

TANK WORKS.

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

Docket No. 137.—October 30, 1918.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of outfits and devices for the storage, handling, and automatic measuring of oil, gasoline, and other volatile liquids, for the purpose of embar-

rassing, harrassing, and restraining competitors, induced and procured, and attempted to induce and procure, a large number of its customers and the customers of competitors to cancel and rescind orders and contracts for the purchase of such pumps and outfits from competitors:

Held, That such inducing of breach of contract, 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 the Milwaukee Tank Co., hereinafter referred to as respondent, has been and is, using unfair methods of competition in interstate commerce in violation of the provision 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 now and at all times hereinafter mentioned the respondent, Milwaukee Tank Co., is and was a corporation, organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, having its principal factory, office and place of business located at Milwaukee, State of Wisconsin, and that said corporation is now and for more than two years last past been engaged in the business of manufacturing and selling automatic measuring oil pumps, tanks and other outfits and patented devices for the storage, handling, and automatic measuring of oil, gasoline, and other volatile liquids throughout the States and Territories of the United States and the District of Columbia and foreign countries and 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 the respondent manufactures such devices or outfits in its factory located in the United States and purchases and enters into contracts of purchase for the necessary component materials needed therefor in different States

and Territories of the United States and causes the same to be transported to its factory where they are made into the finished product and sold and shipped to the purchasers thereof as aforesaid; that after such devices or outfits are so manufactured they are continuously moved to, from and among other States and Territories of the United States and the District of Columbia, and there is continuously and has been at all times hereinafter mentioned a constant current of trade in commerce in said devices between and among the various States and Territories of the United States and the District of Columbia.

PAR. 3. That the respondent for more than two years last past with the purpose, intent, and effect of stifling and suppressing competition in the manufacture and sale of pumps, tanks, and outfits for the storage and handling of inflammable liquids in interstate commerce, has by divers means and methods induced and procured and attempted to induce and procure a large number of its customers and prospective customers and the customers and prospective customers of its competitors to cancel and rescind orders and contracts for the purchase of pumps, tanks, and other outfits placed and made 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, Milwaukee Tank 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 appeared and filed its answer denying that the matters and things alleged in the said complaint are true in the manner and form therein set forth, and thereafter having entered into and executed an agreed statement of facts heretofore filed in this cause where-

in it is stipulated and agreed that the Commission shall take such agreed statement of facts to be the facts in this case and upon the same proceed forthwith to make and enter its report, stating its findings as to the facts and its conclusions, and its order without the introduction of testimony in support of the same and waiving any and all right to the introduction of such testimony.

Now, therefore, the Commission makes this its report and findings as to the facts and conclusions.

FINDINGS AS TO THE FACTS.

1. That the Milwaukee Tank Works is the respondent corporation hereinafter referred to as the Milwaukee Tank Co., and that the said Milwaukee Tank Co. and the Milwaukee Tank Works have been, and are at all times hereinafter mentioned, one and the same identical corporation.

2. That the respondent Milwaukee Tank Works 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 Wisconsin, with its principal factory, offices, and place of business located at the city of Milwaukee in said State, now and for more than two years prior to the filing of the complaint herein engaged in the business of manufacturing and selling automatic measuring oil pumps, tanks, and other outfits and devices for the storage, handling, and automatic measuring of oil, gasoline and other volatile liquids in interstate commerce in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

3. That numerous sales agents and representatives of respondent, Milwaukee Tank Works, while acting within the scope of their employment for the purpose, intent, and effect of stifling and suppressing competition in the manufacture and sale of pumps, tanks, and outfits for the storage and handling of inflammable liquids in interstate commerce for the purpose of embarrassing, harrassing, and restraining competitors of respondent, and have by divers means and methods induced and procured and attempted to induce and procure a large number of its customers and prospective customers and the customers and prospective customers of its

competitors to cancel and rescind orders and contracts for the purchase of pumps, tanks, and outfits placed and made with competitors of the respondent while engaged in interstate commerce.

CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to the facts in paragraph 3 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 for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein and the respondent having appeared and filed its answer denying that the matters and things alleged and contained in the said complaint are true in the manner and form therein set forth, and having executed and filed an agreed statement of facts asking the Commission to proceed forthwith upon said agreed statement of facts to make and enter its report and findings and its order 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, Milwaukee Tank Works, and its officers, directors, representatives, agents, servants, and employees cease and desist from directly or indirectly inducing or procuring or attempting to induce or procure its customers or prospective customers or the customers or prospective customers of its competi-

tors to cancel and rescind any and all orders or contracts for the purchase of pumps, tanks, and other outfits placed and made with the competitors of the said Milwaukee Tank Works.

FEDERAL TRADE COMMISSION *v.* BLAKELY
PRINTING CO. ET AL.