

Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
T. E. BROOKS & CO. ET AL.

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

Docket C-1014. Complaint, Nov. 15, 1965—Decision, Nov. 15, 1965

Consent order requiring manufacturers located in Red Lion, Pa., to cease representing falsely that their cigars were made entirely from tobacco grown in Cuba through the use of the word "Havana" on their packages, labels and other identifying product materials.

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 T. E. Brooks & Co., a partnership, and Arthur H. Thompson, Fred A. Thompson, Brooks K. Thompson, Edward B. Thompson, Harry K. Thompson, and Robert H. Thompson, individually and as copartners trading and doing business as T. E. Brooks & Co., 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 T. E. Brooks & Co. is a partnership comprised of the subsequently named individuals who formulate, direct and control the acts and practices of said partnership, including the acts and practices hereinafter set forth. The principal office and place of business of said partnership is located at Red Lion, State of Pennsylvania.

Respondents Arthur H. Thompson, Fred A. Thompson, Brooks K. Thompson, Edward B. Thompson, Harry K. Thompson, and Robert H. Thompson are individuals and copartners, trading and doing business as T. E. Brooks & Co. with their principal office and place of business located at the above-stated address.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacturing, 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 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 have made numerous statements and representations in connection with the advertising of their cigars by and through the use of language appearing on their packaging, labels and other identifying product material which purport to disclose the composition, formulation, origin and place of manufacture of their cigars.

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

BROOKS HAVANA PALMAS HAVANA PALMAS
BROOKS HAVANA TIP CIGARILLOS
* * * HAVANA * * * BLEND MILD HAVANA

PAR. 5. By and through the use of the above-quoted statements and representations, and others similar thereto not specifically set out herein, the respondents represented that said cigars were made entirely from tobacco grown on the island of Cuba.

PAR. 6. In truth and in fact, respondents' cigars bearing the descriptions and designations which include the word "HAVANA"

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as aforesaid and other similar terms were not made entirely from tobacco grown on the island of Cuba.

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

PAR. 7. By the aforesaid practices, respondents place in the hands of distributors, wholesalers, dealers and retailers, means and instrumentalities by and through which they may mislead the public as to the composition, formulation, origin and place of manufacture 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, 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 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, were, and are, 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute

an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent T. E. Brooks & Co. is a partnership, with principal office and place of business located at Red Lion, State of Pennsylvania.

Respondents Arthur H. Thompson, Fred A. Thompson, Brooks K. Thompson, Edward B. Thompson, Harry K. Thompson and Robert H. Thompson are individuals and copartners comprising said partnership, and trading and doing business as T. E. Brooks & Co., with their principal office and place of business located at Red Lion, State of Pennsylvania.

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 T. E. Brooks & Co., a partnership, and Arthur H. Thompson, Fred A. Thompson, Brooks K. Thompson, Edward B. Thompson, Harry K. Thompson, and Robert H. Thompson, individually and as copartners, trading and doing business as T. E. Brooks & Co., or under any other name or names and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of cigars or 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

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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 respect 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