

chasers to believe that respondent's preparation is one and the same as that made and sold under the trade name "Mentholum."

FEDERAL TRADE COMMISSION *v.* BRUMAGE- LOEB CO., SUCCESSOR TO BUDDHA TEA CO.

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

Docket No. 100.—June 6, 1918.

SYLLABUS.

Where a corporation engaged in the sale and distribution of teas and coffees at wholesale gave and offered to give to customers, as an inducement to secure their patronage, certain personal property of

unequal values which was intended to be, and was, distributed to ultimate purchasers by lot or chance:

Held, That such distribution of gifts, 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 Buddha Tea Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation 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:

PARAGRAPH 1. That the respondent, Buddha Tea Co., is doing business in the State of Pennsylvania, having its principal office and place of business at the city of Pittsburgh, in said State, now and for more than one year last past engaged in the business of roasting coffee and packing tea and selling the same generally in commerce throughout the States of the United States, the Territories thereof, and the District of Columbia, and that at all times hereinafter mentioned this respondent has carried on and conducted such business 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, Buddha Tea Co., in the distribution and sale of its products, as aforesaid, has given and offered to give, and is now giving and offering to give, customers and prospective customers, as an inducement to secure their trade and patronage, certain papers, coupons, or certificates which were and are redeemable in various prizes, or premiums, consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot.

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 has reason to believe that the above-named respondent, Brumage-Loeb Co., 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 entered its appearance by its president, R. L. Brumage, duly authorized to act in the premises, and having filed its answer admitting 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, Brumage-Loeb Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its home office located at the city of Pittsburgh in said State, now, and for more than one year last past, engaged in the business of roasting coffee and packing tea, and selling the same generally in commerce throughout the States of the United States, the Territories thereof, and the District of Columbia, and that at all times hereinafter mentioned this respondent has carried on and conducted such business in direct competition with other persons, firms, copartnerships and corporations similarly engaged.

PAR. 2. That for more than one year last past the respondent, Brumage-Loeb Co., in the distribution and sale of its products as aforesaid has given and offered to give and is now giving and offering to give customers and prospective customers as an inducement to secure their trade and patronage certain papers, coupons or certificates which were and are redeemable in various prizes or premiums, consisting of personal property of unequal values, the distribution of which was and is determined by chance or lot.

CONCLUSION.

That the method of competition set forth in the foregoing findings as to the facts in paragraph 2 is under the circumstances therein set forth an unfair method 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 entered its appearance by its president, R. L. Brumage duly authorized to act in the premises, and 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 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, Brumage-Loeb Co., of Pittsburgh, Pa., and its officers, directors, agents, serv-

ants, and employees cease and desist from directly or indirectly giving or offering to give to its customers or prospective customers or those of its competitors' customers or prospective customers as an inducement to secure their trade and patronage coupons, papers, certificates, tokens, or other symbols that are redeemable in various prizes or premiums consisting of personal property of unequal values, the distribution of which is determined by chance or lot or otherwise, within 30 days from the service of this order.

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.			
June 6	102	The Dannemiller Grocery Co. (Inc.), Canton, Ohio.	Answer and consent.
6	105	A. Ethridge & Co., Rome, N. Y.....	Do.
6	108	F. W. Hinz & Sons (Inc.), Cincinnati, Ohio.....	Do.
6	109	Thomas C. Jenkins (Inc.), Pittsburgh, Pa.....	Do.
6	110	The Johnson-Layne Coffee Co. (Inc.), St. Louis, Mo.	Do.
6	112	Levering Coffee Co., Baltimore, Md.....	Do.
6	113	A. L. Mars & Co. (Inc.), Pittsburgh, Pa.....	Do.
6	114	M. S. Miller Co. (Inc.), Lancaster, Pa.....	Do.
6	115	Rice Bros. (Inc.), Philadelphia, Pa.....	Do.
6	116	Roth-Homeyer Coffee Co. (Inc.), St. Louis, Mo.....	Do.
6	117	William S. Scull Co. (Inc.), Camden, N. J.....	Do.
6	118	Sioux Falls Coffee & Spice Co. (Inc.), Sioux Falls, S. Dak.	Do.
6	119	Valley City Coffee & Spice Mills (Inc.), Saginaw, Mich.	Do.
July 6	120	The E. R. Webster Co., (Inc.), Cincinnati, Ohio...	Do.
22	99	C. F. Bonser & Co. (Inc.), Philadelphia, Pa.....	Do.
22	107	The Grocers Coffee Co. (Inc.), Indianapolis, Ind....	Do.
31	111	C. D. Kenny Co. (Inc.), Baltimore, Md.....	Do.

FEDERAL TRADE COMMISSION *v.* SEARS, ROEBUCK & CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF THE ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914, AND OF THE ALLEGED VIOLATION OF SECTION 2 OF THE ACT OF CONGRESS APPROVED OCTOBER 15, 1914.

Docket No. 80.—June 24, 1918.

SYLLABUS.

Where a mail-order house—

- (a) Advertised sugar, representing that it was able to sell the same at lower prices than its competitors because of its large purchases and the quick moving of its stock, the fact being that it sold such

sugar at less than cost and that its offer to sell, and sales, as aforesaid, were made upon the condition that certain specified amounts of other groceries be purchased therewith at a price sufficient to give it a profit on the combined sale;

(b) offered to sell, and sold, large quantities of sugar at less than cost upon similar terms and conditions;

(c) advertised in such manner as to lead the public to believe that its competitors did not deal justly, fairly, and honestly with their customers, to wit, that they charged more than a fair price for their sugar;

(d) advertised that its teas were purchased by a special representative in Japan who supervised the picking and selected the choicest grades, and that the middleman's profit was thereby saved, the fact being that a large part thereof was purchased from importers in the United States and in the same manner as its competitors; and,

(e) advertised that its coffees were purchased from the best plantations in the world, thus securing the pick of the crop and enabling it to sell the best coffees at very low prices, the fact being that it purchased such coffees from importers located in the United States from whom its competitors also purchased their coffees:

Held, That such acts constituted unfair methods of competition in violation of section 5 of the act of September 26, 1914.

(NOTE.—See Appendix I, page 562, for the opinion of the Circuit Court of Appeals for the Seventh Circuit in this case.)

COMPLAINT.

The Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that Sears, Roebuck & Co., hereinafter referred to as the 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:

I.

PARAGRAPH 1. That the respondent, Sears, Roebuck & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, hav-

ing principal office and place of business located at the city of Chicago, in the State of Illinois, and is now, and was at all times hereinafter mentioned, engaged in the business of selling goods, wares, and merchandise throughout the States and Territories of the United States and the District of Columbia from one central office by catalogues, parcel post, express, and other means, and has carried on and conducted such business at all times hereinafter mentioned in direct trade competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of its business, the respondent, Sears, Roebuck & Co., owns and operates warehouses, situated in different States of the United States, and purchases large amounts of such merchandise both in foreign countries and in different States of the United States, and transports the same through other States of the United States to these warehouses, to await resale and delivery to the public; and that respondent manufactures a certain proportion of the merchandise sold by it, and in so doing purchases and enters into contracts of purchase for the necessary ingredients and materials therefor in foreign countries and different States of the United States, transporting the same to the various manufacturing plants owned or controlled by it, where they are made into the finished products, and then assembled in warehouses, as aforesaid, or shipped direct to the purchasers thereof; after such merchandise is so purchased or manufactured or produced in the various States and Territories of the United States and the District of Columbia, or in foreign countries, it is continuously moved to, from, and among other States and Territories of the United States and the District of Columbia, and there continuously has been at all times herein mentioned a constant current of trade and commerce in said merchandise between and among the 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 therefrom to and through the other States and Territories of the United States and the District of Columbia.

PAR. 3. That the respondent, Sears, Roebuck & Co., in the sale of certain goods, wares, and merchandise, in interstate commerce, and more especially groceries, has, for more than two years last past, circulated throughout the various States and Territories of the United States and the District of Columbia, advertisements, offering for sale to the general public sugar at prices of from 3 to 4 cents per pound, and that said advertisements are false and misleading, in that they cause customers and prospective customers to believe that respondent, because of large purchases of sugar and because of quick-moving stock, is able to sell sugar at a price lower than others offering sugar for sale; whereas, in fact, respondent is selling said sugar at a loss, and its offer to so sell is limited to a definite quantity of sugar and is made only upon the express condition that certain specific amounts of other groceries be purchased therewith, for which respondent receives a price sufficient to give it a profit on the combined sale, including the sugar.

PAR. 4. That the respondent, Sears, Roebuck & Co., has, for more than two years last past, circulated throughout the States and Territories of the United States and the District of Columbia the advertisements heretofore referred to, and more particularly described in paragraph 3 of this complaint, and that said advertisements are false and misleading, being calculated to lead the trade and general public to believe that respondent is selling its sugar at a price much lower than that of its competitors, and thereby imputing its competitors with the purpose of charging more than a fair price for their sugar.

PAR. 5. That the respondent, Sears, Roebuck & Co., with the purpose, intent, and effect of harrassing and embarrassing its competitors, and destroying their trade and suppressing and stifling competition in the sale of its merchandise in interstate commerce, has, for more than two years last past, sold certain of its merchandise at less than cost, on the express condition that the customer simultaneously purchase other merchandise upon which the respondent makes a profit.

PAR. 6. That the respondent, Sears, Roebuck & Co., with the purpose, intent, and effect of injuring and embarrassing and discrediting its competitors, for more than two years

last past, has circulated catalogues throughout the various States and Territories of the United States, the District of Columbia, and in foreign countries, among customers and prospective customers of competitors, containing certain advertisements, wherein it is represented that—

(a) The quality of goods, wares, and merchandise handled and sold by its competitors is inferior to that of similar merchandise sold by respondent;

(b) Certain of respondent's competitors do not deal justly, fairly, and honestly with their customers;

(c) Respondent can and does buy its commodities in markets which are not accessible to its competitors, and by reason thereof is able to give customers better advantages in quality and price than those offered by its competitors; and that such advertisements and statements are false and misleading and calculated and designed to deceive the trade and general public.

II.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Sears, Roebuck & Co., hereinafter referred to as the respondent, has been, and is, violating the provisions of section 2 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief, as follows:

PARAGRAPH 1. That the respondent, Sears, Roebuck & Co., for several years last past, in the course of interstate commerce, has discriminated in price, and is discriminating in price, between different purchasers of sugar, which sugar is sold for use, consumption, and resale within the United States and the Territories thereof and the District of Columbia, in that the respondent has made a special price to customers who buy simultaneously with said sugar certain definite amounts of other merchandise, and that the effect of such discrimination may be to substantially lessen competition, or tend to create a monopoly.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued its complaint wherein it is alleged that it had reason to believe that the above-named respondent 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 respect to the allegations therein set forth would be to the interest of the public, and has been and now is discriminating in prices between different purchasers of its goods, wares and merchandise in violation of section 2 of an act of Congress, approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," and fully stating its charges in this respect, and the respondent, having entered its appearance and made answer in these proceedings by Sidney Adler, its attorney, who having stipulated and agreed in writing with the attorneys for the Commission that a certain statement of facts which had been agreed upon by said attorneys be filed and taken as the evidence in these proceedings; so that the Commission could determine whether the said respondent had violated the provisions of the Statutes hereinbefore designated; and after hearing the arguments of the respondent's attorney, and of the attorneys for the Commission upon said evidence, the Commission makes its report and its findings as to the facts and conclusions of law.

FINDINGS AS TO THE FACTS.

I.

PARAGRAPH 1. That the respondent, Sears, Roebuck & Co. is a corporation created by, and existing under, the laws of the State of New York, having a capital stock of \$83,000,000, and has for a long time past been engaged in the business of selling goods, wares, and merchandise throughout the various States and Territories of the United States in competi-

tion with certain persons, firms, copartnerships and corporations similarly engaged; that its sales for the year 1913 were \$95,584,716; for 1914, \$101,121,661; for 1915, \$112,665,573; for 1916, \$145,000,000; and for 1917, \$176,000,000; that a part of the business transacted by said company consists of the sale in interstate commerce through the various States and Territories of the United States and the District of Columbia of large quantities of groceries, the volume of which for the year 1913 was \$6,202,000; 1914, \$8,696,000; 1915, \$8,792,000; 1916, \$10,900,000; and 1917, \$13,200,000.

PAR. 2. That the respondent, Sears, Roebuck & Co., in the sale of certain of its goods, wares, and merchandise in interstate commerce, and more especially groceries, has for more than two years last past circulated throughout the various States and Territories of the United States and the District of Columbia, catalogues, containing advertisements offering for sale to its customers, prospective customers, and customers of competitors, and to the general public, sugar at from three to four cents per pound, wherein it was represented that the respondent, because of large purchases of sugar and quick moving stock, was able to sell sugar at a price lower than others offering the same for sale; that such advertisements were false and misleading by reason of the fact that the respondent sold such sugar in all cases at less than cost, and its offer so to sell, as aforesaid, was always limited to a definite quantity of sugar, and was always made upon the condition that certain specific amounts of other groceries be purchased therewith, for which respondent received a price sufficient to give it a profit on the combined sale including sugar.

PAR. 3. That the respondent, Sears, Roebuck & Co., with the intent, purpose and effect of harassing and embarrassing its competitors and destroying their trade, did for a long period of time prior to August, 1917, and continuously during such period, sell throughout the various States and Territories of the United States and the District of Columbia, large quantities of sugar at less than cost; that for the latter half of 1915, said respondent sold sugar throughout the various States and Territories of the United States and the District of Columbia in the aggregate amounting to the sum

of \$780,000 and at a loss of approximately \$196,000, and at all other times during said period the respondent sold other large quantities of sugar continuously at a loss, all of such sales being made on the express condition that the purchasers thereof simultaneously purchase other merchandise upon which the respondent made a profit.

PAR. 4. That the respondent, Sears, Roebuck & Co., did for more than two years last past, circulate throughout the States and Territories of the United States, and the District of Columbia, certain advertisements offering for sale its sugar to customers, prospective customers and customers of competitors and to the general public which were calculated to lead the trade and the general public to believe that competitors in selling their sugar were charging more than a fair price for the same.

PAR. 5. That, with the intent, purpose, and effect of embarrassing and discrediting competitors, the respondent did, for more than two years last past, circulate throughout the various States and Territories of the United States and the District of Columbia, among its customers and prospective customers, and among customers of its competitors, certain catalogues containing advertisements offering for sale its goods, wares, and merchandise, in which it was represented that respondent's competitors did not deal justly, fairly, and honestly with their customers.

PAR. 6. That for more than two years last past, the respondent did circulate through the various States and Territories of the United States, and the District of Columbia, catalogues containing advertisements offering for sale its teas to its customers, prospective customers, and customers of its competitors and to the general public, and claiming therein that such teas were purchased through a special representative of said respondent who was sent to Japan for such purpose, and who personally supervised the picking of the same, and by such method of purchase and supervision as aforesaid, the respondent not only secured the finest and choicest leaves for its best grade of teas so purchased, but saved the middleman's profit as well; that such statements were false and misleading by reason of the fact that the re-

spondent purchased a very large percentage of its teas from importers located in the United States and in the same manner in which teas were purchased by competitors.

PAR. 7. That the respondent for more than two years last past circulated through the various States and Territories of the United States catalogues containing other advertisements offering for sale its coffees to customers, prospective customers, customers of competitors, and the general public, in which it was represented that said respondent purchased all of its coffees direct from the best plantations in the world, thereby securing not only the pick of the crop but also enabling the respondent to sell to its customers the very best coffees at very low prices; that such statements were false and misleading by reason of the fact that it appears the coffees purchased by said respondent for a number of years last past were purchased from importers located in the United States and from whom its competitors purchased their coffees.

CONCLUSION.

That the methods of competition as set forth in paragraphs 2 to 7, inclusive, of the foregoing findings as to the facts are 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."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, and the respondent, Sears, Roebuck & Co., having entered its appearance and filed its answer by Sidney Adler, its attorney, who having stipulated and agreed in writing with the attorneys for the Commission that a certain statement of facts which had been agreed upon by said attorneys should be filed and taken to be the evidence in these proceedings, and the Federal Trade Commission having made and filed a report containing its findings as to the facts and its conclusions that the respondent had

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 of these proceedings. Therefore,

It is ordered, that the respondent Sears, Roebuck & Co., its officers and agents, cease and desist from—

(1) Circulating throughout the States and Territories of the United States and the District of Columbia, catalogues containing advertisements offering for sale sugar, wherein it is falsely represented to its customers or prospective customers of said respondent or to customers of competitors, or to the public generally, or leads them to believe, that because of large purchasing power and quick-moving stock, respondent is able to sell sugar at a price lower than its competitors.

(2) Selling, or offering to sell, sugar below cost through catalogues circulated throughout the States and Territories of the United States, and the District of Columbia, among its customers, prospective customers, and customers of its competitors.

(3) Circulating throughout the various States and Territories of the United States and the District of Columbia, among customers, prospective customers, and customers of its competitors, catalogues containing advertisements representing that respondent's competitors do not deal justly, fairly, and honestly with their customers.

(4) Circulating throughout the various States and Territories of the United States and the District of Columbia, among customers, prospective customers, or customers of its competitors, catalogues containing advertisements offering for sale its teas, in which said advertisements it is falsely stated that the respondent sends a special representative to Japan who personally goes into the tea gardens of said country and personally supervises the picking of such teas.

(5) Circulating through the various States and Territories of the United States and the District of Columbia, among customers, prospective customers, or customers of its competitors, catalogues containing advertisements offering for sale its coffees, in which it falsely stated that the respondent purchases all its coffees direct from the best plantations in the world.

FEDERAL TRADE COMMISSION *v.* UNITED STATES GOLD LEAF MANUFACTURERS' ASSOCIATION ET AL.

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

Docket No. 95.—June 28, 1918.

SYLLABUS.

Where about 40 per cent of the concerns in the United States engaged in the manufacture of gold leaf, manufacturing and selling about 50 per cent of the total output of the country, formed an unincorporated association, and by concerted action through such association and by agreement,

(a) fixed the price of such product and attempted to bring about a general uniformity thereof; and

(b) enhanced such price and attempted to maintain the same:

Held, That such combination of competitors and such fixing and enhancement of prices 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 United States Gold Leaf Manufacturers' Association, an unincorporated association without a constitution or by-laws, whose officers are Robert E. Hastings, of the city of Philadelphia, State of Pennsylvania, president; F. W. Rauskolb, of the city of Boston, State of Massachusetts, vice president; and Frank H. Scardefield, of the city of Brooklyn, State of New York, secretary, with its principal office and place of doing business located in the city of Brooklyn, of said State of New York, and the individuals whose names, location of their principal offices, and places of doing business are as follows, to wit:

Name.	Office.	State.
Chas. E. Auer.....	Brooklyn.....	New York.
Harry Ayres.....	Philadelphia.....	Pennsylvania.
W. D. Ashmore.....	Red Bank.....	New Jersey.
H. Bauer.....	Brooklyn.....	New York.
Eugene Bailey.....	do.....	Do.
John Clarke.....	Philadelphia.....	Pennsylvania.
F. A. Chadwick.....	Red Bank.....	New Jersey.
Robt. Clayton.....	West Hoboken.....	Do.