

WORKS SUPPLY CO.

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

Docket No. 267.—May 27, 1919.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of lumber and building materials and belonging to the class usually referred to as "catalogue or mail-order houses," as distinguished from so-called "regular dealers"—

(a) Falsely represented through advertisements and circular letters that—

1. It saves for all purchasers of its products 25 per cent to 50 per cent of the cost of such commodities;
2. Builders, contractors, and carpenters can and do reduce the cost of building one-half by purchasing its materials;
3. Its agents, one or more of whom are located in each town or locality, are charged the same price for materials as are charged its other customers;
4. Certain competitors, the "regular dealers," are members of a lumber trust, and, by implication, that such competitors fix and maintain prices; and

(b) Paid a secret commission to local contractors, builders, and carpenters, as an inducement for them to influence others in the purchase of its products:

Held, That such advertisements and the payment of such commissions, 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 Chicago Millwork Supply 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, Chicago Millwork Supply Co., is 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 the city of Chicago, in said State, now, and for more than two years last past, engaged in the manufacture and 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 there exist certain commercial establishments in all or most of the States of the United States which now are, and for several years last past have been engaged in selling lumber and building materials in interstate commerce through the medium and means of yards located in different cities of the various States, and are usually referred to in the lumber industry as "regular dealers," as distinguished from so-called catalogue or mail-order houses; that such establishments usually sell lumber and building materials in the community wherein they are located, and that such establishments purchase lumber and building materials in large quantities in interstate commerce from manufacturers and wholesalers.

PAR. 3. That the respondent in the course of its said business makes use of circular letters to the trade and other advertising matter which contain certain false statements derogatory of so-called "regular dealers" in lumber, and also false and misleading statements concerning its own business methods and alleged benefits which the public might derive from trading with respondent. That among such false and misleading statements are statements to the effect that purchasers of lumber and building materials from respondent may effect a full saving of 25 to 50 per cent of the cost of such commodities; that local dealers are charged the same prices for goods purchased for resale as are charged to customers of respondent; that builders often find that they can reduce the cost of building one-half by buying materials from respondent; that respondent does not belong to a trust, thereby imputing that the "regular dealers" do belong to a trust.

PAR. 4. That in the course of its business of selling lumber and building materials in interstate commerce the respondent, for more than two years last past, has secretly and without the knowledge of the purchaser or consumer offered and paid to local contractors, builders, and carpenters a bonus or so-called commission as an inducement to influence such contractors and builders to push or favor the sale of respondent's lumber and building materials over those of its competitors.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having reason to believe that the above-named respondent, Chicago Millwork Supply Co., has been, within the two years 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 that a proceeding by it in that respect would be to the interest of the public, and fully stating its charges in that respect; and the respondent, Chicago Millwork Supply Co., having entered its appearance by H. B. Munger, Esq., its president, duly authorized and empowered to act in the premises, and having filed their answer admitting that certain of the matters and things alleged in said complaint are true in the manner and form therein set forth, and denying others therein contained, and thereafter having made and executed an agreed statement of facts, which has been heretofore filed in which it is stipulated and agreed by the respondent that the Federal Trade Commission shall take such agreed statement of facts as evidence in this case, and in lieu of testimony, and shall forthwith thereupon make and enter its report, stating its findings as to the facts and its conclusions, and its order disposing of this proceeding, without the introduction of testimony or the presentation of argument; therefore the Federal Trade Commission now makes and enters this, its report, stating its findings as to the facts and its conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Chicago Millwork Supply Co., is now and for more than two years last past has been a corporation organized and doing business under the laws of the State of Illinois, with its principal office and place of business in the city of Chicago, in said State, engaged in the business of manufacturing and selling lumber and building materials, in interstate commerce, in competition with

other persons, firms, copartnerships, and corporations, similarly engaged.

PAR. 2. That there are certain commercial establishments in many States of the United States which now and for many years have been engaged in selling lumber and building material in interstate commerce through the medium of yards, located in different cities of the various States. That such establishments are usually known in the lumber industry as "regular dealers" in contradistinction of catalog or mail order houses; that such "regular dealers" sell their building materials usually in the community wherein they are located, and that such sales are in competition with said catalog or mail order houses.

PAR. 3. That respondent, Chicago Millwork Supply Co., did prior to, but not since, the first day of April, 1918, circulate to the trade statements and advertisements by means of catalogs and letters through the various States and Territories of the United States wherein it was represented that—

(a) Respondent saves for all purchasers of its products 25 to 50 per cent of the cost of such commodities.

(b) That builders, contractors, and carpenters find they can and do reduce the cost of building by one-half by purchasing materials from respondent.

(c) That certain competitors of respondent, the "regular dealers," are members of the Lumber Trust, thereby imputing such competitors fix and maintain excessive prices for building material.

That such statements and advertisements are in truth false and do deceive and mislead the purchasing public.

PAR. 4. That respondent has in each town or locality, one or more representatives, the number of such representatives depending upon the population; that respondent has published and circulated among the trade catalogs, letters, and advertisements representing that their local representative is charged the same price for materials purchased for resale as are charged to customers of respondent; that such representation, as made, was false and misleading and deceived purchasers and the general public.

PAR. 5. That respondent, Chicago Millwork Supply Co., has within the two years last past issued a printed form of

cash certificate to contractors and carpenters which calls for an allowance on future purchases of respondent's materials of an amount equal to 5 per cent of the materials previously sold to said contractor or carpenter, or directly through their efforts; that the payment of such allowance is and has been a common practice among wholesale and retail dealers in building materials, and such allowances were paid as an inducement to influence contractors and carpenters to favor the sale of respondent's building materials over those of its competitors.

That respondent, Chicago Millwork Supply Co., obtains approximately 5 per cent of its business by paying the said allowances, or discount, to carpenters and contractors secretly and without the knowledge of the consumer.

CONCLUSIONS.

From the foregoing findings the Commission concludes that the methods of competition set forth in paragraphs 3, 4, and 5 are, under the circumstances therein set forth, 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."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, and the respondent, Chicago Millwork Supply Co., having entered its appearance by H. B. Munger, Esq., its president, duly authorized and empowered to act in the premises, and having filed their answer, and thereafter having made, executed, and filed an agreed statement of facts, in which they stipulated and agreed that the Federal Trade Commission should take such agreed statement of facts as the evidence in this case and in lieu of testimony and proceed forthwith upon the same to make and enter its report, stating its findings as to the facts and its conclusions and its order without the introduction of testimony, and waiving therein any and all right to require the introduction

of testimony or the presentation of argument in support of the same, and the Federal Trade Commission, having made and entered its findings as to the facts, and its conclusions that the Chicago Millwork Supply 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," which said report is hereby referred to and made a part hereof: Now, therefore,

It is ordered that the respondent, Chicago Millwork Supply Co., its officers, agents, representatives, servants, and employees, cease and desist from directly or indirectly—

(1) Publishing and circulating among the trade statements in catalogues, letters, and advertisements which represent—

(a) Respondent saves for all purchasers of its product 25 to 50 per cent of the cost of such commodities.

(b) That builders, contractors, and carpenters find they can and do reduce the cost of building by one-half by purchasing materials from respondent.

(c) That certain competitors of respondent, the "regular dealers," are members of the Lumber Trust, thereby imputing such competitors fix and maintain excessive prices for building material.

(d) That respondent's agent is charged the same price for materials for resale as are charged to customers of respondent.

Or any statements similar thereto which tend to deceive and mislead purchasers and the general public.

(2) Paying or offering to pay, to local contractors, builders, and carpenters a bonus or a commission without the knowledge of the purchaser or consumer as an inducement to influence such contractors, builders, and carpenters to push or favor the sale of respondent's lumber and building materials over those of its competitors.

FEDERAL TRADE COMMISSION *v.* C. L. CHASE,
TRADING UNDER THE NAME AND STYLE OF
CHASE SHOE CO.