or distribution thereof to ultimate consumers wholly by lot or chance, as illustrated and explained in circulars distributed to prospective customers—

Furnished to purchasers along with such merchandise, various punchboards and push cards, including, as illustrative, a combination consisting of a miniature radio and a 1,440-tube punchboard for use, as explained thereon, in sale and distribution or award of said radios and 74 other money prizes ranging from one \$5 prize to 55 prizes of 10 cents, under a plan by which purchaser received, for 5 cents paid, one of said prizes or nothing other than privilege of chance, dependent upon success or failure in punching number corresponding to one of the "Jack-Pot" numbers, and with particular prize decided by ticket concealed in particular "Jack-Pot" tube selected, and purchaser of the last of the 1,440 punches receiving awards indicated in all the unpunched "Jack-Pot" tubes; and thereby placed in the hands of others various plans, methods and devices involving such games of chance;

With the result that many persons were attracted by said sales methods and were thereby induced to purchase said individuals' merchandise in preference to that offered by competitors who do not use any such method, whereby trade was unfairly diverted from them to individuals aforesaid:

Held, That such acts and practices were all to the prejudice and injury of the public and competitors, were contrary to the established public policy of the United States Government, and constituted unfair methods of competition in commerce and unfair acts and practices therein.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. D. C. Daniel and *Mr. L. P. Allen, Jr.*, for the Commission.

Mr. Gordon L. Bazelon and *Mr. Morton J. Harris*, of Chicago, Ill., for respondents.

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 Mitchell A. Bazelon and Jacob L. Bazelon, individually and as copartners trading as Evans