

FEDERAL TRADE COMMISSION ACT

Docket C-992. Complaint, Sept. 16, 1965—Decision, Sept. 16, 1965

Consent order requiring a Brooklyn, N.Y., distributor of toilet preparations to jobbers and retailers, to cease representing falsely on bottles, cartons

Complaint

and labels affixed thereto that its domestic perfumes and toilet preparations were manufactured in a foreign country; and to cease using foreign words or terms in product names or depictions indicative of foreign origin unless such designations and depictions disclose that said products were made in the United States.

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 The Louangel Corporation, a corporation, and Arnold Schnapp and Marvin Schnapp, 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 The Louangel Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 337 Kent Avenue, in the city of Brooklyn, State of New York.

Respondents Arnold Schnapp and Marvin Schnapp, 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 address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of toilet preparations to distributors, jobbers and retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of New York 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 business, and for the purpose of inducing the purchase of their products, respondents have engaged in the practices of imprinting, or causing to be imprinted, upon bottles and cartons in which certain of their toilet preparations are intended to be, and are, sold to the purchasing

Complaint

68 F.T.C.

public, and upon labels affixed thereto, designations of and referring

(depiction of the fleur-de-lis)

MARI
dé Lise
Parfum
The Louangel Corp.
New York
1 fl. oz.

Parfum
PRINCE OBOLENSKI

Parfum
PRINCE OBOLENSKI
½ Fl. Oz.
The Louangel Corp.
New York

M	(accompanied
A	by three
T	reproductions
O	of the
U	fleur-de lis)
Perfume	

PAR. 5. By and through the use of the aforementioned representations, and others of similar import not specifically set out herein, respondents represented directly or by implication that said toilet preparations are manufactured in a foreign country.

The use of designations in a foreign language, including "Mari dé Lise," "Parfum," "Matou," and "Prince Obolenski" have the capacity and tendency to suggest to the purchasing public that toilet preparations so designated were manufactured in a foreign country, and a depiction of the fleur-de-lis also and separately has the capacity and tendency to suggest that toilet preparations so designated were manufactured in France, of which fact the Commission takes official notice.

PAR. 6. In truth and in fact, the toilet preparations referred to in Paragraph Four were manufactured in the United States.

Therefore, the statements and representations set forth in Paragraph Four hereof are false, misleading and deceptive.

to said toilet preparations, including:

France and other foreign countries, of which fact the Commission takes official notice.

PAR. 8. By the aforesaid practices respondents place in the hands of jobbers, retailers and dealers the means and instrumentalities by and through which they may mislead and deceive the public as to the country of origin of the aforementioned products.

PAR. 9. 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 toilet preparations of the same general kind and nature as those sold by respondents.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute, 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

Order

68 F.T.C.

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 The Louangel Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 337 Kent Avenue, in the city of Brooklyn, State of New York.

Respondents Arnold Schnapp and Marvin Schnapp are officers of the said corporation and their address is the same as that of the 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 The Louangel Corporation, a corporation, and its officers, and Arnold Schnapp and Marvin Schnapp, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of perfume or other toilet preparations, not wholly made in a foreign country, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Representing directly that such products are made in a foreign country, or

(b) Using any foreign word, term or phrase in any brand or product name, or using any depiction or other device, word, term or phrase indicative of foreign origin, unless clear and conspicuous disclosure is made in close connection and conjunction therewith of the fact that such products were made in the United States.

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

CLARISE SPORTSWEAR CO., INC. (Docket No. C-993)
MAY KNITTING COMPANY, INC. (Docket No. C-994)
HUDDLESPUN, INC. (Docket No. C-995)

CONSENT ORDERS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 2(d) OF THE CLAYTON ACT

Complaints, Sept. 20, 1965—Decisions, Sept. 20, 1965***

Consent orders requiring three New York wearing apparel manufacturers to cease discriminating among their competing customers in the payment of advertising and promotional allowances, in violation of Sec. 2(d) of the Clayton Act.

COMPLAINT

The Federal Trade Commission, having reason to believe that each of the respondents named in the caption hereof has violated and is now violating the provisions of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C., Title 15, Section 13), and it appearing to the Commission that a proceeding by it in respect thereto is in the interest of the public, the Commission hereby issues its complaints stating its charges as follows:

PARAGRAPH 1. Each of the respondents is a corporation engaged in commerce, as "commerce" is defined in the amended Clayton Act, and sells and distributes its wearing apparel products from one State to customers located in other States of the United States. The sales of each respondent in commerce are substantial.

PAR. 2. Each of the respondents in the course and conduct of its business in commerce paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services and facilities furnished by or through such customers in connection with their sale or offering for sale of wearing apparel products sold to them by respondent, and such payments were not made available on proportionally equal terms to all other customers competing with favored customers in the sale and distribution of respondent's wearing apparel products.

PAR. 3. Included among, but not limited to, the practices alleged herein, each respondent has granted substantial promotional pay-

*Identical complaints and decisions were combined by the compiler.

**For Commission's opinion and dissenting statement of Commissioner Elman accompanying these orders, see pp. 393, 403, 407 herein.