

IN THE MATTER OF

KORET, INC.

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

Docket 4848. Complaint, Oct. 15, 1942—Decision, Nov. 30, 1945

Where a corporation engaged in the manufacture and interstate sale and distribution of ladies handbags made in whole or in part of calfskin leather—

- (a) Made use, in furtherance of representations that its said products were composed in whole or in part of the skin of the antelope, of the trade name "Korantelope" for said handbags and displayed said name upon the lining thereof, along with the confusing and contradictory legend in smaller type "Non-Crockable black suede calf," and used it also in window and counter display cards and other advertising material shaped to resemble an antelope, and in advertisements generally; and
- (b) Made use, as aforesaid, of depictions and cuts of an antelope through placing also upon the aforesaid linings a trademark containing an antelope superimposed over its own name "Koret," and through use, as above described, of advertising material cut to simulate the animal;

With the effect of misleading and deceiving a substantial portion of the purchasing public into the belief that such handbags were composed in whole or in part of the skin of the antelope and with the capacity and tendency so to do, with result that members of the public purchased substantial quantities thereof; and with result of placing in the hands of retailers and dealers the means and instrumentality of misleading and deceiving the purchasing public as aforesaid:

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.

As respects the misleading use of the trade name "Korantelope" to designate and describe certain ladies' handbags composed in whole or in part of calfskin leather, the phrase "suede calf" which sometimes accompanied said name, did not serve to place purchasers of such products on notice that, despite the use of the coined name containing the word "antelope" as a trade name, such articles were actually made of calfskin, the use of said phraseology in connection with said word being contradictory and merely serving to further confuse members of the purchasing public.

In a proceeding in which the Commission's complaint challenged as misleading respondent's use of the trade name "Korantelope" as applied to ladies' handbags composed in whole or in part of calfskin leather, but made no charge against respondent's subsequent change of said trade name to "Koretolope," the Commission made no finding as to the effect of the term "Koretolope" when used alone or in conjunction with the term "black suede calf" to designate or describe respondent's products, but was of the opinion and found that the term "Koretolope" when used in conjunction with a pictorial representation of an antelope to designate or describe a leather product has the capacity to cause purchasers to believe that such product was made of antelope instead of calfskin.

While, as respects respondent's application of the term "Non-Crockable" to ladies' "suede calf" hand bags to represent that the coloring matter in said leather would

Complaint

not come off or rub off, the evidence indicated that if a sufficient amount of pressure or friction was placed upon said bags, particularly when wet, they would color or smudge articles with which they came in contact, the record did not definitely disclose whether the smudge so caused was due to the rubbing off of the coloring matter or the rubbing off of minute particles of the suede, and was not sufficiently conclusive to warrant a finding that the coloring matter would rub off, as charged in the complaint.

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

Mr. D. C. Daniel for the Commission.

Stroock & Stroock & Lavan, of New York City, and *Hogan & Hartson*, of Washington, D. C., 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 Koret, Inc., 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 interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Koret, Inc., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 33 East 33rd Street, New York, N. Y. The respondent has adopted and now uses the term "Korantelope" as a trade name to designate and describe certain ladies' handbags and other articles made, in whole or in part, of calfskin leather, which it manufactures and sells.

Respondent causes said products, when sold, to be shipped from its place of business in the State of New York to purchasers thereof located in other States of the United States 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 among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course of its business and for the purpose of inducing the sale of its said products respondent has made false, deceptive, and misleading statements and representations with respect to the character, quality, and durability of its handbags. Such representations are made by means, among others, of advertisements inserted in newspapers and periodicals having a general interstate circulation, by window and counter display cards furnished by respondent to retail dealers for use in making sales to the public, by circulars and by labels on the handbags. The window and counter display cards are shaped to resemble an antelope and the word "Korantelope" in large script letters followed by the phraseology "'Non-Crockable' Black Suede Calf" in relatively inconspicuous lettering appears on a placard partly superimposed upon the figure of the antelope.

The labels for said handbags and the linings thereof have imprinted upon them the word "Korantelope" in conspicuous script lettering, and the phraseology "'Non-Crockable' Suede Calf" in relatively inconspicuous lettering. Advertisements appearing in newspapers of general circulation have contained the following statement:

first time seen: KORANTELOPE, the heaven-sent suede that won't crock! To Koret's frankly luxury bags, something wonderful has been added. The prayed-for

Complaint

41 F. T. C.

black suede, that *refuses to rub off*. From years of patient research, Koret tanners have achieved this new finish. Only the finest, choicest skins can be used. Result: with the jewel-fine fittings, the radical, lovely designs, you have a purse whose *practicability* matches its elegance.

Advertising circulars are imprinted with the word "Korantelope" in prominent script lettering followed by the phraseology "'Non-Crockable' Black Suede Calf" in relatively inconspicuous lettering together with the text:

Koret Introduces

Korantelope "non-crockable" black suede calf. For years and years fashion-right women have been wearing bags made of so-called "antelope" or suede: Beautiful though it was * * * everyone had to accept the fact that the black would "crock" * * * the color would come off * * * on one's gloves * * * one's clothes * * * on anything. Everyone hoped that someday, someone, would invent a suede that would not "crock." After years of research, our tanners achieved this miracle * * * by inventing Korantelope * * * a rich, lustrous deep black finish that will not rub off. Made on a finer, more costly skin * * * on calf instead of lambskin (as all so-called antelope or suede bags are made of) * * * and then only the very best of even these skins are good enough to take this new finish. This miracle now achieved, we proudly present the first and only black suede for handbags that will not rub off * * * KORANTELOPE.

PAR. 3. Respondent's use of the trade name "Korantelope" to describe and refer to its ladies' handbags and other leather products has a tendency and capacity to mislead and deceive prospective purchasers into the mistaken and erroneous belief that such products are made from antelope leather when in fact they are made from calfskin leather. The phraseology "Suede Calf" which sometimes accompanies the name "Korantelope" in relatively inconspicuous lettering does not serve to place purchasers of such products on notice that despite the use of a coined name containing the word "antelope" as a trade name, such products are actually made from calfskin, and the use of the phraseology "Suede Calf" in connection with the word "Korantelope" merely serves to further confuse members of the purchasing public as to the character of leather actually used in the manufacture of such ladies' handbags.

PAR. 4. The respondent's use, in its advertisements and in the other ways herein mentioned, of the term "non-crockable" serves as a representation that the coloring matter in said leather will not come off or rub off.

In truth and in fact, the calfskin used in the manufacture of respondent's handbags does not possess fastness of color to crocking. It is crockable, and the color will rub off on gloves, clothes, or other material. The dye used will color or smudge articles with which it does come in contact.

Respondent's false and deceptive representations also serve to unfairly attract the attention of the public to respondent's advertisements and give them a greater force and drawing power to purchasers and prospective purchasers than advertisements of respondent's competitors who manufacture and sell similar articles but who do not represent the same as non-crockable or as possessing a deep black finish that will not rub off, or in any other way lead the public into the mistaken belief that their products possess the non-crockable qualities or characteristics claimed by respondent.

PAR. 5. Respondent's acts and practices as herein set out have also placed in the hands of retailers and dealers the means of making and

furthering such false and misleading representations and have enabled such retailers and dealers to increase their own sales of respondent's products so designated, described, and represented, thus lessening the market for similar goods, the nature, quality, and character of which are truthfully stated.

PAR. 6. The use by the respondent of the false and misleading statements and representations hereinabove set out, in offering for sale and selling its products has had and now has the capacity to, and does, mislead and deceive a substantial portion of the purchasing and consuming public into the erroneous and mistaken belief that such false statements, representations and advertisements are true; that said handbags and similar articles manufactured and sold by respondent are actually non-crockable and are made from antelope, and to the purchase of substantial quantities of respondent's handbags on account of such mistaken and erroneous beliefs induced as aforesaid.

PAR. 7. The aforesaid acts and practices of the respondent 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 October 15, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Koret, 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. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of, and in opposition to, the allegations of said complaint were taken before 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, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence and exceptions filed thereto, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; 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, Koret, Inc., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 33 East 33rd Street, New York, N. Y. For several years last past respondent has been engaged in the manufacture and in the sale and distribution of certain ladies' handbags made in whole or in part of calfskin leather. Respondent causes its said products, when sold, to be shipped from its place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in com-

merce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business and for the purpose of inducing the sale of certain of its ladies' handbags made in whole or in part of calfskin leather, respondent has represented that said handbags were made of antelope skin. In furtherance of this representation prior to April 1942, the respondent used the trade name "Korantelope" to designate and describe certain of its suede leather handbags made from calfskin. Upon the lining of the handbags so designated, the respondent placed a trademark containing a figure simulating an antelope superimposed over the name "Koret." In addition, respondent also placed upon said lining the trade name "Korantelope," with the following legend in smaller type: "Non-Crockable Black Suede Calf." Respondent also distributed window and counter display cards and other advertising material shaped to resemble an antelope and bearing the words "Korantelope 'Non-Crockable' Black Suede Calf." The respondent also issued advertisements prominently displaying said bags and the trade name "Korantelope."

PAR. 3. The Commission finds that through the use of the trade name "Korantelope" to designate or describe its suede leather handbags and through the use of a pictorial representation or cut of an antelope as part of its trade name and on circulars and display cards and in other advertising material, the respondent has represented that its suede leather handbags are composed in whole or in part of the skin of the antelope.

In truth and in fact respondent's suede leather handbags are not composed in whole or in part of the skin of the antelope but, instead, are composed of calfskin. The Commission further finds that the phraseology "suede calf" which sometimes accompanies the name "Korantelope" does not serve to place purchasers of such products on notice that despite the use of the coined name containing the word "antelope" as a trade name such articles are actually made of calfskin and that the use of phraseology "suede calf" in connection with the word "Korantelope" is contradictory and merely serves to further confuse members of the purchasing public as to the character of the leather actually used in the manufacture of such ladies' handbags.

About April 1942 the respondent changed the trade name of its product to "Koretolope." No charge against the trade name "Koretolope" was incorporated in the complaint, and the use of such trade name was not made an issue by the pleadings. No evidence was introduced as to whether or not the use of the term "Koretolope" alone or in conjunction with the term "black suede calf" would mislead or deceive the purchasing public. Consequently, the Commission is making no finding as to the effect of the term "Koretolope" when used alone or in conjunction with the term "black suede calf" to designate or describe respondent's products. However, the Commission is of the opinion, and so finds, that the term "Koretolope" when used in conjunction with a pictorial representation or cut of an antelope to designate or describe a leather product has the capacity to cause purchasers to believe that such product is in fact made of antelope instead of calfskin.

PAR. 4. It was further charged in the complaint that by the use of the term "non-crockable" the respondent represented that the coloring matter in said leather would not come off or rub off. While the evidence indicates that if a sufficient amount of pressure or friction is placed upon said bags, particularly when wet, they will color or smudge articles with which

they come in contact, the record does not definitely disclose whether the smudge so caused is due to the rubbing off of the coloring matter or the rubbing off of fine or minute particles of the suede. Consequently, the Commission is of the opinion that the record is not sufficiently conclusive to warrant a finding that the coloring matter will rub off, as charged in the complaint.

PAR. 5. The use by the respondent of the trade name "Korantelope" and the use of depictions or cuts of the antelope in the advertising and labeling of its products have had, and now have, the capacity to, and do, mislead and deceive a substantial portion of the purchasing and consuming public into the erroneous and mistaken belief that the handbags so designated, described, or advertised are composed in whole or in part of the skin of the antelope, and as a result of such erroneous and mistaken belief members of the consuming public have purchased substantial quantities of respondent's handbags. In addition thereto, respondent's acts and practices as herein set out have placed in the hands of retailers and dealers the means and instrumentality of misleading and deceiving the purchasing public into the belief that respondent's handbags are in fact made from antelope.

CONCLUSION

The 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, answer of the respondent, testimony and other evidence in support of the complaint and in opposition thereto taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, briefs filed in support of the complaint and in opposition thereto, and oral argument of counsel; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Koret, Inc., a corporation, and 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 leather handbags in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Korantelope" or any other term which includes the word "antelope" or any colorable simulation thereof, or using any other term of similar import or meaning on labels, in advertising, or in any other manner, to describe, designate, or refer to any leather product which is not composed of the skin of the antelope.

2. Using any cut or depiction of an antelope as a trade-mark or label upon any leather product not composed of the skin of the antelope.

3. Using any cut or pictorial design of an antelope in connection with any description of, or reference to, leather products not composed of the skin of the antelope.

4. Using any cut or depiction of an antelope in conjunction with any coined name containing a contraction of the word "antelope" to designate, describe, or refer to leather products not composed of the skin of the antelope.

5. Representing in any manner that leather products made of calfskin are made from the skin of antelope.

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

R. C. MILLER TRADING AS R. C. MILLER & COMPANY
AND MARIE LEIBLINGER & COMPANY

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

Docket 5064. Complaint, Oct. 18, 1943—Decision, Dec. 3, 1945

Where an individual engaged in interstate sale and distribution of a medicinal preparation which she designated as "Nonat," active ingredients of which were turpentine, lead oleate and camphor; through statements in advertisements in the Bohemian and Czechoslovakian language, including reproductions of purported testimonials—

(a) Represented, directly or by implication, that her preparation would reduce the swelling and stop the pain resulting from insect bites and stings; cure festers and heal festering cuts and wounds; extract splinters and other foreign objects from the body; and that it was a competent and adequate treatment for sciatica and rheumatism, and constituted a cure for bodily ailments generally:

The facts being that while said product, by virtue of its turpentine content, had the properties of a mild counter irritant and as such might afford temporary relief from the pains resulting from sciatica and rheumatism, it was without therapeutic value in such cases and in the other respects claimed therefor; and

(b) Failed to reveal facts material in the light of the representations made in said advertisements with respect to the consequences which might result from the use of said preparation under prescribed or usual conditions in that, by virtue of its lead oleate content, use thereof on open sores or wounds might cause lead poisoning;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the belief that her preparation possessed therapeutic properties which it did not in fact possess, and was in all cases safe, and thereby to cause such public to purchase substantial quantities thereof:

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. Miles J. Furnas*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Merriam, Rinehart & Merriam, of Pasadena, Calif., 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 R. C. Miller, an individual trading as R. C. Miller & Company, and Marie Leiblinger & Company, 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, R. C. Miller, is an individual trading as R. C. Miller & Company and Marie Leiblinger & Company, with her prin-