

Complaint

IN THE MATTER OF

F. H. NOBEL & COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 5092. Complaint, Dec. 4, 1943—Decision, Jan. 31, 1945

Where a corporation engaged in the manufacture and interstate sale and distribution of jewelers' findings and gold solder to dealers and others—

Represented that its gold solders were of low-karat, 6-karat, 8-karat, 10-karat, 12-karat, 14-karat, 16-karat, 18-karat, or 20-karat gold content, respectively, through describing them on labels and in advertising literature by a circle containing the letter "N" surrounded by a band bearing the legend "solder for low K gold," "solder for 6K gold" "solder for 8K gold," etc., in all of which the word "for" was in much smaller type than the other words, and the various designations such as "low K," "6K," were printed in much larger type; and through designating its gold solder in its price lists under the heading of "Quality," as "LK," "6 K," "8K," etc.; when in fact such solders were of a lower gold content than the gold with which they were to be used;

With the effect of misleading members of the jewelry repairing trade and the purchasing public into the mistaken and erroneous belief that its gold solders were of the fineness indicated by said legends and of the gold with which they were indicated for use, as a result of which belief, members of said trade and the general public purchased substantial amounts thereof:

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. J. W. Brookfield, Jr. for the Commission.
Fyffe & Clarke, 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 has reason to believe that F. H. Noble & Company, a corporation, 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. The respondent, F. H. Noble & Company, 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 located at 535-559 West 59th Street, Chicago, Ill. Respondent is now, and for more than two years last past has been, engaged in the manufacture, sale and distribution of jeweler's findings and gold solders to dealers and others located at points in the various States of the United States and in the District of Columbia. Respondent causes and has caused said jeweler's findings and gold solder to be transported from its place of business in the city of Chicago, Ill., to purchasers thereof at their respective points of location in various States of the United States other than Illinois

and in the District of Columbia. Respondent maintains and has at all times mentioned herein maintained a course of trade in said jeweler's findings and gold solder 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 aforesaid business and to induce the purchase of its said products, the respondent issues and distributes, and has issued and distributed, by United States mails and otherwise, to prospective purchasers, catalogs, price lists, and other advertising literature purporting to be descriptive of its said products; among the products so advertised are its gold solders which are represented and described in the following manner;

On labels and on the literature is depicted a circle containing the letter "N" surrounded by a band bearing the following legend—"Solder for 18 K Gold," "Solder for 14 K Gold," etc. The word "for" is in much smaller type than the other words in the legend and 18K, 14K, etc., are printed in much larger type. Respondent in its price list designates its gold solders under the heading of "Quality" as "LK," "6K," "8K," "10K," "12K," "14K," "16K," 18K" and "20K." Through the use of the representations above quoted respondent represents that the gold content of its solders is low karat, 6 karat, 8 karat, 10 karat, 12 karat, 14 karat, 16 karat, 18 karat or 20 karat, respectively.

PAR. 3. The foregoing representations are false and misleading. In truth and in fact respondent's solders represented and marked as 6, 8, 10, 12, 18 and 20 karat gold, respectively, are not of the gold content represented but are composed of substantially smaller amounts of gold than marked.

PAR. 4. The use by the respondent of the foregoing false and misleading statements and representations with respect to its said products has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the jewelry repairing trade and purchasing public into the erroneous and mistaken belief that such statements and representations are true and that respondent's products are of greater gold content than is actually the case. As a result of such erroneous belief the jewelry repairing trade and purchasing public have been induced to and do purchase a substantial quantity of respondent's products.

PAR. 5. The aforesaid acts and practices of respondent 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 December 4, 1943, issued and thereafter served its complaint in this proceeding upon respondent, F. H. Noble & Company, a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the respondent filed its answer in this proceeding, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by counsel for the respondent and Richard P. Whiteley, Assistant 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 and in opposition to the charges

stated in the complaint and that the 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 upon the 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 this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, F. H. Noble & Company, 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 located at 535-559 West 59th Street, Chicago, Ill. Respondent is now, and for more than two years last past has been, engaged in the manufacture, sale, and distribution of jeweler's findings and gold solders to dealers and others located at points in the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business, respondent caused, and has caused, said jeweler's findings and gold solder to be transported from its place of business in Chicago, Ill., to purchasers thereof at their respective places of location in various States of the United States other than Illinois and in the District of Columbia. Respondent maintains, and has at all times mentioned herein maintained, a course of trade in said jeweler's findings and gold solder in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In order to induce the purchase of its said products, the respondent issues and distributes, and has issued and distributed, to prospective purchasers, by United States mails and otherwise, catalogs, price lists, and other advertising literature purporting to be descriptive of its said products. Among the products so advertised are its gold solders which are represented and described on labels and literature by the depiction of a circle containing the letter "N" surrounded by a band bearing one of the following legends:

Solder for 20K gold,
Solder for 18K gold,
Solder for 16K gold,
Solder for 14K gold,
Solder for 12K gold,
Solder for 10K gold,
Solder for 8K gold,
Solder for 6K gold,
Solder for low K gold.

The word "for" is in much smaller type than the other words in the legend, and 20K, 18K, 16K, 14K, 12K, 10K, 8K, 6K, and low K are printed in much larger type. Respondent in its price lists designates its gold solders under the heading of "Quality" as "LK," "6K," "8K," "10K," "12K," "14K," "16K," "18K," and "20K." By the use of the representations above quoted, members of the purchasing public are led

to believe that the gold content of respondent's solders is as designated, low-karat, 6-karat, 8-karat, 10-karat, 12-karat, 14-karat, 16-karat, 18-karat, or 20-karat, respectively. In truth and in fact respondent's solders labeled and advertised as "Solder for 20K," "Solder for 18K," "Solder for 16K," "Solder for 14K," "Solder for 12K," "Solder for 10K," "Solder for 8K," "Solder for 6K," respectively, are of a lower gold content than the gold with which they are to be used.

PAR. 4. The use by the respondent of the foregoing statements and representations has misled members of the jewelry repairing trade and the purchasing public into the mistaken and erroneous belief that respondent's gold solders are of the fineness indicated by said legends and of the gold with which they are indicated for use. Because of such mistaken and erroneous belief, members of the jewelry repairing trade and the general public have purchased substantial amounts of respondent's said solders.

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 respondent, and a stipulation as to the facts entered into between the respondent herein and Richard P. Whiteley, Assistant 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 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 its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, F. H. Noble & Company, a corporation, 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 solders for use on gold in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using terms such as "20K" or "for 20K," or any other term indicating gold fineness, to designate, describe, or refer to solders for use on gold, unless the solder is of the fineness indicated by the term used; *Provided, however*, that such terms may be used to indicate that a particular solder is for use on gold articles of the fineness indicated by the term used, if such term is accompanied by a statement of equal conspicuousness clearly showing that the solder is of lower gold content and not of the fineness indicated by the term used but is to be used upon articles of the fineness indicated.

2. Representing, directly or by implication, that its solder is of a fineness in excess of its actual gold content

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

KENNETH E. BREWER, EVERETT R. BREWER, AND NELSON C. BREWER, TRADING UNDER THE NAME OF CHAS. A. BREWER & SONS

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

Docket 3952. Complaint, Nov. 16, 1939—Decision, Feb. 1, 1945

Where two individuals, who were the world's largest manufacturers of punch boards and push cards, with annual sales aggregating some two million or more of such devices, many of which were designed for use by retail dealers in sale and distribution of merchandise to the public by means of a game of chance, gift enterprise or lottery scheme, under a plan by which the particular concealed number or legend, secured by chance by the person playing the board or card, determined which article the purchaser received without additional cost, or whether he received merchandise of much less value than such article, or nothing other than the privilege of a chance, and under which, in some cases, amounts to be paid for such chances was also thus determined; and the advantages of which devices of chance—made in various types and sizes and to order, with from 50 to 10,000 holes in the case of the boards, and from 10 to 100 discs in that of the cards—in building business, with their "certain thrill," and attraction to "thousands of people in every community," they stressed in their catalog—

Sold and distributed said devices to manufacturers and wholesalers—many of whom made up assortments consisting of a board or card and quantity of merchandise and sold the same to the retailer,—and to retailers direct, by whom, whether as direct or indirect purchases, said devices were employed in the sale and distribution, by chance, of merchandise to the public as above described; and thereby

Supplied to and placed in the hands of others means whereby, through the appeal thereof, they were enabled to use unfair methods of competition and thereby divert to themselves substantial trade from many retailers, manufacturers and wholesalers who do not make use of lottery or chance in the sale and distribution of their products, or supply others with means of so doing:

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

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. D. C. Daniel and *Mr. J. W. Brookfield, Jr.* for the Commission.

Mr. Herlton H. Bowen, 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 Kenneth E. Brewer, Everett R. Brewer and Nelson C. Brewer, individually, and as copartners, trading under the name of Chas. A. Brewer & Sons, 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 in-