

IN THE MATTER OF
MAURICE J. ENGEL

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

Docket 4490. Complaint, Apr. 19, 1941—Decision, Sept. 21, 1942

Where an individual, engaged in competitive interstate sale and distribution of knife blades used by the fur industry—

Represented that his said blades were made of finest-tungsten surgical steel, and highly tempered and capable of taking and holding a fine edge and of being resharpened, through such statements in pamphlets and advertising broadsides distributed by mail and otherwise as "Tri-Forged" and "Tungsten Surgical Steel";

The facts being they were made of rolled carbon steel, which in price and quality is much inferior to tungsten, and were not tri-forged;

With effect of misleading and deceiving a substantial number of the purchasing public into the mistaken belief that such representations were true, thereby inducing its purchase of a substantial volume of said products, whereby trade was diverted unfairly to him from his competitors:

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

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

Mr. S. Brogdyn Teu, II for the Commission.

Mr. Hendy Braverman, of New York City, 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 Maurice J. Engel, 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. Respondent, Maurice J. Engel, is an individual, doing business under and by virtue of the laws of the State of New York with his office and principal place of business located at 146 West Twenty-ninth Street, New York, N. Y. Respondent is engaged in the sale and distribution to dealers located in the various States of the United States and in the District of Columbia of knife blades used by the fur industry.

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PAR. 2. Respondent now maintains and for more than 1 year last past has maintained a course of trade in said products so sold and distributed by him in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of his said business respondent is now and for more than 1 year last past has been engaged in competition with other individuals, partnerships, and corporations engaged in the business of manufacturing, selling, and distributing, and in the business of selling and distributing in commerce among and between the various States of the United States and in the District of Columbia, knife blades used by the fur industry.

PAR. 3. In the course and conduct of his business as aforesaid and for the purpose of inducing the purchase of his said knife blades used by the fur industry respondent has published and has circulated among prospective customers throughout the various States of the United States and in the District of Columbia, pamphlets and advertising broadsides, distributed by mail and otherwise, in which his products were described and represented among other things, as being:

TRI-FORGED

and

Tungsten Surgical Steel

The aforesaid statements and representations, together with similar statements and representations not herein specifically set out, purport to be descriptive of said respondent's knife blades and of their quality and effectiveness in use by the fur industry. Through the use of said statements respondent represents that his said knife blades are made of finest tungsten alloy steel and are highly tempered, capable of taking and holding a fine edge and of being resharpened if necessary.

A substantial number of the purchasing public believe that knife blades for use in the fur industry that have been tri-forged and are made from tungsten steel are superior in many respects for the purpose for which they were designed, made, and distributed.

PAR. 4. In truth and in fact respondent's knife blades for use in the fur industry are not tri-forged and the respondent's said knife blades are not made of tungsten surgical steel but of rolled carbon steel, a product much inferior to tungsten steel both in price and quality.

PAR. 5. Each and all of the foregoing false and misleading statements and representations made by the respondent as aforesaid in describing his said knife blades and as hereinabove set out were and are calculated to, and have had, and now have a tendency and capacity to, and do, mislead and deceive a substantial number of the purchasing public into the erroneous and mistaken belief that such representations are true. As a result of this erroneous and mistaken belief

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so induced, a substantial portion of the purchasing public has purchased a substantial volume of the respondent's said products. As a consequence thereof, injury has been done and is now being done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 6. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and respondent's competitors and constitute unfair methods of competition in commerce and 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 April 19, 1941, issued and subsequently served its complaint in this proceeding upon the respondent, Maurice J. Engel, charging him with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint, testimony and other evidence in the form of a stipulation as to the facts entered into by and between counsel for the Commission and counsel for the respondent, was read into the record in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, before Miles J. Furnas, 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 upon said complaint, testimony and other evidence, report of the trial examiner upon the evidence, and brief in support of the complaint (respondent not having filed brief or requested oral argument); 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, Maurice J. Engel, is an individual, having his office and principal place of business located at 146 West Twenty-ninth Street, New York, N. Y. For more than 1 year last past, respondent has been engaged in the sale and distribution of knife blades used by the fur industry, and causes said products, when sold, to be transported from his place of business in the State of New York

to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products 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, respondent is now, and for more than 1 year last past has been, engaged in competition with other individuals and with partnerships and corporations engaged in the business of selling and distributing in commerce among and between the various States of the United States and in the District of Columbia, knife blades used by the fur industry.

PAR. 3. In the course and conduct of his business and for the purpose of inducing the purchase of his said knife blades used by the fur industry, respondent has published and has circulated among prospective customers throughout the various States of the United States, pamphlets and advertising broadsides distributed by mail and otherwise, in which his products were described and represented among other things, as being:

TRI-FORGED

and

Tungsten Surgical Steel

Through the use of said statements and others similar thereto not specifically set out herein, respondent represented that his said knife blades were made of finest tungsten surgical steel and were highly tempered and capable of taking and holding a fine edge and of being resharpened if necessary.

A substantial number of the purchasing public believe that knife blades for use in the fur industry that have been tri-forged and made from tungsten steel are superior in many respects for the purpose for which they are designed, made, and distributed.

PAR. 4. In truth and in fact, respondent's knife blades for use in the fur industry are not tri-forged, and respondent's said knife blades are not made of tungsten surgical steel but of rolled carbon steel, a product much inferior to tungsten steel, both in price and quality.

PAR. 5. The use by the respondent of the foregoing false and misleading statements and representations in describing said knife blades has had, and now has, a tendency and capacity to, and does, mislead and deceive a substantial number of the purchasing public into the erroneous and mistaken belief that such representations are true. As a result of this erroneous and mistaken belief so induced, a substantial portion of the purchasing public have purchased a substantial volume of respondent's said products. As a consequence thereof, trade has

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been diverted unfairly to the respondent from his competitors who are likewise engaged in the sale and distribution of similar products in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and 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, testimony and other evidence taken before Miles J. Furnas, a trial examiner of the Commission theretofore duly designated by it, which testimony consisted of a stipulation as to the facts entered into by and between counsel for the Commission and counsel for the respondent upon the record in lieu of testimony in support of the complaint and in opposition thereto, report of the trial examiner upon the evidence, and brief in support of the complaint; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Maurice J. Engel, his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of knives or knife blades for use by the fur industry, or other similar products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, that respondent's knife blades made from rolled carbon steel are composed of tungsten surgical steel, or that said knife blades have been tri-forged.

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.

Complaint

IN THE MATTER OF

IRVIN A. WILLAT, TRADING AS HEATLESS PERMANENT
WAVE COMPANY, AND ARNOLD F. WILLAT, TRADING
AS WILLAT PRODUCTION COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4663. Complaint, Jan. 2, 1942—Decision, Sept. 21, 1942*

Where an individual, engaged in the interstate sale and distribution of a method of heatless permanent waving which, for a time, included an ammonium hydrogen sulphide curling solution circulated through rubber tubing attached to perforated curlers around which the hair had been rolled or wrapped; by means of advertisements in periodicals, pamphlets, and leaflets—

(a) Represented that said method of heatless permanent waving constituted a competent, successful, and scientific means of producing permanent waves in the hair which was safe and harmless, eliminated all hazards, and would have no ill effects upon the body;

The facts being solution of ammonium hydrogen sulphide, employed as above indicated, was not safe, scientific or harmless; was capable of causing local skin irritations, nausea and vomiting, and in absence of ventilation, convulsions, asphyxiation, and collapse; and if introduced into the circulatory system through skin absorption or respiration in sufficient quantities and strength might also result in systemic poisoning and death; and

(b) Failed to reveal all facts material in the light of such representations and with respect to consequences which might result from the application of said curling solution under the prescribed conditions, and that use thereof might in some instances result in serious and irreparable injury to health;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that such advertisements were true, thereby inducing purchase by it of said permanent wave in beauty parlors and salons wherein ammonium hydrogen sulphide curling solution was supplied:

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. Lewis C. Russell*, trial examiner.

Mr. Merle P. Lyon for the Commission.

Mr. William S. Graham, of San Francisco, Calif., 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 Irvin A. Willat, an