

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

Docket 256.—September 24, 1919.

SYLLABUS.

Where a corporation, engaged for years in the manufacture and sale of storage batteries for automobile ignition and lighting purposes, first as the "Universal Storage Battery Co." and afterwards as the "Universal Battery Co.," acquired an extensive good will in

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the use of the word "Universal" as applied to such storage batteries, and thereafter two competitors, representing chiefly the same interest—

- (a) adopted the names, respectively, of "Universal Battery Service Co." and "Universal Battery Service Co., Inc.," with the result that the public was misled into believing that their batteries were those of the older corporation; and
- (b) advertised that the "Universal" battery sold by them would "last forever"—the rest of the advertisement disclosing that a form of service was offered—a misleading claim, calculated and designed to injure the Universal Battery Co., the original producer of "Universal" batteries:

Held, That such simulation of names, and such false and misleading advertising, 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 James B. Schafer, trading under the name and style of the Universal Battery Service Co., hereinafter referred to as respondent, has been and 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 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, James B. Schafer, is now and was at all times hereinafter mentioned operating a business at 1192 Jefferson Avenue east, in the city of Detroit, in the State of Michigan, under the trade name and style of the Universal Battery Service Co.; that the business so conducted includes, among other things, the manufacture and sale in commerce among the several States of the United States of batteries for automobile ignition and lighting; that in November, 1916, the date on which said respondent began to operate under the name and style of the Universal Battery Service Co., the Universal Battery Co., a corpora-

tion organized under the laws of Illinois, with principal place of business in Chicago, in said State, had an established business in the State of Michigan and adjoining States in the manufacture and sale in interstate commerce of batteries for automobile ignition and lighting.

PAR. 2. That said respondent, with the intent, purpose, and effect of misleading the public and inducing the public to believe that the business which respondent was establishing was the business of the Universal Battery Co., adopted as his trade name the corporate name of said Universal Battery Co. with only the word "Service" added.

PAR. 3. That the respondent, with the purpose, intent, and effect of imitating the Universal Battery Co. in his advertisements in newspapers, trade journals, directories, and other publications, has adopted a style and color scheme resembling that previously adopted and then in use by the Universal Battery Co., which advertisements by respondent were calculated to and did cause confusion and have led the purchasing public who purchase batteries in interstate commerce to deal with the respondent upon the mistaken belief that they were dealing with the Universal Battery Co.

PAR. 4. That the said respondent in his advertisements makes the false claim that the batteries sold by him last forever, which claim is calculated and does injure and embarrass competitors of respondent in the sale of their products in commerce among the several States, and particularly embarrasses and injures the Universal Battery Co., the original producer of "Universal" batteries.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having duly issued and served upon the above-named respondents its complaint herein, wherein it alleged that it had reason to believe that the above-named respondent, James B. Schafer, trading under the name and style of Universal Battery Service Co., has been and now is using unfair methods of competition in interstate commerce in violation of the provisions

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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 fully stating its charges in that respect, and the same having been subsequently amended by making the Universal Battery Service Co., Inc., a party respondent, and both and each of said respondents having entered appearance and filed answer to said complaint of said Commission, and the said respondents having filed an agreed statement of facts, wherein it was stipulated and agreed that the facts stated therein should be treated as evidence and with the same force and effect as if testified to upon a formal hearing regularly had in this proceeding, oral testimony having been taken before an examiner of the Commission, and transcript of which has been filed in said docket, and said further testimony having been taken at a regular hearing after due notice to the respondents, and both parties having waived filing of briefs and presentation of argument before the Commission, now therefore the Federal Trade Commission makes and enters this report, stating its findings as to the facts and its conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, James B. Schafer, trading under the name and style of Universal Battery Service Co., for about two years prior to October, 1918, was engaged in the business of manufacturing, leasing, and selling storage batteries for automobile ignition and lighting, with his principal office and place of business in the city of Detroit and State of Michigan; that in or about the month of October, 1918, the said respondent, James B. Schafer, caused said business to be incorporated under the laws of the State of Michigan under the name of Universal Battery Service Co., Inc., and that said corporation is principally owned and controlled by the said James B. Schafer; that said respondent corporation has continued and is now continuing the former business conducted by the said James B. Schafer and has continued to manufacture, lease, and sell storage batteries for automobile ignition and lighting in

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

PAR. 2. That both and each of said respondents, in the course and conduct of business, lease and sell said storage batteries for automobile ignition and lighting purposes throughout the various States and Territories of the United States by means of advertising in newspapers having interstate circulation and by means of circulars distributed throughout the various States, and that there has been at all times a constant current of trade and commerce in said storage batteries in interstate commerce.

PAR. 3. That the Universal Storage Battery Co. is a corporation organized under the laws of the State of Illinois more than 10 years ago and prior to the date that the above-named respondent engaged in said business; that more than six years ago and prior to the use of the name Universal Battery Service Co. by James B. Schafer in connection with his business in the manufacture, lease, and sale of storage batteries, the name of said Universal Storage Battery Co. was legally changed to Universal Battery Co., and that said last-named company did manufacture, lease, and sell storage batteries for automobile ignition and lighting purposes throughout the various States and Territories in the United States and did extensively advertise its product under said name through the various States and Territories, including the city of Detroit and State of Michigan, and did have and acquire an extensive good will in the use of the word "Universal" as applied to storage batteries for said purposes.

PAR. 4. That about the month of November, 1916, the said respondent, James B. Schafer, began and has up to the present time either individually or through the respondent, Universal Battery Service Co., Inc., a corporation, continued to sell said storage batteries for automobile ignition and lighting purposes in interstate commerce, as aforesaid, under the said trade name of Universal Battery Service Co. and in competition with the Universal Battery Co.; that by reason of the similarity of trade names certain confusion has arisen among purchasers buying storage batteries from both and each of said parties; that there has been confusion in the delivery and sale of storage batteries; that the similarity in

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said trade names is such as to deceive and mislead prospective customers and has deceived and misled the trade and general public and caused persons to believe that the batteries sold and delivered by each of the respondents were the batteries manufactured, sold, and leased by the said Universal Battery Co., a corporation organized under the laws of the State of Illinois.

PAR. 5. That the said respondents in their advertisements make the claim that the batteries sold by them last forever. That no storage battery has yet been manufactured which will not wear out; that it appears that the respondents indicate by their advertisements that the "Universal" batteries sold by them "last forever"; that by reading the remainder of the advertisement it is shown respondents offer a form of service in that the purchaser pays 50 cents per month and is entitled to a new battery as soon as the old one is worn out; that the claim as made by respondents with reference to "Universal" batteries is misleading and calculated and designed to injure the Universal Battery Co., the original producer of "Universal" batteries.

CONCLUSIONS.

That the said methods of competition set forth in the foregoing findings as to facts and each and all thereof under the circumstances herein 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 other duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having duly issued and served upon the above-named respondent, James B. Schafer, trading under the name and style of Universal Battery Service Co., its complaint herein on the 8th day of March, 1919, wherein it alleged that it had reason to believe that said respondent 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 said respondent and said co-respondent, Universal Battery Service Co., a corporation organized under the laws of the State of Michigan, having each duly entered appearance and filed answer to said complaint of the Commission, and each of the said respondents thereafter being desirous of expediting the disposition of this matter, having entered into an agreed statement of facts wherein it is stipulated and agreed that the Commission shall forthwith use said statement of facts as evidence to make and enter its report, stating its findings as to the facts and its conclusions, and the Commission having referred said cause to one of its examiners for further hearing and taking of evidence, and said further hearing having been held and evidence taken after due notice of such further hearing, and said Commission having made and filed its report, stating its findings as to the facts and its conclusions, that the respondents, James B. Schafer, trading under the name of the Universal Battery Service Co. and Universal Battery Service Co., Inc., have violated 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," said report being hereby referred to and made a part hereof: Now, therefore,

It is ordered, That the respondents, James B. Schafer, trading under the name and style of the Universal Battery Service Co. and Universal Battery Service Co., Inc., and respondents' agents, representatives, servants, and employees forever cease and desist from directly or indirectly—

(1) Using, employing, or readopting the word "Universal" in the conduct of its business in the manufacture and sale of storage batteries as a part of its corporate or trade name or in its advertising matter, circulars, billheads, or otherwise.

(2) Representing by advertisement or otherwise that "Universal" batteries "last forever."

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FEDERAL TRADE COMMISSION

v.

TWIN CITY PRINTERS' ROLLER CO.

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

Docket 257.—September 24, 1919.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of rollers for printing presses—

- (a) gave and offered to give to employees of customers and prospective customers gratuities consisting of liquor and cigars, as an inducement for them to influence their employers to purchase its goods or to refrain from dealing with its competitors;
- (b) made loans, which were not expected to be, and were not, repaid, to employees of its customers and of its competitors' customers and prospective customers, without the knowledge and consent of their employers, as an inducement for them to influence their employers to purchase its goods or to refrain from dealing with its competitors;

Held, That such gifts and loans, 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 Twin City Printers' Roller Co., hereinafter referred to as respondent, has been for more than a year 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 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, the Twin City Printers' Roller Co., is a corporation organized and existing and

doing business under and by virtue of the laws of the State of Minnesota, having its principal office and place of business at the city of Minneapolis, in said State of Minnesota, and is now and for more than one year last past has been engaged in manufacturing and selling rollers for printing presses and similar products throughout the States and Territories of the United States, and that at all times hereinafter mentioned the respondent has carried on and conducted such business in direct competition with other persons, firms, copartnerships, and corporations manufacturing and selling like products.

PAR. 2. That in the course of its business of manufacturing and selling rollers for printing presses and similar products throughout the States and Territories of the United States the respondent for more than one year last past has been giving and offering to give to employees of both its customers and prospective customers, as an inducement to influence their employers to purchase or contract to purchase from the respondent rollers for printing presses and similar products, without other consideration therefor, gratuities such as liquors, cigars, meals, theater tickets, valuable presents, and entertainment.

PAR. 3. That in the course of its business of manufacturing and selling rollers for printing presses and similar products throughout the States and Territories of the United States the respondent for more than one year last past has been secretly paying and offering to pay to employees of both its customers and prospective customers, and its competitors' customers and prospective customers, without the knowledge and consent of their employers, sums of money as an inducement to influence their said employers to purchase or contract to purchase from the respondent rollers for printing presses and similar products or to influence such customers to refrain from dealing or contracting to deal 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

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to believe that the above-named respondent, the Twin City Printers' Roller 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 A. M. Breding, duly authorized to act in the premises, and having filed its answer admitting certain allegations of said complaint and denying certain others thereof, and the Commission having offered testimony in support of its charges in said complaint, and the respondent having offered testimony in denial of said charges in said complaint, and the attorneys for the Commission and the respondent having waived the presentation of brief and argument as to the law and the facts in said proceeding, and the Commission having duly considered the record and being fully advised in the premises, now makes this report and findings as to the facts and submits its conclusions:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, the Twin City Printers' Roller Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, having its principal office and place of business at the city of Minneapolis, State of Minnesota, and is now and for more than one year last past has been engaged in manufacturing and selling rollers for printing presses in various States of the United States in competition with other persons, firms, partnerships, and corporations manufacturing and selling like products.

PAR. 2. That for more than one year last past the respondent has given and offered to give employees of both its customers and prospective customers, as an inducement to influence their employers to purchase or to contract to purchase from the respondent rollers for printing presses and similar products or to influence such employers to re-

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frain from dealing or contracting to deal with competitors of the respondent, without other consideration therefor, gratuities consisting of liquor and cigars.

PAR. 3. That for more than one year last past the respondent has made loans of money to employees of its customers and to employees of its competitors' customers and prospective customers, without the knowledge and consent of their employers, which were not expected to be repaid and were not repaid, but in truth and fact were gifts as an inducement to influence their employers to purchase or to contract to purchase from the respondent rollers for printing presses and similar products. or to influence such employers to refrain from dealing or contracting to deal with competitors of the respondent.

CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to facts in paragraphs 2, 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 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, wherein it alleged that it had reason to believe that the above-named respondent, the Twin City Printers Roller 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 respect to such alleged violation of section 5 of the act of September 26, 1914, would be to the interest of the public, and fully stating its charges in that respect, and the respondent having entered its appearance by A. M. Breiding, its attorney.

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and having duly filed its answer admitting certain allegations of said complaint and denying certain others thereof, and the Commission having offered testimony in support of its charges in said complaint, and respondent having offered testimony in denial of said charges in said complaint, and the attorneys for the Commission and the respondent having waived the presentation of briefs and arguments as to the law and the facts in said proceeding, 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 by the Commission, That the respondent, the Twin City Printers Roller Co., and its officers, directors, agents, servants, and employees cease and desist from directly or indirectly—

(1) Giving or offering to give gratuities of any kind, including cigars and liquor, to employees of its customers or prospective customers or to employees of its competitors' customers or prospective customers, as an inducement to influence their employers to purchase or to contract to purchase from the respondent printers' rollers and other articles sold by respondent or to influence such employers to refrain from dealing or contracting to deal with competitors of the respondent.

(2) Giving or offering to give or loaning or offering to loan, without other consideration therefor, money to employees of its customers or prospective customers and to employees of its competitors' customers or prospective customers as an inducement to influence their employers to purchase or to contract to purchase printers' rollers and other products from the respondent or to influence such employers to refrain from dealing or contracting to deal with competitors of the respondent.

MARINE SUPPLY CO. (ARNE MEYER).

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Complaint.

FEDERAL TRADE COMMISSION

v.

ARNE MEYER, DOING BUSINESS UNDER THE
NAME AND STYLE OF MARINE SUPPLY CO.