

Complaint.

FEDERAL TRADE COMMISSION

v.

GEO. C. LE GENDRE AND GEO. CHADWICK LE GENDRE,
PARTNERS, STYLING THEMSELVES GEO. C. LE
GENDRE & SON.

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

Docket 669—January 27, 1921.

SYLLABUS.

Where a firm engaged in the sale of ship chandlery, including steward's supplies, deck, engine, cabin, and other supplies, gave to the captains and other officers of vessels to which it furnished supplies, without the knowledge and consent of their employers, valuable gifts, cash commissions, and gratuities as inducements to purchase, and as gratuities for purchasing, 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 C. Le Gendre and George Chadwick Le Gendre, partners styling themselves George C. Le Gendre & Son, 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 C. Le Gendre and George Chadwick Le Gendre, partners styling themselves George C. Le Gendre & Son, have their principal place of business at Texas City, in the State of Texas.

PAR. 2. That the respondents are engaged in the business of selling ship chandlery, including steward's 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 coastwise and foreign

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commerce, such supplies being for consumption and use upon the high seas, in and beyond the territorial jurisdiction of the United States, said business being conducted 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, 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, Geo. C. LeGendre and Geo. Chadwick LeGendre, partners, styling themselves Geo. C. LeGendre & Son, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondents having entered their appearance and having filed their answer herein, admitting the allegations of the complaint and each count and paragraph thereof, and that according to law an order should be entered herein as prayed in said complaint, and agreeing and consenting that the Federal Trade Commission shall forthwith proceed to make and enter its findings as to the facts and order without the introduction of testimony in support thereof, 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 now being fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondents, Geo. C. LeGendre and Geo. Chadwick LeGendre, partners, styling themselves Geo. C. LeGendre & Son, have been engaged in the business of selling ship chandlery, including steward's, deck, engine, cabin, and other supplies to ships

engaged in coastwise and foreign commerce, at Texas City, State of Texas, causing said commodities to be delivered to ships reaching ports in the State of Texas, while engaged in the transportation of passengers and cargoes between ports in the various States of the United States and the transportation of passengers and cargoes between ports of the United States and foreign countries, such supplies so sold being for use and consumption upon the high seas in and beyond the territorial jurisdiction of the United States, said business being conducted in direct competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That in the course of their business of selling supplies for ships as described in paragraph 1 hereof, the respondents for several months last prior to March 1, 1920, have given to captains and other officers of vessels to which they have furnished supplies, without the knowledge and consent of their employers, and without other consideration therefor, valuable gifts, cash commissions, and gratuities as inducements to purchase and as gratuities for purchasing for the owners of the vessels operated by said officers, their requirements of ship chandlery from the 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, Geo. C. LeGendre and Geo. Chadwick LeGendre, partners, styling themselves Geo. C. LeGendre & Son, and their agents, servants, and employees cease and desist from directly or indirectly giving to captains and other officers of vessels

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valuable gifts, cash commissions, and gratuities as inducements to purchase and as gratuities for purchasing for the owners of the vessels operated by said officers their requirements of ship chandlery from the 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 which he has complied with the order to cease and desist hereinbefore set forth.

Complaint.

FEDERAL TRADE COMMISSION

v.

D. A. WINSLOW, J. JONES, AND D. H. ROBISHAW, A CO-PARTNERSHIP DOING BUSINESS UNDER THE NAME AND STYLE OF D. A. WINSLOW & CO.

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

Docket 458.—January 28, 1921.

SYLLABUS.

Where a firm engaged in the sale of provisions, merchandise, and other ship supplies, gave to the captains of vessels to which it furnished supplies, without the knowledge and consent of their employers, large sums of money, as inducements to purchase, and as gratuities for purchasing, 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 D. A. Winslow, J. Jones, and D. H. Robishaw, a copartnership doing business under the name and style of D. A. Winslow & Co., 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 thereto would be in the interest of the public, issues this complaint stating its charges in that respect on opinion and belief as follows:

PARAGRAPH 1. That the respondents, D. A. Winslow, J. Jones, and D. H. Robishaw, a copartnership doing business under the name and style of D. A. Winslow & Co., with their principal office and place of business at the city of Norfolk, State of Virginia, are now, and have been for more than a year last past, engaged in selling provisions, merchandise, and other supplies for ships in interstate and foreign commerce, and that at all times hereinafter mentioned the respondents have carried on and conducted such business in direct competition

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with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of their business respondents purchase provisions, merchandise, and other supplies for ships in various States of the United States and Territories thereof and transport the same through other States and Territories in and to the city of Norfolk, State of Virginia, where the same are sold and delivered to ships owned by citizens of foreign countries with whom the respondents have negotiated and contracted to supply their ships with such supplies when calling at American ports, and there is continuously and has been at all times hereinafter mentioned a constant current of trade and commerce in said products between the various States and Territories of the United States and foreign countries.

PAR. 3. That in the course of their business of selling provisions, merchandise, and other supplies for ships in interstate and foreign commerce, the respondents are now and for more than one year last past have been giving and offering to give to employees of both their customers and prospective customers, and their competitors' customers and prospective customers, as an inducement to influence said employees to purchase or contract to purchase for their employers from the respondents, provisions, merchandise, and other supplies for ships, without other consideration therefor, gratuities such as liquor, cigars, meals, theater tickets, valuable presents, and entertainment.

PAR. 4. That in the course of their business of selling provisions, merchandise, and other supplies in interstate and foreign commerce, the respondents are now and for more than one year last past have been paying and offering to pay to employees of both their customers and prospective customers, and their competitors' customers and prospective customers, without the knowledge and consent of their employers, sums of money as an inducement to influence said employees to purchase or contract to purchase for their employers from the respondents, provisions, merchandise, and other supplies.

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, D. A. Winslow, J. Jones, and D. H. Robishaw, a copartnership, doing business under the name and style of D. A. Winslow & Co., charging them with the use of unfair methods of competition in interstate and foreign commerce in violation of the provisions of said act.

The respondents having entered their appearance and filed their answers herein, hearings were had and evidence was thereupon introduced in support of the allegations of said complaint, before an examiner of the Federal Trade Commission theretofore duly appointed.

And thereupon this proceeding came on for final hearing, and the attorneys for the Commission and respondents having waived the filing of briefs and oral argument and the Commission having fully considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondents, D. A. Winslow, J. Jones, and D. H. Robishaw, are copartners doing business under the name and style of D. A. Winslow & Co., with their principal places of business located at Norfolk and Newport News, State of Virginia, and are now and at all times hereinafter mentioned have been engaged in selling provisions, merchandise, and other supplies for ships engaged in coastwise and foreign commerce, causing said commodities to be delivered to ships reaching ports in the State of Virginia while engaged in transporting passengers and commodities between ports in various States of the United States and in transporting passengers and commodities between American ports and ports in foreign countries, in due course of commerce among the several States of the United States or with foreign nations; that such supplies so sold by respondents are 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 in the course of their business as described herein the respondents purchase provisions, merchandise, and other supplies for ships in the various States of the United States, transporting same from said places of purchase through other States, to their places of business in the State of Virginia, where they are kept and stored for their trade in furnishing supplies for ships as aforesaid.

PAR. 3. That in the course of their business of selling supplies for ships as described herein the respondents in some instances secure orders for the sale of supplies from captains of ships after arrival at ports in the State of Virginia, dealing directly with the captains without having arrangements in advance with the owners to furnish

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their ships with supplies when calling at these ports; that approximately 90 per cent of the respondent's business, amounting to as much as \$750,000 in some years, is initiated with the owners of ships in foreign countries through contracts entered into and agreed upon by a representative of the respondents soliciting business in those countries, in which the respondents agree to furnish ships with supplies when calling at Norfolk and other ports in the State of Virginia at prices named in the contracts, excepting when circumstances reasonably beyond the respondents' control compel them to vary such prices.

PAR. 4. That upon the arrival of a ship and after arrangements have been made, either by contract or otherwise, for the respondents to furnish a ship with supplies, the captain, after some preliminary negotiations, usually visits one of the stores of the respondents in Norfolk or Newport News and there selects and orders such supplies and in such quantities as he may determine his ship will require for its use in port and at sea; that after the supplies have been delivered and inspected and the ship is about to depart, the captain calls upon the respondents, checks over the bill for the supplies, and on his approval of same by signing it, the respondents secure payment for same from the agents of the owners at these ports authorized to pay the ship's disbursements or by draft on the owners.

PAR. 5. That in the course of their business of selling supplies for ships as described herein the respondents for several years last past have given to the captains of practically all of the vessels to which they have furnished supplies, without the knowledge and consent of their employers and without other consideration therefor, large sums of money, amounting in some instances to as much as \$400, or 5 per cent of their bills, as inducements to purchase and as gratuities for purchasing for the owners of the vessels operated by them, provisions, merchandise, and other supplies for ships from the respondents.

PAR. 6. In many instances where the respondents have contracts with shipowners to supply their vessels when calling at the ports at which respondents do business, such owners also have contracts or arrangements with ship chandlers in other ports of the United States to furnish their ships supplies when calling at those ports; that the captains of vessels whose owners have such contracts or arrangements with ship chandlers for supplies as herein described and found to exist, are required to purchase from ship chandlers with whom the owners have such contracts or arrangements; that vessels of such owners frequently call at several ports of the United States on the

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same trip, and that captains are clothed with discretion to make their purchases at such port as they may select; that the payment of commissions and the giving of gratuities by respondents, as found in paragraph 5, hereof, have been for the purpose of inducing captains to purchase supplies from them rather than from their competitors at Norfolk or other ports; that failure of respondents to pay commissions and give gratuities has resulted and will result in captains purchasing supplies at other ports where ship chandlers under contract or other arrangement with the owners will or may pay gratuities. In the case of what are termed "free" ships, the owners do not have subsisting contracts with ship chandlers to furnish supplies to the vessels when calling at ports of the United States, but the captains of such vessels have authority from the owners to purchase supplies at such ports from such ship chandlers and in such quantities as the captain may deem necessary and advisable; that the payment of commissions and the giving of gratuities by respondents in such cases have been to induce the captains to purchase supplies from the 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 the testimony, and the Commission having made its findings as to the facts with its conclusion that the respondents have violated the provisions 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,"

It is now ordered, That the respondents, D. A. Winslow, J. Jones, and D. H. Robishaw, a copartnership, doing business under the name and style of D. A. Winslow & Co., and their agents, servants, and employees, cease and desist from directly or indirectly giving to captains or other employees of vessels, sums of money or gratuities of any kind whatsoever as inducements to purchase or as gratuities

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for purchasing, for the owners of the vessels operated by them provisions, merchandise, and other supplies for ships, from the 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 which they have complied with the order to cease and desist, hereinbefore set forth.

The Commission has also issued a similar order in the case of Norden Ship Supply Co. (Inc.) (of Baltimore, Md.), Docket 614, decided January 28, involving substantially the same facts as the preceding case.

T. C. HURST & SON.

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FEDERAL TRADE COMMISSION