

Complaint.

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FEDERAL TRADE COMMISSION

v.

SPARROWS POINT STORE COMPANY.

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

Docket 506.—September 8, 1920.

SYLLABUS.

Where a corporation engaged in the sale of ship supplies, gave to officers of vessels who inspected and approved supplies sold and delivered by it to their vessels, gratuities such as cigars, meals, and entertainment, and sums of money, for the purpose of retaining their good will and of securing their future patronage, and as an inducement for them to influence their employers to purchase or contract to purchase supplies from it:

Held, That such gifts, under the circumstances set forth, constituted an unfair method of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from the preliminary investigation made by it that the Sparrows Point Store Co., hereinafter referred to as respondent, is now and for more than a year last past has been using unfair methods of competition in interstate and foreign 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 Sparrows Point Store Co., is a corporation organized and existing and doing business under and by virtue of the laws of the State of Maryland, having its principal office and place of business at Sparrows Point, and its ship chandlery store at Baltimore, State of Maryland, and is now and for more than one year last past has been engaged in selling groceries, meats, dry goods, clothing, boots and shoes, drugs, coal and wood, deck and engine supplies for ships, in interstate and foreign commerce, 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 selling like products.

PAR. 2. That in the course of its business of selling groceries, meats, dry goods, clothing, boots and shoes, drugs, coal and wood, deck and engine supplies for ships, in interstate and foreign commerce, the respondent for more than one year last past has been giving and offering to give to employees, such as captains, chief engineers, and stewards of ships, of both its customers and prospective customers, and its competitors' customers and prospective customers, as an inducement to influence their employers to purchase or contract to purchase from the respondent, groceries, meats, dry goods, clothing, boots and shoes, drugs, coal and wood, deck and engine supplies for ships, without other consideration therefor, gratuities such as liquor, cigars, meals, and entertainment.

PAR. 3. That in the course of its business of selling groceries, meats, dry goods, clothing, boots and shoes, drugs, coal and wood, deck and engine supplies for ships, in interstate and foreign commerce, the respondent for more than one year last past has been giving and offering to give to employees, such as captains, chief engineers, and stewards of ships, of both its customers and prospective customers, and its competitors' customers and prospective customers, without the knowledge and consent of their employers, large sums of money as an inducement to influence their said employers to purchase or contract to purchase from the respondent groceries, meats, dry goods, clothing, boots and shoes, drugs, coal and wood, deck and engine supplies for ships, or to influence such customers to refrain from dealing or contracting to deal with competitors of the respondent; that within the year last past the respondent gave large sums of money to employees of the following ships:

Ships operated for the United States Shipping Board Emergency Fleet Corporation—*Aberdeen, Allentown, Alamosa, Anacortes, Eastern Star, Crabtree, Cottonplant, Gunston Hall, Hwah Jah, Lake Glencoe, Mattapan, Opelike, and Walden*;

Private-owned ships—*Caledonia, Clan Morrison, Eigen Hulp II, Gaelic Prince, Glastonburg, Hartland Point, Kelbergen, Serpentine, Sidlow Range, Southerndown, Thurland Castle, Tudor Prince, and War Sword*.

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 Sparrows Point Store Co., has been and now is using unfair methods of competition in interstate and foreign commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled, "An act

Findings.

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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 having entered its appearance by Preston & Field, its attorneys, and having filed its answer admitting certain of the matters and things therein as alleged and denying certain others thereof, 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 and having waived the presentation of oral argument on the same, the Commission, having duly considered the record and being fully advised in the premises, now makes this its report, stating its findings as to the facts, and its conclusion, as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, the Sparrows Point Store Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Maryland, having its home office located at the city of Baltimore, in said State, and is now and for more than one year last past has been engaged in selling supplies and stores for ships in interstate and foreign commerce, in competition with other persons, firms, copartnerships, and corporations selling like products.

PAR. 2. That in the course of said business the respondent purchases and enters into contracts for the purchase of supplies and stores for ships in the different States of the United States, transporting the same through other States of the United States to the city of Baltimore, where they are sold and offered for sale to purchasers thereof; that after such supplies and stores are sold they are delivered to the purchasers thereof in said city of Baltimore for use and consumption by their ships upon the high seas in and beyond the territorial waters of the United States.

PAR. 3. That in the course of its business of selling supplies and stores for ships in interstate and foreign commerce as aforesaid, the respondent sells and furnishes supplies and stores principally to domestic and foreign-owned ships calling at the port of Baltimore, contracts for which in many instances having been negotiated

and entered into with the owners of said ships in advance, both in this country and in foreign countries; that on the arrival of such ships at the port of Baltimore a representative of the respondent visits the ships and solicits from the captain or other officer an order for supplies and stores.

PAR. 4. That in the course of its business of selling supplies and stores for ships in interstate and foreign commerce as aforesaid, and after contracts for such supplies have been made and executed by duly authorized agents of said ships, and the officer or officers of said ships have selected and ordered supplies and the supplies have been delivered and inspected by said officer and he has given his approval of the respondent's invoice of the same, it has been the practice of the respondent for more than one year last past to give such officers, before the ship departs for other ports in this or foreign countries with the supplies so purchased from the respondent, gratuities such as cigars, meals, and entertainment, also sums of money, for the purpose of retaining the officers' good will, and to secure their future patronage, and as an inducement to influence their employers to purchase or contract to purchase from the respondent supplies and stores for their ships.

PAR. 5. That in the course of its business of selling supplies for ships in interstate and foreign commerce as aforesaid and after contracts have been made with duly authorized agents of such ships, and the officer or officers of the ship have selected and ordered supplies, and the supplies have been delivered and inspected by said officer and he has given his approval of the respondent's invoice of the same, respondent has given sums of money to officers of the following ships for the purpose of retaining their good will and to secure their future patronage, and as an inducement to influence their employers to purchase or contract to purchase from the respondent supplies and stores for said ships: *Aberdeen, Allentown, Alamosa, Anacortes, Eastern Star, Crabtree, Cottonplant, Gunston Hall, Hwah Jah, Lake Glencoe, Mattapan, Opelike, Walden, Caledonia, Clan Morrison, Eigon Hulp II, Gaelic Prince, Glastonburg, Hartland Point, Kelbergen, Serpentine, Sidlow Range, Southerndown, Thurland Castle, Tudor Prince, and War Sword.*

CONCLUSION.

That the methods of competition set forth in the foregoing findings as to facts, in paragraphs 1, 2, 3, 4, and 5, and each and all of them are, under the circumstances therein set forth, unfair methods of competition in interstate and foreign commerce in violation of the provisions of section 5 of the act of Congress approved September

Order.

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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 Sparrows Point Store Co., having entered its appearance by Preston & Field, its attorneys, 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 therein 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 it may have 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 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, the Sparrows Point Store Co., its officers, agents, representatives, servants, and employees, cease and desist from directly or indirectly giving or offering to give gratuities such as cigars, meals, entertainment, and sums of money to captains, chief engineers, stewards, and other employees of ships of its customers or prospective customers for the purpose of retaining their good will or to secure their future patronage or as an inducement to influence their employers to purchase or contract to purchase from the respondent supplies and stores for their ships.

It is further ordered, That the respondent make and file with the Commission not later than the 31st day of December, A. D. 1920, a report in detail of the manner and form in which this order has been conformed to.

SHOTWELL MANUFACTURING CO.

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v.

SHOTWELL MANUFACTURING COMPANY.