

**S. S. ROSENBAUM, DOING BUSINESS AS RELIANCE
VARNISH WORKS.**

**COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SEC-
TION 5 OF THE ACT OF CONGRESS, APPROVED SEPTEMBER 26,
1914.**

Docket No. 59.—March 13, 1918.

SYLLABUS.

**Where a concern engaged in the manufacture and sale of varnish and
kindred products gave and offered to give to employees of customers
and of competitors' customers, gratuities, entertainment, and**

money, as an inducement for them to influence their employers to purchase its goods or to refrain from dealing with its competitors: *Held*, That such payments and offers to pay, under the circumstances set forth, constituted an unfair method of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that the Reliance Varnish Co., hereinafter referred to as respondent, has been, for more than a year last past, using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, the Reliance Varnish Works, is a corporation, organized and existing and doing business under and by virtue of the laws of the State of New Jersey, having its principal office and place of business at the city of Newark, in said State, and is now and for more than one year last past has been engaged in manufacturing and selling varnish and kindred products throughout the States and Territories of the United States, and that at all times hereinafter mentioned, the respondent has carried on and conducted such business in direct competition with other persons, firms, copartnerships, and corporations manufacturing and selling like products.

PAR. 2. That, with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the manufacture and sale of varnish and kindred products, the respondent, for more than one year last past has been, systematically and on a large scale, giving and offering to give to employees of both its customers and prospective customers, and its competitors' customers and prospective customers, as an inducement to influence their employers to purchase or contract to purchase from the respondent, varnish and kin-

dred products, without other consideration therefor, gratuities such as liquor, cigars, meals, theater tickets, valuable presents, and entertainment.

PAR. 3. That, with the intent, purpose, and effect of stifling and suppressing competition in interstate commerce in the manufacture and sale of varnish and kindred products, the respondent, for more than one year last past, has been systematically and on a large scale, secretly paying and offering to pay to employees of both its customers and prospective customers, and its competitors' customers and prospective customers, without the knowledge and consent of their employers, large sums of money as an inducement to influence their said employers to purchase or contract to purchase from the respondent varnish and kindred products, or to influence such customers to refrain from dealing or contracting to deal with competitors of the respondent.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above-named respondent, the Reliance Varnish Works, has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in that respect would be to the interest of the public and fully stating its charges in this respect and the respondent having filed an answer admitting that the matters and things alleged in said complaint are true in the manner and form herein set forth, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report, stating its findings as to facts, and its order disposing of this proceeding without the introduction of testimony in support of the same and waiving any and all rights to the introduction of such testimony, the Commission makes this report and findings as to the facts and conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, the Reliance Varnish Works, is S. S. Rosenbaum, trading as the Reliance Varnish Works with his principal place of business located at the city of Newark, in the State of New Jersey, now and for more than one year last past engaged in the business of manufacturing and selling varnish and kindred products generally in commerce throughout the States and Territories of the United States in direct competition with other persons, firms, copartnerships and corporations manufacturing and selling like products.

PAR. 2. That for more than one year last past the respondent has given and offered to give employees of both his customers and prospective customers as an inducement to influence their employers to purchase or to contract to purchase from the respondent, varnish, and kindred products, or to influence such employers to refrain from dealing or contracting to deal with competitors of respondent, without other consideration therefor, gratuities consisting of liquors, cigars, meals, theater tickets, and other personal property.

PAR. 3. That for more than one year last past the respondent has given and offered to give employees of both his customers and prospective customers and his competitors' customers and prospective customers, as an inducement to influence their employers to purchase or to contract to purchase from the respondent, varnish, and kindred products, or to influence such employers to refrain from dealing or contracting to deal with competitors of respondent, without other consideration therefor, entertainment consisting of amusements and diversions of various kinds and description.

PAR. 4. That for more than one year last past, the respondent has given and offered to give employees of both his customers and prospective customers and his competitors' customers and prospective customers, as an inducement to influence their employers to purchase or to contract to purchase from the respondent, varnish and kindred products, or to influence such employers to refrain from dealing or contracting to deal with competitors of respondent, without other consideration therefor, large sums of money.

CONCLUSION.

That the methods of competition set forth in the foregoing findings as to facts in paragraphs 2, 3, 4, and each and all of them, are under the circumstances herein set forth, unfair methods of competition in interstate commerce in violation of the provisions of section 5 of the act of Congress approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, and the respondent having filed his answer admitting that the matters and things alleged and contained in the said complaint are true in the manner and form therein set forth, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report stating its findings as to the facts and its order disposing of this proceeding without the introduction of testimony in support of same, and waiving any and all right to the introduction of such testimony, and the Commission having made and filed its report containing its findings as to the facts and its conclusion that the respondent has violated section 5 of an act of Congress approved September 26, 1914, entitled, "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof: Now, therefore,

It is ordered, That the respondent, S. S. Rosenbaum, trading as Reliance Varnish Works, and his agents, servants, and employees, cease and desist from directly or indirectly—

1. Giving or offering to give employees of his customers or prospective customers or those of his competitors' customers or prospective customers as an inducement to influence their employers to purchase or to contract to purchase from the respondent varnish and kindred products, or to influence such employers to refrain from dealing or contracting to deal with competitors of respondent, without

other consideration therefor, gratuities, such as liquors, cigars, meals, theater tickets, valuable presents, and other personal property.

2. Giving or offering to give employees of his customers or prospective customers or those of his competitors' customers or prospective customers, as an inducement to influence their employers to purchase or to contract to purchase from the respondent varnish and kindred products, or to influence such employers to refrain from dealing or contracting to deal with competitors of respondent, without other consideration therefor, entertainment, consisting of amusements or diversions of any kind whatsoever.

3. Giving or offering to give employees of his customers or prospective customers or those of his competitors' customers or prospective customers as an inducement to influence their employers to purchase or to contract to purchase from the respondent varnish and kindred products, or to influence such employers to refrain from dealing or contracting to deal with competitors of respondent without other consideration therefor, money.

The Commission has also issued similar orders in other cases involving substantially the same facts, as shown by the following:

TABLE.

Date.	Docket No.	Respondent.	Commodity.	Answer, stipulation, or trial.
1918.				
Mar. 13.	70	O'Neil Oil & Paint Co., Milwaukee, Wis.	Paints and kindred products.	Answer and consent.
18	78	Chas. R. Long, Jr., Co., Louisville, Ky.	do.....	Do.
Apr. 15	42	Columbus Varnish Co., Columbus, Ohio.	Varnish and kindred products.	Do.
15	48	Walter L. Trainer Co., Philadelphia, Pa.	do.....	Do.
15	50	Van Camp Varnish Co., Cleveland, Ohio.	do.....	Do.
15	51	Sun Varnish Co., Louisville, Ky.	do.....	Do.
15	52	Lilly Varnish Co., Indianapolis, Ind.	do.....	Do.
15	54	Lindeman Wood-Finish Co., Shelbyville, Ind.	Paints, stains, and kindred products.	Do.
15	55	Adams & Elting Co., Chicago, Ill.	Varnish and kindred products.	Do.
15	56	Valentine & Co., New York, N. Y.	do.....	Do.
15	58	George D. Wetherill & Co., Philadelphia, Pa.	do.....	Do.
15	60	The Blackburn Varnish Co., Cincinnati, Ohio.	do.....	Do.
15	61	F. W. Thurston Varnish Co., Chicago, Ill.	do.....	Do.

TABLE—Continued.

Date.	Docket No.	Respondent.	Commodity.	Answer, stipulation, or trial.
1918.				
Apr. 15	62	Grand Rapids Varnish Co., Grand Rapids, Mich.	Varnish and kindred products.	Answer and consent.
15	63	National Varnish Co., New York N. Y.	do.....	Do.
15	65	Mayer & Lowenstein, New York, N. Y.	do.....	Do.
15	66	Boston Varnish Co., Everett, Mass.	do.....	Do.
15	67	Louisville Varnish Co., Louisville, Ky.	do.....	Do.
15	68	Murphy Varnish Co., Newark, N. J.	do.....	Do.
15	69	Marietta Paint & Color Co., Marietta Ohio.	Paints, stains, and other wood-finishing products.	Do.
15	72	The Forbes Varnish Co., West Park, Cleveland, Ohio.	Varnish and kindred products.	Do.
15	73	The Lawrence-McFadden Co., Philadelphia, Pa.	do.....	Do.
15	74	Pratt & Lambert (Inc.), Buffalo, N. Y.	do.....	Do.
15	76	The Glidden Varnish Co., Cleveland, Ohio.	do.....	Do.
15	77	The Ault & Wiborg Co., Cincinnati, Ohio.	do.....	Do.
15	81	The Moller & Schumann Co., New York, N. Y.	do.....	Do.
24	64	Standard Varnish Works, New York, N. Y.	do.....	Do.
26	44	Warren Soap Manufacturing Co., Boston, Mass.	Soap and kindred products.	Do.
30	71	Grand Rapids Wood Finishing Co., Grand Rapids, Mich.	Wood stains and wood varnishes.	Answer.
June 6	45	Eagle Printing Ink Co., New York N. Y.	Printing inks.....	Answer and consent.
6	46	Sigmund Ullmann Co., New York, N. Y.	do.....	Do.
6	47	J. M. Huber, New York, N. Y.....	do.....	Do.
6	125	Advance Paint Co., Indianapolis, Ind.	Paints and kindred products.	Do.
24	150	S. C. Johnson & Son, Racine, Wis.	Stains, fillers, and other wood finishing products.	Do.
28	124	Pennsylvania Specialty Co., Philadelphia, Pa.	Paints, varnish, and kindred products.	Do.
28	147	American Varnish Co., Chicago, Ill.	Varnish and kindred products.	Do.
29	149	James B. Day & Co., Chicago, Ill.	do.....	Do.
July 16	148	Chicago Varnish Co., Chicago, Ill.	do.....	Do.
16	154	Wheeler Varnish Works, Chicago, Ill.	do.....	Do.
18	151	G. J. Liebleh Co., Chicago, Ill.....	Paints, varnish, and kindred products.	Do.
18	162	The Henry O. Shepard Co., Chicago, Ill.	Railway tariffs, schedules, and other printed matter.....	Do.
Aug. 22	53	McCloskey Varnish Co., Philadelphia, Pa.	Varnish and kindred products.	Do.
22	146	The Acme White Lead & Color Works, Detroit, Mich.	Paints and kindred products.	Do.
22	180	Kansas City Printing Ink Co., Kansas City, Mo.	Printing inks and kindred products.	Do.
27	161	Dearborn Chemical Co., Chicago, Ill.	Boiler compounds, chemicals, etc.	Do.
Oct. 8	177	Samuel Bingham's Son Manufacturing Co., Chicago, Ill.	Printers' rollers and similar products.	Do.
8	181	Miller-Cooper Ink Co., Kansas City, Mo.	Printing ink and kindred products.	Do.
10	188	Henry C. Godwin, Baltimore, Md..	Printers' rollers and similar products.	Do.
17	176	John F. Buckle & Son, Chicago, Ill.	do.....	Do.
Nov. 12	178	Bingham Bros. Co., New York N. Y.	do.....	Do.
Dec. 27	187	Hart & Zugelder, New York, N. Y.	do.....	Do.

TABLE—Continued.

Date.	Docket No.	Respondent.	Commodity.	Answer, stipulation, or trial.
1919.				
Feb. 20	229	Consolidated Packing & Supply Co., New York, N. Y.	Engine packings and supplies.	Answer and consent.
Mar. 20	246	W. P. Wilkin Co. (Inc.), Newport News, Va.	Ship supplies.....	Do.
Apr. 15	43	Flood & Conklin Co., Newark, N. J.	Varnish and kindred products.	Do.
15	179	Bird-Archer Co., New York, N. Y.	Boiler compounds, chemicals, etc.	Stipulation.
15	244	Berry Bros. (Inc.), of Boston, Mass.; Evert W. Hinckley and William H. Kennedy. ¹	Varnish and kindred products.	Answer, stipulation, and consent.
May 27	225	M. L. P. Packing & Supply Co., New York, N. Y.	Engine supplies, etc..	Trial.
27	262	F. Kenney Manufacturing Co., Boston, Mass.	Soap and kindred products.	Answer and consent.
27	263	Wm. H. Swan & Sons, New York, N. Y.	Ship stores and steamship supplies.	Do.
27	41	Rockford Varnish Co., Rockford, Ill.	Varnish and kindred products.	Trial.

¹ Complaint dismissed as to William H. Kennedy.

FEDERAL TRADE COMMISSION *v.* TYPEWRITER EMPORIUM.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF THE ACT OF CONGRESS, APPROVED SEPTEMBER 26, 1914.

Docket No. 37—March 26, 1918.

SYLLABUS.

Where a corporation engaged in the business of buying, repairing, rebuilding, and selling used typewriters, sold the same by advertisements in which it was not distinctly, definitely, and clearly stated and set out that such machines were used, repaired, or rebuilt:

Held, That such advertisements, under the circumstances set forth, constituted an unfair method of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that the Typewriter Emporium, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An

act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Typewriter Emporium, is now and was at all times hereinafter mentioned a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, having its principal office and place of business at Chicago, in said State, and is now and for more than two years last past has been engaged in the business of buying used or secondhand typewriters, rebuilding the same and then selling them to various customers throughout the different States and Territories of the United States and the District of Columbia and foreign countries, and that at all times hereinafter mentioned the respondent has carried on and conducted such business in direct competition with other persons, firms, copartnerships, and corporations rebuilding and selling used typewriters in a like manner, and also with those manufacturing and selling only new or unused machines.

PAR. 2. That in the conduct of its business respondent purchases large numbers of secondhand or used typewriters in the different States and Territories of the United States and District of Columbia, transports them through other States and Territories of the United States in and to the city of Chicago, State of Illinois, where the same are overhauled and rebuilt by the respondent and sold to purchasers in different States and Territories of the United States and the District of Columbia and foreign countries, and after such used typewriters are so bought, as aforesaid, in the different States and Territories of the United States they are continually moved to, from, and among other States and Territories of the United States and the District of Columbia and foreign countries, and there is continually and has been at all times hereinafter mentioned a constant current of trade and commerce in said machines between and among various States and Territories of the United States and the District of Columbia, and especially from other States and Territories of the United States and the District of Columbia to and through the city of Chicago, State of Illinois, and there-

from to and through the other States and Territories of the United States and the District of Columbia.

PAR. 3. That in the conduct of its business respondent deals entirely in used or second-hand typewriters of standard makes, whose names and reputations through years of usage and advertising have become known to the purchasing public as the recognized leading machines. That after respondent purchases such machines, it repairs and rebuilds the same and promotes the sale thereof by a system of advertisements placed in newspapers, magazines, periodicals, trade papers, and other publications circulated throughout the States and Territories of the United States and the District of Columbia and foreign countries, and that with the intent, purpose and effect of stifling and suppressing competition in interstate commerce in the sale of typewriters, respondent for more than one year last past has published and caused to be published, as aforesaid, certain false and misleading advertisements designed and calculated by the words, phrases, and pictures therein contained to cause, and the same have caused, customers and prospective customers to believe that respondent was offering for sale new typewriters of standard makes at and for a price of less than one-half of that charged by the makers of such machines, when in fact respondent does not sell or handle new machines, but only sells and offers for sale used or second-hand machines which have been repaired and rebuilt by it, as aforesaid.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above named respondent, Typewriter Emporium, has been, and now is, using unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in that respect would be to the interest of the public, and fully stating its charges in this respect, and respondent having filed its answer, ad-

mitting that the matters and things alleged in the said complaint are true, in the manner and form therein set forth, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report, stating its findings as to the facts, and its order, disposing of this proceeding without the introduction of testimony in support of the same, and waiving any and all right to the introduction of such testimony, the Commission makes this report and findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Typewriter Emporium, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its home office located in the city of Chicago, in the said State of Illinois, now and for more than one year last past engaged in the business of buying used or second-hand typewriters, rebuilding and selling the same generally in commerce throughout the States and Territories of the United States, in direct competition with other persons, firms, co-partnerships, and corporations similarly engaged.

PAR. 2. That for more than one year last past the respondent, Typewriter Emporium, has sold typewriters by a system of advertisements placed in newspapers, magazines, periodicals, trade papers, and other publications circulated throughout the States and Territories of the United States and the District of Columbia, and by circulars and letters sent to prospective customers, in reply to inquiries from such advertisements, in which it was not clearly and definitely stated and set out that the typewriters offered by the respondent were used, second-hand, rebuilt or repaired, and not new machines

CONCLUSION.

That the methods of competition set forth in the foregoing findings as to the facts in paragraph 2 and each and all of them are, under the circumstances therein set forth, unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a

Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, and the respondent having filed its answer, admitting that the matters and things alleged and contained in the said complaint are true, in the manner and form therein set forth, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report, stating its findings as to the facts, and its order, disposing of this proceeding, without the introduction of testimony in support of the same, and waiving any and all right to the introduction of such testimony, and the Commission having made and filed its report containing its findings as to the facts and its conclusions that the respondent has violated section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof: Now, therefore,,

It is ordered, that the respondent, Typewriter Emporium, of Chicago, State of Illinois, and its officers, directors, agents, servants, and employees cease and desist from offering for sale used, second-hand, repaired or rebuilt typewriters, by means of advertisements, circulars, letters, or other similar devices, in which it is not distinctly, definitely, and clearly stated and set out that such machines are used, second-hand, repaired or rebuilt typewriters.

The Commission has also issued similar orders in other cases involving substantially the same facts, as shown by the following:

TABLE.

Dates.	Docket No.	Respondents.	Answer, stipulation, or trial.
1918.			
Apr. 30	34	Dearborn Typewriter Co. (Inc.), Chicago, Ill.....	Answer and consent.
May 24	36	Harry A. Smith, Chicago, Ill.....	Do.
June 6	35	W. H. Beardsley, doing business as Metro Typewriter Co., Brooklyn, N. Y.	Do.

FEDERAL TRADE COMMISSION v. CHICAGO LINO-TABLER COMPANY.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5, OF THE ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Question modified December 19, 1919.

Docket No. 23—April 4, 1918.

SYLLABUS.

Where a manufacturer of devices used by printers to produce ruled lines for tabulation—

- (a) interfered with a competitor's customers by threatening to sue them for infringement of certain patents claimed to be owned by it, such threats not being made in good faith for the purpose of protecting the manufacturer's rights under said patents;
- (b) endeavored to persuade or force trade journals to refuse a competitor's advertisements, by means of false and misleading statements to the effect that said competitor's apparatus and devices infringed its patents;
- (c) endeavored to induce trade journals to refuse a competitor's advertisements, by means of false and misleading statements relative to said competitor's financial standing and condition; and
- (d) made to trade journals and customers of a competitor, false and misleading statements in reference to the defense made by said competitor to an infringement suit instituted against it by said manufacturer:

Held, That such acts transcended the rights and privileges of a patentee in the protection of its patents, and, under the circumstances set forth, constituted unfair methods of competition, in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that Chicago Lino-Tabler Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows: