

Complaint.

FEDERAL TRADE COMMISSION

v.

GEORGE D. FLOOD AND W. H. CALVERT, PARTNERS,
STYLING THEMSELVES FLOOD & CALVERT.

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

Docket 628—January 27, 1921.

SYLLABUS.

Where a firm engaged in the sale of ship chandlery, including steward's supplies, deck, engine, and cabin supplies, gave to the captains and other employees of vessels to which they furnished supplies, valuable gifts, cash commissions, and gratuities as an inducement to purchase supplies:

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 a preliminary investigation made by it that George D. Flood and W. H. Calvert, partners, styling themselves Flood & Calvert, hereinafter referred to as the respondents, have been and are 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 respondents, George D. Flood and W. H. Calvert, partners, styling themselves Flood & Calvert, have their principal place of business at Galveston, in the State of Texas.

PAR. 2. That the respondents are engaged in the business of selling ship chandlery, including stewards' supplies, deck, engine, and cabin supplies, for ships engaged in coastwise and foreign commerce, and respondents cause said commodities to be delivered to ships reaching ports in the State of Texas, while engaged in transporting passengers and commodities between ports in various States of the United States bordering upon the eastern and southeastern coast thereof, and in transporting passengers and commodities from American ports to

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foreign countries in due course of commerce among the several States of the United States or with foreign countries; such supplies so sold by respondent being for consumption and use by the purchasers thereof, upon the high seas, in and beyond the territorial jurisdiction of the United States. Said business is and has been conducted by respondents in direct, active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 3. That the respondents in the course of their business as set out in paragraph 2 hereof, give and have given to captains and other officers of vessels to which they furnish ship chandlery, valuable gifts and cash commissions and gratuities, to induce such captains and officers to purchase their requirements of ship chandlery from respondents, and without other consideration therefor.

PAR. 4. That by reason of the facts recited the respondents are using an unfair method of competition in commerce; within the intent and meaning of section 5 of an act of Congress entitled, "An act to create a Federal Trade Commission to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondents, George D. Flood and W. H. Calvert, partners, styling themselves Flood & Calvert, charging them with the use of unfair methods of competition in violation of the provisions of said act.

The respondents having entered their appearance and filed their answer herein, and having stipulated and agreed that a statement of facts signed and executed by counsel for the Commission and the respondents, subject to the approval of the Commission, shall be taken by the Commission in lieu of testimony, and thereupon this proceeding came on for final hearing, and the Commission having duly considered the record, and being now fully advised in the premises, makes this its findings as to facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondents, George D. Flood and W. H. Calvert, are partners styling themselves Flood & Calvert, having their principal place of business located at the city of Galveston, State of Texas, and are now and at all times hereinafter mentioned have been engaged in selling ship chandlery, including stewards' supplies, deck, engine, and cabin supplies for ships engaged in coast-wise and foreign commerce, causing said commodities to be delivered

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to ships reaching ports in the State of Texas, while engaged in transporting passengers and commodities between ports in the various States of the United States and in transporting passengers and commodities from American ports to foreign countries, in due course of commerce among the several States of the United States or with foreign nations; such supplies so sold by respondents being for consumption and use by the purchasers thereof upon the high seas, in and beyond the territorial jurisdiction of the United States, said business being conducted by the respondents in direct competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That the respondents in the course of their business as described in paragraph 1 hereof for several years last past have given to captains and other officers and employees of vessels to which they furnished ship chandlery supplies, valuable gifts, cash commissions, and gratuities as an inducement to such officers and employees to purchase for the owners of the vessels operated by them ship chandlery supplies from respondents.

CONCLUSION.

The practices of the said respondents, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in interstate and foreign commerce and constitute a violation 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents and an agreed statement of facts, and the Commission having made its findings as to the facts with its conclusion that the respondents have violated the provisions 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,"

It is ordered, That the respondents, George D. Flood and W. H. Calvert, partners, styling themselves Flood & Calvert, and their agents, servants, and employees, cease and desist from directly or indirectly giving to captains and other officers and employees of vessels, valuable gifts, cash commissions, and gratuities as an inducement to such officers and employees to purchase for the owners of the vessels operated by them ship chandlery supplies from respondents.

It is further ordered, That the respondents within 60 days after the date of service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in

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which they have complied with the order to cease and desist hereinbefore set forth.

The Commission has also issued similar orders in other cases involving substantially the same facts, as shown by the following:

TABLE.

Date.	Dock No.	Respondent.	Location.	Commodity or business.	Answer, stipulation or trial.
1921.					
Jan. 27	630	Gulf Iron & Machine Co., Inc....	Galveston, Tex....	Ship repairs and ship repair parts.	Answer, stipulation, and trial.
27	631	T. J. Anderson, doing business under the tradename and style of Seaboard Transportation and Shipping Co.	do.....	do.....	Answer, stipulation, and consent.
27	632	Albert P. J. Voight, doing business under the trade name and style of Voight Machine Shop..	do.....	do.....	Do.
27	633	J. Bader, doing business under the trade name and style of Vulcan Iron Works.	do.....	do.....	Do.
27	634	Gray's Engineering Works, Inc..	do.....	do.....	Answer and stipulation.
27	635	John P. McDonough, doing business under the trade name and style of McDonough Iron Works.	do.....	do.....	Answer, stipulation, and consent.
27	637	A. B. McFadden and W. J. McFadden, partners, styling themselves The Texas Machine Works.	Port Arthur, Tex.	do.....	Do.
27	638	B. Kellogg, J. C. Currie, J. H. Giddens, copartners, styling themselves as Port Arthur Marine Engineering Works.	do.....	do.....	Do.
28	636	Marine Iron Works (Inc.).....	New Orleans, La.	do.....	Do.
28	639	Johnson Iron Works (Ltd.).....	do.....	do.....	Answer and stipulation.
28	641	Stern Foundry & Machinery Co. (Inc.)	do.....	do.....	Do.
28	642	Crescent City Machine and Manufacturing Works (Inc.)	do.....	do.....	Do.
28	643	Alex. Dussel Iron Works (Inc.)..	do.....	do.....	Answer, stipulation, and consent.
28	644	The Union Iron Works (Inc.)....	do.....	do.....	Do.
28	645	Wm. J. Tierney, doing business under the trade name and style of New Orleans Machine Works.	do.....	do.....	Do.
28	646	C. A. Simpson, doing business under the name and style of C. A. Simpson & Co.	Gulfport, Miss....	Ship supplies..	Do.
28	649	Home Industry Iron Works (Inc.)	Mobile, Ala.....	Ship repairs and ship repair parts.	Answer and stipulation.
28	650	Henderson Ship Building Co. (Inc.)	do.....	do.....	Do.
28	651	D. C. Hodges, doing business under the name and style of Hodges Boiler & Machine Works.	do.....	do.....	Answer, stipulation, and consent.
28	655	J. K. A. Hussey and L. T. Copp, partners, styling themselves Hussey & Copp.	Jacksonville, Fla..	Ship supplies..	Do.
28	658	Charleston Dry Dock & Machine Co.	Charleston, S. C...	Ship repairs and ship repair parts.	Answer and stipulation.
28	659	Charleston Iron Works.....	do.....	do.....	Answer, stipulation, and consent.
28	660	Savannah Ship Chandlery & Supply Co.	Savannah, Ga.....	Ship supplies..	Do.
29	661	C. G. Wilkinson, doing business under the name and style of Wilkinson Machine Co.	do.....	Ship repairs and ship repair parts.	Do.

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v.

JOHN R. ADAMS, W. J. ADAMS, AND GEORGE T. ADAMS
PARTNERS, STYLING THEMSELVES JOHN R. ADAMS
& CO.