

Complaint

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IN THE MATTER OF
HAMILTON ROSS FACTORIES, INC.

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

Docket 4040. Complaint, Feb. 26, 1940—Decision, Apr. 24, 1941

Where a corporation engaged in the interstate sale and distribution to department stores and other retailers of chinaware, glassware, plated silverware, cutlery, and other merchandise, purchased by it from manufacturers or dealers in other States—

(a) Falsely represented, through use of advertising mats and Dufay color plates which it supplied to its customers for insertion in newspapers published in various cities, and which were thus inserted, that its silverware was "heavily plated," thus implying that it was of a superior quality and grade;

Facts being its said product corresponded approximately to Grade A-1 of household silverware, the lowest grade to which quality marks are regularly applied; and

(b) Represented and implied, through inclusion of word "factories" in its corporate and trade name employed on its letterheads, invoices, and other printed matter, that it owned, controlled, or operated a factory or factories where its products were made, and, through use of phrase "Our Factory" in corresponding with customers, that it was the manufacturer of products sold and distributed by it;

When, in fact, it did not own, operate or control any such factory, mill or plant and was not, at time of complaint or for several years prior thereto, manufacturer of its or other products, such as members of purchasing public prefer to deal with directly, as securing them, in their belief, more uniform line of goods, superior quality, lower prices, and other advantages;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations were true, and of causing it to purchase said products because of such erroneous and mistaken belief:

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. Miles J. Furnas* and *Mr. John J. Keenan*, trial examiners.

Mr. R. P. Bellinger for the Commission.

Pennish & Rashbaum, 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 Hamilton Ross Factories, 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, Hamilton Ross Factories, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 666 Lake Shore Drive, Chicago, Ill.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of chinaware, glassware, plated silverware, cutlery, and other merchandise in commerce between and among the various States of the United States and in the District of Columbia.

Respondent purchases said products from various manufacturers thereof, or other dealers therein, located in Columbus, Ohio; Minerva, Ohio; New York, N. Y., and other cities, and sells said products to department stores and other retailers, causing said products, when sold to be transported from its place of business in Chicago, Ill., or from the said places of business of the manufacturers of, or other dealers in, said products from whom respondent purchases the products it sells, located in the States of Ohio, New York and other States, to the purchasers thereof located in various States of the United States other than the State of Illinois or the State in which the shipments originate, and in the District of Columbia.

Respondent maintains, and at all times mentioned herein, has maintained a course of trade in said products 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 business as aforesaid, in connection with the sale and distribution of its products in commerce as herein described, the respondent represents by the use of advertising mats and Dufay color plates which it supplies to its customers to be inserted in newspapers and which are and have been inserted in newspapers, published in various cities of the United States and which circulate among prospective purchasers located in the several States of the United States, that said silverware offered for sale and sold by respondent is "heavily plated," which term implies to the purchasing public that said silverware is of a quality and grade superior to the lower grades of plated silverware.

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PAR. 4. In truth and in fact the said silverware so sold and offered for sale by the respondent is not heavily plated, but corresponds approximately to grade A-1 of household silverware, the lowest grade to which quality marks are regularly applied.

PAR. 5. In the course and conduct of its business as hereinbefore described, respondent includes in its corporate and trade name the word "Factories," using the same on its letterheads, invoices, and other printed matter, showing its name as Hamilton Ross Factories, Inc., all of which are sent through the United States mails to its customers and prospective customers in the various States of the United States and in the District of Columbia, thereby implying that respondent owns, controls or operates a factory or factories where its products are manufactured. In corresponding with customers, respondent has made, and does make, use of the phrase "Our Factory" thus implying that the respondent is the manufacturer of the products it sells and distributes.

PAR. 6. In truth and in fact, respondent does not now and has not at any time, manufactured any of said products or any other products. Respondent neither owns, operates, nor controls any factory, mill, or plant, wherein said products sold by it or any other products, are made or manufactured.

PAR. 7. Members of the purchasing public have a preference for buying merchandise, including the products sold by respondent, and other products similar thereto, directly from the manufacturers thereof, believing that by doing so, a more uniform line of goods, superior quality, lower prices, and other advantages can be obtained.

PAR. 8. The acts and practices of the respondent in using the foregoing false, deceptive, and misleading statements and representations with respect to respondent's business and its products, have had, and now have, the capacity and tendency to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and that respondent's business and products are as represented, and cause a substantial number of the public to purchase respondent's said products 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 the 26th day of February 1940, issued and thereafter served its complaint in this proceeding upon said respondent, Hamilton Ross Factories, Inc., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 18, 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 the respondent, through its counsel, Pennish & Rashbaum, 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. Respondent expressly waived the filing of a trial examiner's report upon the evidence. 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, Hamilton Ross Factories, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 666 Lake Shore Drive, Chicago, Ill.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the sale and distribution of chinaware, glassware, plated silverware, cutlery, and other merchandise in commerce between and among the various States of the United States and in the District of Columbia.

Respondent purchases said products from various manufacturers thereof, or other dealers therein, located in Columbus, Ohio; Minerva, Ohio; New York, N. Y., and other cities, and sells said products to department stores and other retailers, causing said products, when

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sold to be transported from its place of business in Chicago, Ill., or from the said places of business of the manufacturers of, or other dealers in, said products from whom respondent purchases the products it sells, located in the States of Ohio, New York and other States, to the purchasers thereof located in various States of the United States other than the State of Illinois or the States in which the shipments originate, and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products 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 business as aforesaid, in connection with the sale and distribution of its products in commerce as herein described, the respondent represents by the use of advertising mats and Dufay color plates which it supplies to its customers to be inserted in newspapers and which are and have been inserted in newspapers, published in various cities of the United States and which circulate among prospective purchasers of respondent's products located in the several States of the United States, that said silverware offered for sale and sold by respondent is "heavily plated," which term implies to the purchasers and prospective purchasers of said silverware that said silverware is of a quality and grade superior to the lower grades of plated silverware.

PAR. 4. In truth and in fact the said silverware so sold and offered for sale by the respondent is not heavily plated, but corresponds approximately to grade A-1 of household silverware, the lowest grade to which quality marks are regularly applied.

PAR. 5. In the course and conduct of its business as hereinbefore described, respondent includes in its corporate and trade name the word "Factories," using the same on its letterheads, invoices, and other printed matter, showing its name as Hamilton Ross Factories, Inc., all of which are sent through the United States mails to its customers and prospective customers in the various States of the United States and in the District of Columbia, thereby implying that respondent owns, controls, or operates a factory or factories where its products are manufactured. In corresponding with customers, respondent has made, and does make, use of the phrase "Our Factory," thus implying that the respondent is the manufacturer of the products it sells and distributes.

PAR. 6. In truth and in fact, respondent at the time of the issuance of the complaint herein and for several years prior thereto, did not manufacture any of said products or any other products. Respondent neither owns, operates nor controls any factory, mill or plant, wherein

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said products sold by it or any other products are made or manufactured.

PAR. 7. Members of the purchasing public have a preference for buying merchandise, including the products sold by respondent, and other products similar thereto, directly from the manufacturers thereof, believing that by doing so, a more uniform line of goods, superior quality, lower prices and other advantages can be obtained.

PAR. 8. The acts and practices of the respondent in using the foregoing false, deceptive, and misleading statements and representations with respect to respondent's business and its products, have had, and now have, the capacity and tendency to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and that respondent's business and products are as represented, and cause a substantial number of the public to purchase respondent's said products because of said erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices 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 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, Hamilton Ross Factories, Inc., a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of its chinaware, glassware, plated silverware, cutlery, and other products in commerce, as

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

1. Representing that its plated silverware is heavily plated, or that said silverware is of a quality or grade superior to the lower grades of plated silverware; or that it is superior in quality to the lowest grade of household silverware to which quality marks are regularly applied in the trade; and

2. Using the word "Factories" as a part of respondent's corporate or trade name, or otherwise representing through the use of any other word or term of similar import or meaning, or through any other means or device, or in any manner, that respondent is the manufacturer of the products sold by it, unless and until the respondent actually owns and operates or directly and absolutely controls the plants wherein such products are manufactured.

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.

Complaint

IN THE MATTER OF

JANE BLANCHARD GEARY, TRADING AS DR. JANE
BLANCHARD

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

Docket 4449. Complaint, Jan. 24, 1941—Decision, Apr. 24, 1941

Where an individual engaged in interstate sale and distribution of a medicinal preparation designated as "Dr. Blanchard's Female Compound and Regulator," "Dr. Jane Blanchard's Compound Regulator," and "Dr. Blanchard's Regulator"; by means of advertisements disseminated by mail and in newspapers and other advertising literature—

- (a) Represented that her said preparation was a competent and reliable regulator of conditions peculiar to women, was a competent and effective treatment for delayed or suppressed menstruation, constituted an effective tonic and blood purifier, and was safe and harmless;

Facts being therapeutic properties of said preparation were limited to those of an alcoholic stimulant and irritant laxative, and had no therapeutic value in treatment of the conditions claimed; it was not a tonic or blood purifier, and was not safe and harmless in that it contained the drug aloes in quantities sufficient to be harmful and might aggravate, rather than relieve, female troubles;

- (b) Failed to reveal facts material in the light of the representations contained in her said advertisements, and that use of said preparation, under conditions prescribed therein or under such conditions as are customary or usual, might cause colitis and produce pelvic congestion, with likelihood of inducing miscarriage in later stages of pregnancy; and

- (c) Falsely represented, through inclusion of prefix "Dr." in trade name employed by her, and through using in her said advertising material title "Dr." as prefix to her own name, and also setting forth therein specific statement "Prepared by Dr. Jane Blanchard," that she was a physician;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such representations were true, and of inducing it, because of such mistaken belief, to purchase her said medicinal preparation:

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. William C. Reeves*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Mr. Kenneth N. Graham, of Pittsburgh, Pa., 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