

IN THE MATTER OF

J. C. WINTER & CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-800. Complaint, Aug. 3, 1964—Decision, Aug. 3, 1964

Consent order requiring distributors of cigars to wholesale and retail dealers for resale, with headquarters in Red Lion, Pa., to cease representing falsely, by use of the brand names "Havana Blunts," "Winters Havana Special" and "Blended with Havana" and other descriptive matter that their cigars are made entirely from or contain a substantial amount of tobacco grown in Cuba.

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 J. C. Winter & Co., Inc., a corporation, and Amelia C. Winter and W. H. Matthews, individually and as officers of said corporation, and as former officers of G. W. Van Slyke & Horton, Inc., a dissolved corporation, and R. C. Jacobs, an individual doing business as G. W. Van Slyke & Horton, and

as a former officer of said G. W. Van Slyke & Horton, Inc., 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 public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent J. C. Winter & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located in the city of Red Lion, State of Pennsylvania.

Respondents Amelia C. Winter and W. H. Matthews are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent and their business address is the same as that of the corporate respondent.

Respondents Amelia C. Winter, W. H. Matthews, and R. C. Jacobs, formerly were officers of G. W. Van Slyke & Horton, Inc., a Pennsylvania corporation, now dissolved, which was operated as a sales subsidiary of J. C. Winter & Co., Inc., R. C. Jacobs, an individual, is now trading as G. W. Van Slyke & Horton, with his principal office and place of business located in the city of Red Lion, State of Pennsylvania.

PAR. 2. Respondents have been engaged in the advertising, offering for sale, sale and distribution of cigars to distributors, wholesalers, dealers and retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents have caused their said products, when sold, to be shipped from their place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for purpose of inducing the sale of their cigars, the respondents have made, or caused to be made, numerous statements and representations in connection with the advertising of their cigars through the use of brand names and other descriptive and identifying matter and materials which purport to indicate the composition, formulation or contents of their cigars.

Typical and illustrative of the aforesaid statements and representations are the following:

HAVANA BLUNTS, WINTERS HAVANA SPECIAL, and BLENDED WITH HAVANA.

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import not specifically set out

herein, the respondents have represented in instances where the terms "Havana Blunts" and "Winters Havana Special" were employed, that said cigars were made entirely from tobacco grown on the Island of Cuba. By and through the use of the above-quoted statements and representations, and others of similar import not specifically set out herein, the respondents have represented in instances where the term "Blended with Havana" was employed, that said cigars contained a substantial amount of tobacco grown on the Island of Cuba.

PAR. 6. In truth and in fact, respondents' cigars bearing designations such as "Havana Blunts" and "Winters Havana Special" and other similar terms were not made entirely from tobacco grown on the Island of Cuba but contained substantial amounts of tobaccos which were not grown on the Island of Cuba; and, respondents' cigars bearing designations such as "Blended with Havana" did not contain a substantial amount of tobacco grown on the Island of Cuba.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof have been false, misleading and deceptive.

PAR. 7. By the aforesaid practices, respondents have placed in the hands of distributors, wholesalers, dealers and retailers, means and instrumentalities by and through which they may have misled the public as to the composition, formulation and origin of their cigars.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

PAR. 9. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, have been all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with

violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent J. C. Winter & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located in the city of Red Lion, State of Pennsylvania.

Respondents Amelia C. Winter and W. H. Matthews are officers of said corporation, and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents J. C. Winter & Co., Inc., a corporation, and Amelia C. Winter and W. H. Matthews, individually and as officers of said corporation, and as former officers of G. W. Van Slyke & Horton, Inc., a dissolved corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of cigars or any other products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Havana," or any other term or terms indicative of tobacco grown on the island of Cuba, either alone or in conjunction with any other terms, to describe, designate or in any way refer to cigars not made entirely from tobacco grown on the island of Cuba; except that cigars containing a substan-

tial amount of tobacco grown on the island of Cuba may be described, designated, or referred to as "blended with Havana," or by any term of similar import or meaning, provided that the words "blended with," or other qualifying word or words, are set out in immediate connection or conjunction with the word "Havana," or other term indicative of tobacco grown on the island of Cuba, in letters of equal size and conspicuousness.

2. Placing in the hands of distributors, wholesalers, dealers and retailers, and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above.

It is further ordered, That respondent R. C. Jacobs, an individual doing business as G. W. Van Slyke & Horton, and as a former officer of G. W. Van Slyke & Horton, Inc., a dissolved corporation, and respondent's agents, representatives and employees, directly or through any corporate or other devise, in connection with the offering for sale, sale or distribution of cigars or any other products, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "Havana," or any other term or terms indicative of tobacco grown on the island of Cuba, either alone or in conjunction with any other terms, to describe, designate or in any way refer to cigars not made entirely from tobacco grown on the island of Cuba; except that cigars containing a substantial amount of tobacco grown on the island of Cuba may be described, designated, or referred to as "blended with Havana," or by any term of similar import or meaning, provided that the words "blended with" or other qualifying word or words, are set out in immediate connection or conjunction with the word "Havana," or other term indicative of tobacco grown on the island of Cuba, in letters of equal size and conspicuousness.

2. Placing in the hands of distributors, wholesalers, dealers and retailers, and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above.

It is further ordered, That the respondents herein shall, within sixty (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.

Complaint

IN THE MATTER OF

REGINA CIGAR COMPANY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-801. Complaint, Aug. 3, 1964—Decision, Aug. 3, 1964

Consent order requiring Philadelphia distributors of cigars to cease representing falsely by use of the brand names "Havana Palmas," "Parkworth Havana Palmas," and "Clear Havanas," and otherwise, that their cigars are made from tobacco grown in Cuba.

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 Regina Cigar Company, Inc., a corporation, and Samuel A. Peters, Philip Peters and Jerome Josephs, individually and as officers of said corporation, 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 public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Regina Cigar Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 726 North 3rd Street in the city of Philadelphia, State of Pennsylvania.

Respondents Samuel A. Peters, Philip Peters and Jerome Josephs are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their products, when sold, to be shipped from their place of business in the State of Pennsylvania to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their cigars, the respondents