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Complaint.

FEDERAL TRADE COMMISSION

v.

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

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

Docket 301.—September 24, 1919.

SYLLABUS.

Where a concern engaged in the sale of lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships—

- (a) paid to employees of customers, without the knowledge and consent of their employers, sums of money as an inducement for them to influence their employers to purchase its goods or to refrain from dealing with its competitors;
- (b) gave to employees of customers and of competitors' customers and prospective customers, gratuities such as liquor, cigars, meals, and entertainment, as an inducement for them to influence their employers to purchase its goods:

Held, That such payments and gifts, 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 Arne Meyer, doing business under the name and style of Marine Supply 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, Arne Meyer, doing business under the name and style of Marine Supply Co.,

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with his principal office and place of business at the city of New York, in the State of New York, is now and for more than one year last past has been engaged in selling lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships 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 competition with other persons, firms, copartnerships, and corporations manufacturing and selling like products.

PAR. 2. That in the course of his business of selling lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships throughout the States and Territories of the United States the respondent is now and for more than one year last past has been giving and offering to give to employees of both his customers and prospective customers, and his competitors' customers and prospective customers, as an inducement to influence their employers to purchase or contract to purchase from the respondent lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships, without other consideration therefor, gratuities, such as liquor, cigars, meals, and entertainment.

PAR. 3. That in the course of his business of selling lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships throughout the States and Territories of the United States the respondent is now and for more than one year last past has been paying and offering to pay to employees of both his customers and prospective customers, and his 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 lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships, 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 reason to believe from a preliminary investigation made by it that Arne Meyer, doing business under the name and style of Marine Supply Co., hereinafter referred to as respondent, has been for more than one 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 thereto would be to the interest of the public, and having issued and served a complaint fully stating its charges in that respect, and the respondent having filed his answer denying that certain matters and things alleged in said complaint are true in the manner and form therein set forth, and the Commission having offered testimony in support of its charges in said complaint, and the respondent having offered testimony in his behalf, and the attorney for the Commission and Arne Meyer, the respondent, having waived the right to submit briefs as to the law and the facts or to present argument: Now, therefore, the Commission makes this report and findings as to the facts and submits its conclusions:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Arne Meyer, doing business under the name and style of Marine Supply Co., is an individual having his principal office and place of business at the city of New York, in the State of New York, and is now, and for more than one year last past has been, engaged in selling lifeboats, liferafts, motor boats, gas engines, machinery and other supplies for ships throughout the States and Territories of the United States in competition with other persons, firms, copartnerships, and corporations manufacturing and selling like products.

PAR. 2. That the respondent, Arne Meyer, doing business under the name and style of Marine Supply Co., in the

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course of his business of selling lifeboats, liferafts, motor boats, gas engines, machinery and other supplies for ships throughout the States and Territories of the United States has, for more than one year last past, been paying to employees of his 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 lifeboats, liferafts, motor boats, gas engines, machinery and other supplies for ships, or to influence such customers to refrain from dealing or contracting to deal with competitors of the respondent.

PAR. 3. That the respondent, Arne Meyer, doing business under the name and style of Marine Supply Co., in the course of his business of selling lifeboats, liferafts, motor boats, gas engines, machinery and other supplies for ships throughout the States and Territories of the United States, has, for more than one year last past, given to employees of his customers and to employees of his competitors' customers and prospective customers, as an inducement to influence their employers to purchase from the respondent lifeboats, liferafts, motor boats, gas engines, machinery and other supplies for ships, without other consideration therefor, gratuities such as liquor, cigars, meals, and entertainment.

CONCLUSIONS.

That the methods set forth in the foregoing findings of fact, under all the circumstances therein set forth, are unfair methods of competition 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, and the respondent, Arne Meyer, doing business under the name and style of Marine Supply Co., having filed his answer denying that certain matters and things alleged in said complaint are true in the manner and form therein set forth, and the Commission having offered

testimony in support of its charges in said complaint, and the respondent having offered testimony in his behalf, and the attorney for the Commission and the respondent having waived the right to submit briefs as to the law and the facts in said proceeding or to present argument, 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, Arne Meyer, his agents, representatives, servants, and employees cease and desist from directly or indirectly—

(1) Giving or offering to give to employees of his customers or prospective customers, or employees of any of his competitors' customers or prospective customers, money, cash bonuses or commissions, without other consideration therefor, as an inducement to influence their employers to purchase or to contract to purchase from said respondent, Arne Meyer, lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships, or to influence such employers to refrain from dealing or contracting to deal with any competitor of said respondent.

(2) Giving or offering to give to employees of his customers or prospective customers, or employees of any of his competitors' customers, or prospective customers, gratuities, such as liquor, cigars, meals, valuable presents, other than money, or entertainment, consisting of amusements or diversions of any kind whatsoever, without other consideration therefor, as an inducement to influence their employers to purchase or to contract to purchase from said respondent, Arne Meyer, lifeboats, liferafts, motor boats, gas engines, machinery, and other supplies for ships, or to influence such employers to refrain from dealing or contracting to deal with any competitor of said respondent.

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NOTE.—The cases in the following table involve substantially the same set of facts as the preceding case, namely, payments of money to employees of customers, and, usually, prospective customers, of the donor, and, frequently, of the donor's competitors, without the knowledge and consent of their employers, as an inducement for them to influence their employers to purchase the donor's goods, and also, as a rule, to refrain from dealing with its competitors. The cases likewise involve in many instances other forms of gratuities, such as liquor, cigars, meals, and different kinds of entertainment:

TABLE.

Date.	Dock. No.	Respondent.	Location.	Commodity.	Answer, stipulation, or trial.
1919.					
Nov. 29	284	William Morhmann	New York City..	Chemicals, dyestuffs, textile soap, and similar products.	Trial.
29	447	New York Wood-finisher's Supply Co., Inc..	do.....	Oils, shellac, varnishes, glue, analines, and kindred products.	Answer and consent.
Dec. 30	415	Sterling Wallace....	do.....	Printing ink and kindred products.	Trial.
1920.					
Jan. 7	464	Flitner-Atwood Co.	Boston, Mass....	Ship supplies...	Answer and consent.
7	471	C. Bischoff & Co., Inc.	New York City..	Dyestuffs and chemicals.	Do.
29	465	John Campbell & Co.	do.....	do.....	Do.
29	466	Holliday-Kemp Co., Inc.	do.....	do.....	Do.
29	498	Joseph B. McDonagh, Leo A. McDonagh (doing business as William McDonagh & Sons).	do.....	Paints, varnishes, and kindred products.	Do.
Feb. 5	463	John McAteer.....	Philadelphia, Pa.	Groceries, meats, provisions, and other ship supplies.	Stipulation.
25	467	A. Klipstein & Co..	New York City..	Dyestuffs and chemicals.	Trial.
25	469	Geigy Co., Inc.....	do.....	do.....	Do.
25	521	H. Behlen & Bro., Inc.	do.....	Paint, varnish, and kindred products.	Answer and consent.
25	527	Andreykovicz & Dunk, Inc.	Philadelphia, Pa.	Dyestuffs, chemicals, and similar products.	Do.

A. T. M'CLURE GLASS CO. (A. T. M'CLURE ET AL.). 113

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FEDERAL TRADE COMMISSION

v.

A. T. McCLURE, ARTHUR W. McCLURE, JOHN R.
McCLURE, COPARTNERS, DOING BUSINESS UN-
DER THE FIRM NAME AND STYLE OF A. T. Mc-
CLURE GLASS CO.