FEDERAL TRADE COMMISSION

v.

JACOB LANSKI.

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

Docket 276.—February 5, 1920.

SYLLABUS.

Where an individual engaged in the business of buying, selling, and shipping iron and steel scrap, in direct competition with a corporation having a similar name, at different times accepted and converted to his own use shipments of iron and steel scrap theretofore purchased by, and consigned to, said corporation, with full knowledge that such corporation was the consignee—

Held, That such acts of conversion constituted, under the circumstances set forth, 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 Jacob Lanski, 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 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. The respondent is now and for more than one year last past has been engaged at the city of Chicago, in the State of Illinois, in the business of buying, selling, and shipping iron and steel scrap generally in interstate commerce 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 similarly engaged.

PAR. 2. The I. Lanski & Son Scrap Iron Co., a corporation, is now and for more than one year last past has been engaged at the city of Chicago, in the State of Illinois, in the business of buying, selling, and shipping iron and steel scrap generally in interstate commerce throughout the States and Territories of the United States in direct competition with the respondent and other persons, firms, copartnerships, and corporations similarly engaged; that immediately prior to the time that respondent engaged in the business hereinbefore described he was a stockholder in and associated with his cousin, I. Lanski, in managing the business of the I. Lanski & Son Scrap Iron Co.

PAR. 3. The respondent and the I. Lanski & Son Scrap Iron Co. in carrying on their business severally purchase iron and steel scrap in carload lots from various dealers located in numerous States of the United States, and cause such iron and steel scrap to be shipped by rail to their respective yards at Chicago, Ill., where it is unloaded, separated, sorted, classified, and sold and shipped in interstate commerce to purchasers thereof located in the various States and Territories of the United States.

PAR. 4. That at various times during the year 1918 certain railway companies caused to be diverted and delivered to the respondent at his yards in Chicago, Ill., several car-

loads of iron and steel scrap that had been theretofore purchased by and shipped and consigned to the I. Lanski & Son Scrap Iron Co. at its yards in Chicago, Ill.; that the respondent, without having any invoices, bills of lading, or other grounds for believing that said shipments were intended for him, accepted, unloaded, and converted to his own use said cars of iron and steel scrap so diverted; that owing to the similarity of names of the respondent and I. Lanski & Son Scrap Iron Co., freight bills and other correspondence relating to said shipments, and intended for the I. Lanski & Son Scrap Iron Co. were at various times, by mistake, delivered through the mails to the respondent, and that the respondent, by means of the information therein contained, learned the names of numerous dealers with whom the I. Lanski & Son Scrap Iron Co. was transacting business, and by correspondence with such persons, and by offering to pay them higher than market value for iron and steel scrap, and by various other practices, attempted to induce such persons to transact their business with him; that the effect of the respondent's acts in accepting and converting to his own use iron and steel scrap shipped and consigned to the I. Lanski & Son Scrap Iron Co., and in obtaining and making use of the names of dealers with whom that company was transacting business, has been to stifle and suppress competition in the purchase, sale, and shipment of iron and steel scrap in interstate commerce throughout the States and Territories of the United States and to cause pecuniary loss, inconveniences, delay, and confusion to the I. Lanski & Son Scrap Iron Co. in conducting its business.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

A complaint having been issued by the Federal Trade Commission in the above-entitled proceeding, and the respondent therein named having filed his answer herein, and evidence having been adduced by the respective parties to said proceeding, and the Commission having considered the same, together with the written briefs and arguments of the

attorneys for the said parties, and the Commission being now fully advised in the premises, reports and finds as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Jacob Lanski, is now and for more than one year last past has been engaged at the city of Chicago, in the State of Illinois, in the business of buying, selling, and shipping iron and steel scrap in commerce throughout the States and Territories of the United States, and has carried on and conducted his business in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 2. That I. Lanski & Son Scrap Iron Co. is an Illinois corporation, and for more than a year last past has been engaged at the city of Chicago, in the State of Illinois, in the business of buying, selling, and shipping iron and steel scrap in commerce throughout the States of the United States in direct competition with Jacob Lanski and other persons, firms, and corporations similarly engaged.

PAR. 3. That Jacob Lanski and the I. Lanski & Son Scrap Iron Co. in the conduct of their business, severally purchase iron and steel scrap in carload lots from various dealers located in various States of the United States, and each of them causes such iron and steel scrap to be shipped to their respective yards at Chicago, Ill., where it is unloaded, separated, classified, and sold and shipped to purchasers thereof, located in the various States of the United States.

PAR. 4. That during the year 1918 certain railway companies caused to be delivered to the respondent at his yards in Chicago, Ill., seven carloads of iron and steel scrap that had been theretofore purchased by and consigned to the I. Lanski & Son Scrap Iron Co., at its yards in Chicago, Ill.; that the respondent without having invoices, bills of lading, purchase contracts, or negotiations with the shipper, sufficient to justify the acceptance of the seven cars, or for believing that said shipments were intended for him, accepted, unloaded, and converted to his own use the said seven cars of iron and steel scrap; that during the year

1917 two cars of scrap iron shipped and consigned to the I. Lanski & Son Scrap Iron Co. were accepted, unloaded, and converted to the use of respondent, and that respondent had no bill of lading, purchase contract, invoice, or negotiation with the shipper of said cars sufficient to justify him to believe that same belonged to him; that the effect of the respondent's acts in accepting and converting to his own use the said nine cars of scrap iron caused the I. Lanski & Son Scrap Iron Co. to suffer a pecuniary loss and confusion and delay in the conduct of its business.

CONCLUSION.

From the foregoing findings the Commission concludes that the methods of competition set forth in paragraph 4 of said findings is, under the circumstances therein set forth, 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 said respondent, Jacob Lanski, having filed his answer admitting certain allegations of the 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 his behalf, and the attorneys for the Commission and the respondent having submitted their briefs as to the law and facts in said proceeding, and the Commission having made and filed its report containing its findings as to the facts and conclusion 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, Jacob Lanski, his agents and employees, cease and desist while engaged in

competition in commerce among the several States of the United States from accepting and unloading cars of iron and steel scrap, where there is doubt whether the consignee is Jacob Lanski or the I. Lanski & Son Scrap Iron Co., until every available source of information establishing ownership has been investigated and that a record of the investigation to establish ownership of such cars be kept.

FEDERAL TRADE COMMISSION

v.

HIMES UNDERWEAR CO.