

# 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.           |

| Name.                  | Office.              | State.             |
|------------------------|----------------------|--------------------|
| Geo. Dickson.....      | Brooklyn.....        | New York.          |
| Alex. Fraser.....      | New York.....        | Do.                |
| D. Froeschauer.....    | Brooklyn.....        | Do.                |
| W. Grecht.....         | Orange, R. D. 1..... | California.        |
| S. A. Hickson.....     | New York.....        | New York.          |
| Robt. Henke.....       | do.....              | Do.                |
| Geo. Harris.....       | do.....              | Do.                |
| A. A. Lauriat.....     | Medford.....         | Massachusetts.     |
| Frank Ludwick.....     | Brooklyn.....        | New York.          |
| Chas. R. McLeod.....   | New York.....        | Do.                |
| John McEntee.....      | do.....              | Do.                |
| John D. McCable.....   | Brooklyn.....        | Do.                |
| Geo. Mussler.....      | do.....              | Do.                |
| John A. Morneburg..... | Hicksville.....      | Long Island, N. Y. |
| John Menz.....         | Brooklyn.....        | New York.          |
| Eugene J. Norton.....  | Philadelphia.....    | Pennsylvania.      |
| Frederick Pye.....     | Delawanna.....       | New Jersey.        |
| Leonard Riker.....     | Jersey City.....     | Do.                |
| Edw. Radford.....      | Chicago.....         | Illinois.          |
| A. H. Williams.....    | West Hoboken.....    | New Jersey.        |
| Chas. E. Williams..... | Brooklyn.....        | New York.          |
| Fred Welderer.....     | do.....              | Do.                |
| Jos. Wingerter.....    | do.....              | Do.                |

and that the corporations whose names, location of their principal offices, and places of doing business, and the States under whose laws they are organized, existing, and doing business, are as follows, to wit:

| Name.                           | Office.         | State.         |
|---------------------------------|-----------------|----------------|
| American Roll Gold Leaf Co..... | Providence..... | Rhode Island.  |
| W. H. Cox Manufacturing Co..... | do.....         | Do.            |
| W. H. Cox Co.....               | Chicago.....    | Illinois.      |
| F. W. Ranskolb Co.....          | Boston.....     | Massachusetts. |
| Wehrung & Billmeier Co.....     | Chicago.....    | Illinois.      |

and the copartners whose individual and firm names and style under which they are doing business, the location of their principal offices and places of doing business, are as follows, to wit:

| Individuals.            | Firm names.                 | Office.           |
|-------------------------|-----------------------------|-------------------|
| Henry B. Cabot.....     | Cabot & Higby.....          | Boston, Mass.     |
| Chas. H. Higby.....     | do.....                     | Do.               |
| Frank H. Caffin.....    | Frank H. Caffin & Son.....  | Do.               |
| F. Henry Caffin.....    | do.....                     | Do.               |
| Robert E. Hastings..... | Hastings & Co.....          | Philadelphia, Pa. |
| J. V. Hastings.....     | do.....                     | Do.               |
| R. E. Hastings.....     | Kemp & Co.....              | New York, N. Y.   |
| J. V. Hastings.....     | do.....                     | Do.               |
| Frederick Schultz.....  | Michael Schultz's Sons..... | Do.               |
| John W. Schultz.....    | do.....                     | Do.               |
| Emil Madsen.....        | Madsen & Hauptmann.....     | Brooklyn, N. Y.   |
| Jacob Hauptmann.....    | do.....                     | Do.               |

and Charles Taylor, 18 Congress Street, Jersey City, State of New Jersey, doing business under the firm name and style of Chas. Taylor & Sons, and the following firms whose identities as to being individuals, copartnerships, or corporations are unknown to this Commission: F. Bittner & Son, 147 Dresden Street, Brooklyn, State of New York; George L. Bladon & Co., 101 Trumbull Street, Hartford, State of Connecticut; William Gregory & Son, 518 Curtin Avenue, Richmond Hill, State of New York; Julius Hess & Co., 1417 Altgeld Street, Chicago, State of Illinois; Longmore Bros., 1229 Myrtle Avenue, Brooklyn, State of New York; Standard Gold Leaf Co., 873 Fifth Avenue, Brooklyn, State of New York; M. Swift & Sons, 100 Love Lane, Hartford, State of Connecticut; all of which persons, firms, copartnerships, and corporations, hereinafter referred to as respondents, have been and are 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 as follows:

PARAGRAPH 1. That the respondent, United States Gold Leaf Manufacturers' Association, is an association composed of the other respondents herein mentioned, who are all and singular engaged in the business of manufacturing and selling generally in commerce gold leaf throughout the States and Territories of the United States and the District of Columbia in direct competition with other persons, firms, copartnerships, and corporations similarly engaged, and in direct competition among each other except where self-restrained by agreement, understanding, or concerted action, as hereinafter set out, or otherwise; and are, each and all of them, members of said association except the respondent, F. Bittner & Son, which firm resigned from said association on the 1st day of January, A. D. 1918.

PAR. 2. That the respondents manufacture and sell the greater portion of the output of gold leaf made and sold

in commerce within the United States, and the membership of the respondent, United States Gold Leaf Manufacturers' Association, represents a majority of the persons, firms, co-partnerships, and corporations engaged in such industry and commerce in the United States.

PAR. 3. That the respondents, either as individuals or as members of said association, have for more than one year last past, both individually and as members of said association, been and now are engaged in a concerted movement to unduly enhance the prices of gold leaf, and to maintain such enhanced price, and to bring about a general uniformity of such prices, and as a result of such activities prices of gold leaf have been enhanced and such enhanced prices are being maintained. Such enhancement and general uniformity has been effected by agreements, understandings, and concert of action, through meetings, correspondence, and other means of intercommunication between respondents, members and ex-members of said association, among themselves and between such respondents and the said association and its secretary, Frank H. Scardefield.

PAR. 4. That said respondents by agreement, understanding, or concerted action, pool their surplus products and export same in foreign commerce, and sell such surplus products abroad at a less price than such products are being sold at the same time in the United States, and respondents have an agreement or understanding that assessment shall be made among them to cover losses on such foreign sales when made below cost; that the effect of such practices is to curtail the supply for the domestic market and restrain the competition which would naturally result within the United States from the competitive sale of such surplus products, to the resultant injury and detriment in competition and to the public, and in aid of the control and enhancement of prices by these respondents exercised as hereinbefore stated.

#### 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 respondents, United States Gold Leaf

Manufacturers' Association, Robert E. Hastings, F. W. Rauskolb, Frank H. Scardefield, Charles E. Auer, Harry Ayres, W. D. Ashmore, H. Bauer, Eugene Bailey, John Clarke, F. A. Chadwick, Robert Clayton, George Dickson, Alexander Fraser, D. Freschauer, W. Grecht, S. A. Hickson, Robert Henke, George Harris, A. A. Lauriat, Frank Ludwick, Charles R. McLeod, John McEntee, John D. McCable, George Mussler, John A. Morneburg, John Menz, Eugene J. Norton, Frederick Pye, Leonard Riker, Edw. Radford, M. Swift & Sons, Charles Taylor, A. H. Williams, Charles E. Williams, F. W. Rauskolb Co., Fred Weiderer, Joseph Wingerter, American Roll Gold Leaf Co., W. H. Coe Manufacturing Co., W. H. Cox Co., Wehrung & Billmeier Co., Henry B. Cabot, Charles H. Higby, Frank H. Caffin, F. Henry Caffin, John V. Hastings, R. E. Hastings, J. V. Hastings, Emil Madsen, Jacob Hauptmann, Frederick Schultz, John W. Schultz, F. Bittner & Son, George L. Bladon & Co., William Gregory & Son, Julius Hess & Co., Standard Gold Leaf Co., have been and are now 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 that a proceeding in that respect would be to the interest of the public, and fully stating its charges in this respect, and the respondents, desiring to make it unnecessary to take testimony and to be relieved of the expense of a trial of the issues necessary by reason of the answers and denials of the various respondents, having signed an agreement and stipulation as to the facts, and agreeing and consenting that the Commission forthwith proceed to make its findings and order, and for that purpose said stipulation to have the effect and be considered as the appearance and answer of said respondents, the Commission makes this report and findings as to the facts and conclusions.

#### FINDINGS AS TO THE FACTS.

I. That the respondent, the United States Gold Leaf Manufacturers' Association, is an unincorporated associa-

tion, with its principal office and place of doing business located in the city of Brooklyn, in the State of New York, composed of the other respondents herein, except the respondent F. Bittner & Son, which firm resigned from said association on the 1st day of January, A. D. 1918. That all are engaged in the business of manufacturing and selling gold leaf generally in commerce throughout the States and Territories of the United States and the District of Columbia, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged, and in direct competition with each other, except where self-restrained by understanding or concerted action, as hereinafter set forth, or otherwise.

II. That the respondents manufacture and sell about 50 per cent of the output of gold leaf made and sold in commerce within the United States, and the membership of said association represents about 40 per cent of the persons, firms, copartnerships, and corporations engaged in such industry and commerce in the United States.

III. That the respondents, now and for more than one year last past, have been engaged, among other things, in a concerted movement to fix and enhance the price of gold leaf and to maintain and bring about a general uniformity of such enhanced prices; that as a result of such activities the prices of gold leaf have been enhanced and such enhanced prices are being maintained, but absolute uniformity has not resulted therefrom; that such enhancement and general uniformity have been effected by understandings and concert of action through meetings, correspondence, and other means of intercommunication between respondents, members and ex-members of said association, among themselves and between the members and the said association and its secretary, Frank H. Scardefield; that on the 25th day of October, 1917, the price of gold leaf 3 $\frac{3}{4}$  by 3 $\frac{3}{4}$  (the standard size) was increased from \$8.75 to \$9.75 per pack of 20 books, less 2 per cent, said price having been fixed by said association at a meeting at which there was present a majority of its membership, it being understood at the meeting that said price should be maintained by all the members

present; that other increases in price have been fixed in the same manner, at meetings of said association, as follows:

An understanding was effected at a meeting held in March or April, 1916, raising the price from \$6.75 to \$7.50, and at a meeting held in November, 1916, raising the price from \$7.50 to \$8.75, said meetings having been called to discuss and grant advance wage scale. That there is, and has been for more than one year last past, an understanding among members of said association to maintain, at all times, prices on gold leaf agreed upon at said association meetings, but that the result of such understanding has not led to an absolute uniformity of price.

IV. That the respondent members of said association set forth in the complaint herein, entered into an understanding December 5, 1917, to endeavor to secure foreign orders, for the purpose of keeping laborers employed, and to sell such products for which there is no demand in the United States at the best price obtainable; that an assessment was to be made to cover any possible losses on such foreign sales, when said sales were made below cost to meet competition, but as no foreign orders were received and the agent selected had resigned, the resolution was rescinded.

#### CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to the facts 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 respondents having signed an agreement and stipulation as to the facts, and agreeing and consenting that the Commission forthwith proceed to make its findings and order, and for that purpose said stipulation shall have the effect and be considered as the appearance and answer of said respondents, and the Commission

having made and filed its report containing its findings as to facts and its conclusions, that the respondents have violated 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," which said report is hereby referred to and made a part hereof. Now therefore

*It is ordered*, that the respondents, United States Gold Leaf Manufacturers Association, Robert E. Hastings, F. W. Rauskolb, Frank H. Scardefield, Charles E. Auer, Harry Ayres, W. D. Ashmore, H. Bauer, Eugene Bailey, John Clarke, F. A. Chadwick, Robert Clayton, George Dickson, Alex. Fraser, D. Freschauer, W. Grecht, S. A. Hickson, Robert Henke, George Harris, A. A. Lauriat, Frank Ludwick, Charles R. McLeod, John McEntee, John D. McCable, George Mussler, John A. Morneburg, John Menz, Eugene J. Norton, Frederick Pye, Leonard Riker, Edw. Radford, M. Swift & Sons, Charles Taylor, A. H. Williams, Charles E. Williams, F. W. Rauskolb Co., Fred Weiderer, Joseph Wingerter, American Roll Gold Leaf Co., W. H. Coe Manufacturing Co., W. H. Cox Co., Wehrung & Billmeier Co., Henry B. Cabot, Charles H. Higby, Frank H. Caffin, F. Henry Caffin, John V. Hastings, R. E. Hastings, J. V. Hastings, Emil Madsen, Jacob Hauptmann, Frederick Schultz, John W. Schultz, F. Bittner & Son, George L. Bladon & Co., William Gregory & Son, Julius Hess & Co., Standard Gold Leaf Co., forever cease and desist from—

Engaging in any concerted movement, either as members or officials of the United States Gold Leaf Manufacturers Association, or as individuals, (a) to fix or enhance the prices of gold leaf, or (b) to maintain such enhanced prices, or (c) to bring about a general uniformity of such prices, and (d) from effecting or maintaining such enhanced prices or general uniformity of prices through understandings and concerted action through meetings, correspondence, or other means of intercommunication between respondents, members, and ex-members of such association, among themselves and between said members and the said association and its secretary, or in any other manner whatsoever.

FEDERAL TRADE COMMISSION *v.* CHICAGO  
FLEXIBLE SHAFT CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF  
SECTION 3 OF AN ACT OF CONGRESS APPROVED OCTOBER 15,  
1914.

Docket No. 22.—July 18, 1918.

## SYLLABUS.

Where a manufacturer of horse-clipping and sheep-shearing machines, which were sold to more than two-thirds of the jobbers and wholesalers who handled such machines, offered to pay and paid at the end of each six months a rebate of 7 per cent of the purchase price thereof to such dealers as had not during such six-month period "bought, sold, received, or quoted, either directly or indirectly," machines of like character, or parts thereof made by any other manufacturer, with the effect of substantially lessening competition; *Held*, That such payments and offers to pay, under the circumstances set forth, constituted a violation of section 3 of the act of October 15, 1914.

## COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that the Chicago Flexible Shaft Co., hereinafter referred to as the respondent, has violated and is violating the provisions of section 3 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," hereinafter referred to as the Clayton Act, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Chicago Flexible Shaft Co., is now and was at all the times hereinafter mentioned a corporation organized, existing under and by virtue of the laws of the State of Illinois, having its principal office and place of business at the city of Chicago, in said State, and extensively engaged in the manufacture of various commodities, among which are horse-clipping and sheep-shearing machines, and in the sale and shipment of said commodities to persons, copartnerships, and corporations in other States and Territories of the United States, the District of Columbia, and foreign countries.