

Complaint

IN THE MATTER OF
LONDON HANDKERCHIEF COMPANY, INC. AND
HARRY STEINBERG

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

Docket 5212. Complaint, Sept. 2, 1944—Decision, Mar. 26, 1945

Where a corporation and its president and principal stockholder, engaged in the interstate sale and distribution to wholesalers and retailers of handkerchiefs, which were seconds, rejects or irregulars of inferior quality, badly cut and imperfectly sewed and of a retail value considerably less than the price charged therefor—

- (a) Sold said handkerchiefs so packed in a sealed carton bearing the legends "Send a Hank to a Yank" and "Serving those who Serve," that they were not visible to purchasers and no opportunity was afforded to observe their quality; and
- (b) Represented thereby, and through furnishing to dealers display posters bearing the legend: "Hanks for Yanks," "6 large cotton handkerchiefs packaged, ready for mailing, no wrapping no stamp necessary" and a depiction of the package, and through advertisements in trade journals in effect so stating, that said handkerchiefs were of good quality, well made and long wearing and comparable to others usually sold at the same or similar price;

With the effect of misleading dealers and members of the purchasing public, with the result that such members, and especially relatives and friends of the armed services purchased said products, and with the effect of thereby placing in the hands of dealers and retailers means of misleading and deceiving such members, and with tendency and capacity to cause them to purchase substantial quantities of said products:

Held, That said acts and practices, under the circumstances above 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.

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 London Handkerchief, Inc., a corporation, and Harry Steinberg, an individual, and the president of London Handkerchief Company, Inc., 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 interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, London Handkerchief Company, Inc., is a corporation, organized and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 9 East 38th Street in the city of New York, N. Y.

Respondent, Harry Steinberg, is president and principal stock holder of respondent corporation, London Handkerchief Company, Inc., and formulates, controls and directs its policies and practices. Respondent, Harry

Steinberg, has his offices at the same address as that of corporate respondent. Said respondents act together and in cooperation with each other in doing the acts and things hereinafter alleged.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the sale and distribution of handkerchiefs to wholesale dealers and retail dealers located at points in the various States of the United States and in the District of Columbia. Respondents cause and have caused said handkerchiefs when sold to be transported from their place of business in the city of New York, N. Y., to purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia. There is now and has been for more than one year last past a course of trade by respondents in said handkerchiefs 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 their business as described in paragraph 2 hereof respondents have used the following method of selling and furthering the sale of their handkerchiefs:

Six of said handkerchiefs are packed in a sealed carton bearing the legends "Send a Hank to a Yank," and, "Serving those who Serve" and these packages are sold to dealers for resale to the purchasing public. The manner or packing said handkerchief is such that they are not visible to purchasers or prospective purchasers, and they are afforded no opportunity to observe the quality of said handkerchiefs.

Respondents furnish to said dealers display posters advertising said packages of handkerchiefs bearing the following legend, "Hanks for Yanks," "6 large cotton handkerchiefs packaged, ready for mailing no wrapping no stamp necessary"; and a depiction of the package of handkerchiefs.

Respondents have also in printed advertisements published in trade journals having a general circulation, published the following statement.

Khaki Hanks for the Yanks * * * As usual Hank is on the job providing Khaki handkerchiefs for the men in the service. Here is a timely promotion, 6 large long wearing Khaki handkerchiefs specially packaged in a self mailing service gift box.

Feature this new gift box display it prominently. Make it easy to send "Hanks to Yanks."

London Handkerchief Co., Inc.

PAR. 4. By the use of these methods of packaging their handkerchiefs, and by the use of the above quoted statements in their advertising, respondents cause the dealers and members of the purchasing public to believe that their handkerchiefs are of good quality, well made and long wearing, and comparable to other handkerchiefs usually sold at the same or similar price.

In truth and in fact, the handkerchiefs so packed and sold by respondents are seconds, rejects or irregulars, of inferior quality, badly cut and imperfectly sewed, and have a retail value considerably less than the price charged by respondents.

Members of the purchasing public especially relatives and friends of members of the armed services purchase respondents handkerchiefs as packaged and sold by them, in the belief that said handkerchiefs are well made, long wearing, and of good quality, and of the value indicated by their price. Respondents thus place in the hands of dealers the means of deceiving and misleading members of the purchasing public.

PAR. 5. The use by respondents of the aforesaid misleading and deceptive acts and practices has the tendency and capacity to cause members of the purchasing public to purchase substantial quantities of respondents handkerchiefs.

PAR. 6. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and constitute unfair 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 September 2, 1944, issued and subsequently served its complaint in this proceeding upon respondent, Harry Steinberg, an individual, charging him with the use of unfair and deceptive acts and practices in commerce. After the issuance of said complaint and the filing of the answer of respondent, Harry Steinberg, the Commission, by order entered herein, granted the motion of said respondent for permission to withdraw his answer and to substitute an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and said substitute answer of respondent, Harry Steinberg; 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. (a) Respondent, London Handkerchief Company, Inc., was, until its dissolution early in 1944, a corporation, organized and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 9 East Thirty-Eighth Street, New York, N. Y.

(b) Respondent, Harry Steinberg, an individual, with offices at 9 East Thirty-Eighth Street, New York, N. Y., was president and principal stockholder of London Handkerchief Company, Inc. He formulated, controlled, and directed the policies and practices of said company, and he and the company acted together and in cooperation with each other in doing the acts and things hereinafter found.

PAR. 2. For a substantial period of time respondents were engaged in the sale and distribution of handkerchiefs to wholesale and retail dealers located at points in various States of the United States and in the District of Columbia. Respondents caused said handkerchiefs, when sold, to be transported from their place of business in New York, N. Y., to purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia, and maintained a course of trade in said handkerchiefs in commerce between and among various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of the aforesaid business, respondents used the following method of selling and furthering the sale of their handkerchiefs: Six of said handkerchiefs were packed in a sealed carton bearing

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the legends "Send a Hank to a Yank," and "Serving those who serve," and these packages were sold to dealers for resale to the purchasing public. The manner of packing said handkerchiefs was such that they were not visible to purchasers or prospective purchasers and no opportunity was afforded purchasers to observe the quality of said handkerchiefs. Respondents, in advertising said packages of handkerchiefs, furnished to dealers display posters bearing the following legend: "Hanks for Yanks," "6 large cotton handkerchiefs packaged, ready for mailing, no wrapping, no stamp necessary," and a depiction of the package of handkerchiefs. Respondents also published the following statement in printed advertisements in trade journals having a general circulation:

Khaki Hanks for the Yanks * * * As usual Hank is on the job providing Khaki handkerchiefs for the men in the service. Here is a timely promotion, 6 large long wearing Khaki handkerchiefs specially packaged in a self mailing service gift box.

Feature this new gift box display it prominently. Make it easy to send "Hanks to Yanks."

London Handkerchief Co., Inc.

PAR. 4. By the use of the aforesaid method of packaging their handkerchiefs and by the use of the above-quoted statement in their advertising, respondents caused dealers and members of the purchasing public to believe their handkerchiefs were of good quality, well made and long wearing, and comparable to other handkerchiefs usually sold in the same or similar price. In truth and in fact, the handkerchiefs so packed and sold by respondents were seconds, rejects, or irregulars, of inferior quality, badly cut and imperfectly sewed, and of a retail value considerably less than the price charged by respondents. Members of the purchasing public, especially relatives and friends of members of the armed services, purchased respondents' handkerchiefs as packaged and sold by them in the belief that said handkerchiefs were well made, long wearing, of good quality, and of the value indicated by their price. Respondents thus placed in the hands of dealers and retailers means of deceiving and misleading members of the purchasing public.

PAR. 5. The use by respondents of the aforesaid misleading and deceptive acts and practices has had the tendency and capacity to cause members of the purchasing public to purchase substantial quantities of respondents' handkerchiefs.

CONCLUSION

The aforesaid acts and practices 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 and the answer of the individual respondent, Harry Steinberg, in which answer said respondent admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts, 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, Harry Steinberg, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of handkerchiefs, do forthwith cease and desist from:

1. Selling or distributing handkerchiefs which are seconds, rejects, or irregulars, so packaged as not to be readily subject to inspection by the purchaser, without clearly disclosing on such package that the handkerchiefs are seconds, rejects, or irregulars.

2. Representing, directly or by implication, that handkerchiefs which are seconds, rejects, or irregulars are well made or good quality handkerchiefs.

It is further ordered, That respondent, Harry Steinberg, 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.

It is further ordered, In view of the dissolution of the corporate respondent, London Handkerchief Company, Inc., that the complaint herein be, and the same hereby is, dismissed as to said respondent.

IN THE MATTER OF

MAY GOLDBERG, TRADING AS NORMAN COMPANY,
AND SAMUEL J. GOLDBERG

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

Docket 3812. Complaint, Jan. 28, 1942—Decision, Mar. 29, 1945

Where two individuals engaged in competitive interstate sale and distribution of lamps, shades and novelties; in selling and distributing their merchandise by devious methods—

- (a) Forwarded small orders of merchandise, charges for which usually amounted to less than \$25, to various department stores and other similar organizations, without having received orders therefor, selecting in many cases as prospective consignees stores which maintained a resident buying agent in New York City, and usually advised those concerned, when a shipment was questioned, that the order had been placed by the local resident buyer and was on file and, in the event the copy thereof was demanded either by the consignee or the buying agent, maintained that they had it while making use of various excuses and delays for their failure to produce it;
- (b) Usually refused to accept the return of such merchandise which consignees refused to accept, and threatened such consignees with legal action for failure to accept the same; and
- (c) In other cases, accepting return of the merchandise, made claims upon the consignee for transportation charges, breakage etc.;

With the result that purported consignees, in many cases, accepted and paid for such merchandise on the assumption that it had been properly ordered; in others paid therefor because of threats of legal action and to avoid expensive litigation on such small amounts; and in some instances—upon being advised that it had been refused by said individuals when returned and would be sold by the transporting agent for charges—accepted and paid therefor rather than continue the controversy; and

- (d) In cases where payment was refused by the consignee, in addition to sending various demands for payment, also sent letters purporting to be written by a collection agency, demanding payment, and represented that such accounts had been insured and were being turned over to their surety company for attention;

The facts being they did not so insure any of their accounts nor did they obtain the services of any bona fide collection agency to enforce collections, but, instead, purchased such purported letters from collection agencies in blank and filled in and mailed them without any further connection or service of such agencies; and while suit was threatened in many cases, in no instance, in so far as appeared, was suit ever filed to recover payment on such alleged purchases;

With capacity and tendency to mislead and deceive a substantial number of retail dealers, and to induce them to purchase their said products under the erroneous belief that such products had actually been ordered, or in order to avoid the expense and inconvenience of threatened litigation, whereby trade was diverted unfairly to them from competitors who did not engage in similar practices:

Held, That said acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and of their competitors, and constituted unfair

¹ Amended.