

IN THE MATTER OF

UNITED STATES RAW SKINS CORPORATION AND LIEBERSON NOVELTY 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 4469. Complaint, Feb. 27, 1941—Decision, Apr. 9, 1942

Where a corporation, engaged in the interstate sale and distribution of domestic and imported leathers—

- (a) Represented that lambskin, sheepskin, or calfskin sueded and finished so as to simulate antelope skin was such, through use of description "Black French Antelope Suede" in its invoices to a concern manufacturing women's handbags, belts and other leather goods; and

Where said corporate purchaser—

- (b) Represented that the handbags made from such leather and offered for sale by it were made of antelope skin, through advertising in periodicals and trade journals "Newest French Antelope Suede Bags * * *," "Genuine French Antelope Suede Bag * * *," and "Illustrated are four of many of our attractive numbers in French Antelope Suede";

The facts being that while term "Antelope Suede" is understood by importers, tanners, and manufacturers of leather goods as denoting lambskin, sheepskin, or other leathers sueded and finished to resemble the very rare and expensive antelope skin rather than as denoting the genuine skin itself, a substantial portion of the purchasing public understands unqualified word "antelope," thus applied, to mean that the articles are made of genuine antelope skin, and understands "antelope suede" to mean such skin thus finished, and there is a preference on its part for leather goods made of genuine antelope skin over those made of other leathers sueded and processed so as to resemble antelope;

With the result that corporation first referred to, through describing and invoicing its products as above set forth, initiated, contributed to, and, in effect, participated in, the subsequent misrepresentations made by latter purchaser-concern, and with tendency and capacity, through aforesaid acts and practices of both corporations, to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that the products in question were made of genuine antelope skin and to cause it, as a result, to purchase substantial quantities of such products:

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

Before *Mr. Andrew B. Duvall*, trial examiner.

Mr. B. G. Wilson for the Commission.

Mr. Norman J. Steinberg, of New York City, for United States Raw Skins Corp.

Mr. Marshall Solberg, of Chicago, Ill., for Lieberman Novelty Co., Inc.

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 United States Raw Skins Corporation, a corporation, and Lieberman Novelty Co., Inc., a corporation, hereinafter referred to as respondents, have 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, United States Raw Skins Corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 12 East Thirty-third Street, New York City, N. Y. Respondent, Lieberman Novelty Co., 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 325 South Market Street, Chicago, Ill.

PAR. 2. Respondent, United States Raw Skins Corporation, is now, and has been for more than 1 year last past engaged in the business of selling domestic and imported leathers to be manufactured into ladies' handbags, belts, and other articles. Respondent, Lieberman Novelty Co., Inc., is now, and has been for more than 1 year last past, engaged in the manufacture, sale, and distribution of ladies' handbags, belts, and other articles.

In the course and conduct of their respective businesses, Lieberman Novelty Co., Inc., purchases and has purchased from United States Raw Skins Corporation, and United States Raw Skins Corporation sells and has sold to Lieberman Novelty Co., Inc., domestic and imported leathers to be manufactured into ladies' handbags, belts and other articles.

Respondents, in the course and conduct of their said businesses, cause and have caused their said products when sold to be transported from their respective places of business to the purchasers thereof located in States of the United States other than the State of origin of said shipments.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their said products, the respondents have disseminated false and misleading statements and

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representations with respect to the materials of which their said products are made, such statements and representations being inserted in magazines having a general circulation and in invoices and other advertising matter distributed among prospective purchasers and by other means. Among and typical of the false and misleading representations disseminated by respondent, United States Raw Skins Corporation is the following:

French Imported Antelope Suede.

Among and typical of the false and misleading representations disseminated as aforesaid by respondent, Lieberman Novelty Co., Inc., are the following:

Newest French Antelope SUEDE BAGS, for Fall
21.35 dozen

Genuine French Antelope Suede Bag with gros-grain handles and side gussets. Envelope effect with gild metal ornament. Top zipper.

PAR. 4. Through the use of the foregoing statements and representations and other of similar import not specifically set out herein, the respondent, United States Raw Skins Corporation has represented, directly or by implication, that its said leather which was sold to the respondent, Lieberman Novelty Co., Inc., and to others, was leather produced by tanning antelope hide; and the respondent Lieberman Novelty Co., Inc., has represented that ladies' handbags and other articles made by it from leather purchased from respondent, United States Raw Skins Corporation were made from leather produced by tanning antelope hide.

Said statements and representations are false, misleading, and deceptive. In truth and in fact, the leather sold by respondent, United States Raw Skins Corporation and purchased by respondent, Lieberman Novelty Co., Inc., among others, was leather produced by tanning hides other than antelope hide. In truth and in fact, such ladies' handbags, belts, and other articles are not made from the hide of an antelope but are made from a leather material other than the hide of an antelope, which has been tanned in such a manner that it simulates antelope leather.

PAR. 5. There is a marked preference on the part of a substantial portion of the purchasing public for ladies' handbags, belts, and other articles made from the hide of an antelope over ladies' handbags, belts, and other articles made from other leather materials.

PAR. 6. The use by the respondents of the acts and practices hereinbefore 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 respondents' prod-

ucts are made of antelope leather 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 respondents' said products.

PAR. 7. The aforesaid acts and practices of the respondents, 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 February 27, 1941, issued and subsequently served its complaint in this proceeding upon the respondents, United States Raw Skins Corporation, a corporation, and Lieberman Novelty Co., Inc., a corporation, 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 the complaint and the filing of respondents' answers thereto, testimony and other evidence in support of the allegations of the complaint were introduced by the attorney for the Commission, and in opposition to the allegations of the complaint by attorneys for the respondents, before Andrew B. Duvall, a trial 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 the complaint, the answers thereto, testimony and other evidence, and briefs in support of and in opposition to the complaint (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. Respondent, United States Raw Skins Corporation, is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 12 East Thirty-third Street, New York City, N. Y. Respondent, Lieberman Novelty Co., Inc., is a corporation organized and doing business under the laws of the State of Illinois, with its office and principal place of business located at 325 South Market Street, Chicago, Ill.

Respondent, United States Raw Skins Corporation, is now, and for a number of years last past has been, engaged in the business of

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selling both domestic and imported leathers, which are used by the purchasers thereof in the manufacture of women's handbags, belts, and other leather articles. Respondent, Lieberman Novelty Co., Inc., is now, and for a number of years last past has been, engaged in the manufacture and in the sale and distribution of women's handbags, belts, and other leather goods.

PAR. 2. In the course and conduct of their respective businesses, the respondents cause their products, when sold, to be transported from their places of business to purchasers thereof located in various States of the United States other than the State of origin of such shipments. At all times mentioned herein the respondents have maintained a course of trade in their respective products in commerce among and between the various States of the United States.

PAR. 3. In the course and conduct of its business and for the purpose of promoting the sale of its products, respondent, Lieberman Novelty Co., Inc., advertises its products in various periodicals and trade journals. In certain of the advertisements disseminated by the company with respect to certain of its handbags, the following statements appeared:

Newest French Antelope SUEDE BAGS, for Fall

Genuine French Antelope Suede Bags with gros-grain handles and side gussets. Envelope effect with gild medal ornament. Top zipper.

Illustrated are four of our many attractive numbers in Imported French Antelope Suede and Dull Finish Crushed Calf.

The leather used by respondent, Lieberman Novelty Co., Inc., in the manufacture of the handbags so advertised was purchased by it from respondent, United States Raw Skins Corporation. Certain shipments of such leather were described by United States Raw Skins Corporation in its invoices to the Lieberman Novelty Co., Inc., as "Black French Antelope Suede," while other shipments were invoiced as "Black French Antelope Finish Suede."

PAR. 4. Through the use of the description "Black French Antelope Suede" in its invoices, respondent, United States Raw Skins Corporation, represented that the leather in question was antelope skin, and respondent, Lieberman Novelty Co., Inc., through the use of the foregoing advertisements, represented that the handbags offered for sale by it were made of antelope skin. The leather from which such handbags were made was not in fact antelope skin, but was lambskin, sheepskin, or calfskin which had been sueded and finished in such manner that it simulated antelope skin.

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PAR. 5. The record discloses that genuine antelope skin is very rare and very expensive, and that little of it is available in the market. The record further indicates that the term "Antelope Suede" is understood by importers, tanners and manufacturers of leather goods as denoting lambskin, sheepskin, or other leathers which have been sueded and finished to resemble antelope skin, rather than as denoting genuine antelope skin. It is further evident from the record, however, that a substantial portion of the purchasing public is not familiar with the technical meaning of the term as used in the trade, and that such portion of the public understands that the unqualified word "antelope," when applied to leather goods means that the articles to which the term is applied are in fact made of genuine antelope skin. Such portion of the public further understands that the unqualified words "Antelope Suede" mean antelope skin which has been finished as a suede. There is also a preference on the part of a substantial portion of the public for leather goods made of genuine antelope skin over goods made of other leathers which have been sueded and processed in such manner that they resemble antelope skin.

PAR. 6. While the representations made by the United States Raw Skins Corporation were made primarily to the Lieberman Novelty Co., Inc., rather than to retail dealers and the purchasing public, the Commission finds that by describing and invoicing its products in the manner set forth above, the corporation initiated, contributed to, and in effect participated in, the subsequent misrepresentations made by respondent, Lieberman Novelty Co., Inc.

PAR. 7. The Commission finds further that the acts and practices of the respondents as herein described have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the products sold by respondent, Lieberman Novelty Co., Inc., are made of genuine antelope skin, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of such products as the result of such erroneous and mistaken belief.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice 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 answers of respondent

ents, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiner upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That respondent, United States Raw Skins Corporation, a corporation, and 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 said respondent's leathers in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "antelope," or any other word of similar import, to designate or describe leather which is not in fact made from the skin of an antelope, or otherwise representing that said respondent's products are made from the skin of an antelope when such products are in fact made from the skins of other animals.

It is further ordered, That respondent, Lieberman Novelty Co., Inc., a corporation, and 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 said respondent's handbags, belts or other leather products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "antelope," or any other word of similar import, to designate or describe products which are not in fact made from the skin of an antelope, or otherwise representing that said respondent's products are made from the skin of an antelope when such products are in fact made from the skins of other animals.

Provided, however, That in the case of products not made of antelope skin but made of skin other than antelope skin which has been processed or finished to resemble antelope skin, this order shall not be construed to prohibit the use of the words "Antelope Finish" in describing such products, when such words are immediately accompanied by other words clearly designating the kind of skin used, and when such accompanying words and the word "Finish" are at least equal in size and conspicuousness with the word "Antelope."

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

Syllabus

IN THE MATTER OF

PENN-LUB OIL PRODUCTS CO.

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

Docket 4524. Complaint, June 26, 1941—Decision, Apr. 13, 1942

Where a corporation, engaged in the interstate sale and distribution of re-claimed motor oils which had the appearance of new, unused oil, and which it sold in the same type of cans used in sale of the new, to wholesalers and retailers for resale—

- (a) Represented that said product was "Pennsylvania Oil" and "100% Pure Paraffin Base" through use of words "Penn-Lub" as part of its corporate name and as brand name on containers of its products, together with such statements thereon as "100% Pure Paraffin Base Motor Oil," "High Flash—High Fire," "Super Heat Resisting Quality," "Will Not Thin Out," "Winter Grades—Free Flowing—Low Cold Test," and "Motor Oil Specially Processed for High Speed Motors;"

The facts being its said product was not, as understood by trade and purchasing public from term "Pennsylvania Oil," made from crude oil produced in the Pennsylvania oil fields, long widely advertised, sold and distributed under various emblems, marks, and brand names in connection with or containing said word or abbreviations thereof, and preferred by a substantial part of public as superior to oil refined from crudes originating in other regions, and did not have a paraffin base, as also preferred by many, but was obtained from crankcase drainings and contained a mixture of oils from various fields in addition to the Pennsylvania region, including those not having a paraffin base; and reclaiming process employed by it did not completely segregate oils originating in other regions from Pennsylvania oils, nor completely separate oils having a paraffin base from those having a nonparaffin base; and

- (b) Advertised, invoiced and marketed its said reclaimed and processed new appearing oil, contained as aforesaid, with no label or marking on cans to indicate or disclose that product in question was old, used oil;

With the result of placing in the hands of unscrupulous or uninformed dealers a means whereby they might mislead and deceive the purchasing public, and with effect of misleading and deceiving a substantial number of wholesalers, retailers and members of the purchasing public into the mistaken belief that aforesaid statements were true, thereby inducing them to purchase said product:

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

Before *Mr. Webster Ballinger*, trial examiner.

Mr. Eldon P. Schrup for the Commission.

Mr. Saul G. Schulter, of East Newark, N. J. for respondent.