FEDERAL TRADE COMMISSION

v.

KINNEY-ROME CO.

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

Docket 226.—June 3, 1920.

SYLLABUS.

Where a corporation engaged in the sale of bed springs and kindred products, gave and offered to give to employees of retailers, through arrangement with the retailers but without the knowledge of their customers, premiums such as necktie sets, knife and chain sets, umbrellas, watches, diamonds, and other personal property as an inducement for them to push the sale of its goods:

Held, that such gifts and offers to give, 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 reasons to believe, from a preliminary investigation made by it, that the Kinney-Rome 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, the Kinney-Rome 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 one year last past engaged in manufacturing and selling bed springs and similar products throughout the States and Territories of the United States and the District of Columbia, and that at all times hereinafter mentioned the respondent has carried on and conducted such business in direct competition with other per-

sons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That the respondent for more than one year last past with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and sale of bed springs and kindred products in interstate commerce has given and offered to give premiums, consisting of necktie sets, knife and chain sets, umbrellas, watches, diamonds, and other personal property, to the salesmen of merchants handling the products of the respondent and those of its competitors as an inducement to influence them to push the sales of respondent's products to the exclusion of the products of its competitors.

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 to believe that the above-named respondent, the Kinney-Rome 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 Colin C. H. Fyffe, its attorney, and having filed its answer admitting certain of the matters and things therein as alleged and denying others, 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 its report stating its findings as to the facts, its conclusions, and its order disposing of this proceeding without the introduction of testimony, and the attorneys for the Commission and the respondent having submitted briefs as to the

law and facts, the Commission, having considered the same and being duly advised in the premises, now makes and enters this its report, stating its findings as to the facts and its conclusions as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent is a corporation organized and doing business under and by virtue of the laws of the State of Illinois, having its principal office and place of business located at the city of Chicago, in said State.

PAR. 2. That the respondent is and for more than two years last past has been engaged in selling bed springs and kindred products throughout the States and Territories of the United States, and the District of Columbia, in competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 3. That the general custom in this industry is the distribution of the product to the general public through retail dealers who usually employ salesmen to wait upon the trade and display to customers the different grades and kinds of the commodity handled by the retailer.

PAR. 4. That the respondent sells to the retail trade several kinds of bed springs varying in price, the most expensive of which has been given the trade name of "De Luxe," and in the course of selling this type of bed springs to retail dealers throughout the States and Territories of the United States, and the District of Columbia, the respondent sought to obtain the preference for the sale of this product by the retailer to the general public over the products of its competitors, and in pursuance thereof adopted and used a plan of giving premiums, such as necktie sets, knife and chain sets, umbrellas, watches, diamonds, and other personal property to salesmen of retailers handling the products of the respondent and those of its competitors when such salesmen have been instrumental in making a sale of the respondent's "De Luxe" springs.

PAR. 5. That these premiums are given with the knowledge and consent and through arrangements with the retail dealers handling the respondent's products, but the salesmen

of the respondent's customers do not explain to the persons to whom they sell the "De Luxe" spring that they are offered and given premiums by the manufacturers of the spring on such sales.

CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to the facts, under the circumstances set forth, are 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, and the respondent, the Kinney-Rome Co., having entered its appearance by Colin C. H. Fyffe, its attorney, and having filed its answer and thereafter having made, executed, and filed an agreed statement of facts in which it is stipulated and agreed that the Federal Trade Commission shall take such agreed statement of facts as 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, and the Federal Trade Commission having made and entered its report stating 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, the Kinney-Rome Co., its officers, agents, representatives, servants, and employees, cease and desist from directly or indirectly giving or offering to give premiums, such as necktie sets, knife and chain sets, umbrellas, watches, diamonds, or other personal prop-

erty to salesmen or employees of merchants handling the products of the respondent and those of one or more of its competitors where such salesmen or employees have been instrumental in making a sale of the respondent's products.

It is further ordered, That the respondent make and file with the Commission, not later than the 9th day of September, A. D. 1920, a report in detail of the manner and form in which this order has been conformed to.