

FEDERAL TRADE COMMISSION *v.* ST. LAWRENCE LUMBER CO.

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

Docket No. 209.—February 20, 1919.

SYLLABUS.

Where a corporation engaged in the purchase and sale of lumber and building materials caused its employees and others to send fictitious requests, on a large scale, to mail-order competitors for statements, estimates, specifications, and prices, as well as special information,

usually furnished to bona fide customers, the purpose being thereby to cause annoyance, delay, damage, and expense to such mail-order competitors and to obtain information respecting their business which could not have been secured had the purpose of the requests been disclosed:

Held, That such harassment 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 St. Lawrence Lumber Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions 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, St. Lawrence Lumber Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of South Dakota, having its principal office and place of business at the city of St. Lawrence, in said State, now and for more than one year last past engaged in the sale of lumber and building materials among the several States and Territories of the United States, and the District of Columbia, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of its business, respondent purchases the lumber and building materials in the various States of the United States and the Territories thereof, and transports the same through other States and Territories in and to the town of St. Lawrence in the State of South Dakota, where they are sold and shipped to purchasers in different States and Territories of the United States; and there is continuously and has been at all times herein mentioned a constant current of trade and commerce in said lumber and building materials between and among the various States and

Territories of the United States and the District of Columbia and foreign countries, and especially from other States and Territories of the United States to and through the town of St. Lawrence, State of South Dakota, and from there to and through other States and Territories of the United States, the District of Columbia, and foreign countries.

PAR. 3. That a branch or form of retail lumber trade in the United States is carried on by so-called "mail-order houses," which sell, generally through the medium of mail orders, lumber and building materials, in interstate commerce, direct to the consumer in nearly all of the States of the United States; that such mail-order houses are either manufacturers of lumber or commercial establishments, located in many cities of the United States; that said commercial establishments generally purchase their supplies of lumber and lumber products from the manufacturer and wholesale dealer without the intervention of the retail dealer, and that said mail-order houses are engaged in competition with other persons, firms, copartnerships, and corporations who conduct retail lumber yards, for the sale at retail, of lumber and building materials.

PAR. 4. That the respondent for more than one year last past, with the purpose, intent, and effect of stifling and suppressing competition in the sale of lumber and building materials in interstate commerce, has systematically and on a large scale written and sent and caused to be written and sent, and procured others to write and send, to said mail-order houses, letters containing requests for statements of estimates of the quantity and quality of lumber or building material required for certain building purposes, and the prices therefor, and also containing requests for the printed matter, advertisements and other special information furnished bona fide customers and prospective customers by such mail order houses; that the writers and senders of such letters had no purpose or intention of buying any lumber or building material from such mail-order houses, but wrote and sent such letters to cause such mail-order houses annoyance and delay in the transaction of their business and damage and expense.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served its complaint herein, wherein it alleged that it had reason to believe that the above-named respondent, St. Lawrence Lumber Co., has been and now 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 fully stating its charges in that respect, and the above-named respondent, St. Lawrence Lumber Co., having made and filed its answer to the said complaint, admitting certain of the matters alleged and set forth in said complaint, and denying others therein contained, and having signed and filed an agreed statement of facts, wherein it is stipulated and agreed that the Commission shall forthwith proceed upon such agreed statement of facts to make and enter its order disposing of this proceeding without the introduction of testimony in support of the same, the respondent, St. Lawrence Lumber Co., forever waiving and relinquishing any and all right to the introduction of such testimony.

FINDINGS AS TO THE FACTS.

PAR. 1. That the respondent, St. Lawrence Lumber Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of South Dakota, with its principal office and place of business located in the town of St. Lawrence, State of South Dakota, and that the respondent, St. Lawrence Lumber Co., is now, and has at all times hereinafter mentioned, engaged in the purchase of lumber and building materials in the various States of the United States and the Territories thereof, and in the sale of said lumber and building materials in the town of St. Lawrence and vicinity, State of South Dakota, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of its business, the respondent, St. Lawrence Lumber Co., purchases lumber and building

materials from the various States of the United States and the Territories thereof, and transports the same through other States and Territories in and to the town of St. Lawrence, State of South Dakota, where said lumber and building materials are sold to the consumer; that such lumber and building materials continuously move to the town of St. Lawrence, State of South Dakota, from the States and Territories of the United States, and there has been at all times hereinafter mentioned a constant current of trade and commerce in said lumber and building materials from other States and Territories of the United States and especially from other States and Territories to the town of St. Lawrence, State of South Dakota.

PAR. 3. That a branch or form of retail lumber trade in the United States is, and for many years has been, carried on by so-called "mail-order houses," which sell, generally through the medium of mail orders, lumber and building materials, in interstate commerce direct to the consumer in nearly all of the States of the United States; that such mail-order houses are either manufacturers of lumber or commercial establishments; that said commercial houses generally purchase their supplies of lumber products from the manufacturer and wholesale dealer without the intervention of the retail dealer; and that said mail-order houses are engaged in competition with respondent, St. Lawrence Lumber Co., in the sale at retail of lumber and building materials.

PAR. 4. That the respondent, St. Lawrence Lumber Co., with the purpose, intent, and effect of forcing the ultimate consumer to buy his required supplies of lumber and building materials from the respondent, St. Lawrence Lumber Co., and thereby unfairly interfering with and preventing said mail-order houses from dealing directly with the consumer, and also thereby unfairly interfering with and preventing customers from purchasing the required supplies of lumber and building materials from said mail-order houses, for more than one year last past has systematically and on a large scale, written and sent, and caused to be written and sent, and procured others to write and send to said mail-order houses, letters containing requests for statements of estimates of the quality and quantity of lumber and build-

ing materials required for certain building purposes, the price therefor, and also containing requests for printed matter, advertisements, and other special information furnished bona fide customers of such mail-order houses, with no purpose or intention of buying any lumber or building materials from said mail-order houses, but to cause such mail-order houses annoyance, expense, and delay in the transaction of their business, and that the respondent, St. Lawrence Lumber Co., knew or is chargeable with knowledge that the granting of or even the consideration of such requests caused the mail-order houses expense.

CONCLUSIONS.

That the said methods of competition set forth in the foregoing findings as to the facts, and each and all thereof, under the circumstances therein set forth, constitute unfair methods of competition in interstate commerce in violation of the provisions of section 5 of the said 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, St. Lawrence Lumber Co., having filed its answer, admitting certain of the allegations in the said complaint, and denying others therein contained, and thereafter having entered into an agreed statement of facts wherein it is stipulated and agreed that the Commission shall forthwith proceed upon said statement of facts to make and enter its report, stating its findings as to the facts and its conclusions, and to enter its order disposing of this proceeding without the introduction of testimony in support of the same, said respondent, St. Lawrence Lumber Co., forever waiving and relinquishing any and all right to the introduction of such testimony, and the Commission having made and filed its report, stating its findings as to the facts and its conclusions that the respondent, St. Lawrence Lumber Co., 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," said report is hereby referred to and made a part hereof: Now, therefore,

It is ordered, That the respondent, St. Lawrence Lumber Co., town of St. Lawrence, State of South Dakota, and its agents, representatives, servants, and employees, forever cease and desist from—

Systematically or on a large scale or in bad faith or by subterfuge writing and sending, causing to be written and sent, or procuring others who are not bona fide customers or bona fide prospective customers of mail-order concerns, to write and send to mail-order concerns, requests for estimates of the kind, quality, and prices of lumber and building material for certain building purposes and for catalogues, printed matter, and special information intended only for bona fide customers and bona fide prospective customers; provided, that nothing herein contained shall be taken to prohibit such requests where disclosure is made by the parties making them of their connection with or their acting for respondent.