

FEDERAL TRADE COMMISSION

v.

T. C. HURST AND FLOYD HURST, A COPARTNERSHIP
DOING BUSINESS UNDER THE NAME AND STYLE OF
T. C. HURST & SON.

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

Docket 613—January 28, 1921.

SYLLABUS.

Where a firm engaged in the sale of groceries, provisions, meats, deck, engine, and other ship supplies, gave to captains and other employees of vessels to which it furnished supplies, without the knowledge and consent of their employers, sums of money and other 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 T. C. Hurst and Floyd Hurst, a copartnership doing business under the name and style of T. C. Hurst & Son, hereinafter referred to as 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, T. C. Hurst and Floyd Hurst, a copartnership doing business under the name and style of T. C. Hurst & Son, with their principal office and place of business at the city of Norfolk, State of Virginia, are now and for more than one year last past have been engaged in selling and delivering for transportation in interstate and foreign commerce, groceries, provisions, meats, deck, and engine supplies, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That the respondents, T. C. Hurst and Floyd Hurst, a copartnership doing business under the name and style of T. C. Hurst & Son, in the conduct of their business, purchase such merchandise and

Findings.

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supplies for ships in various States of the United States and Territories thereof and transport same through other States and Territories in and to the city of Norfolk, State of Virginia, where the same are sold and delivered to foreign-owned and American vessels engaged in plying and transporting goods between and among foreign and American ports, and engaged in plying and in transporting goods between and among American ports in interstate and foreign commerce. That said merchandise and ship supplies sold and delivered by respondent as aforesaid are for consumption and use by such ships or vessels upon the high seas in and beyond the territorial waters of the United States, and there is continuously and has been at all times hereinafter mentioned a constant current of trade and commerce in said merchandise and ship supplies as aforesaid between and among the various States and Territories of the United States and foreign countries.

PAR. 3. That the respondents, T. C. Hurst and Floyd Hurst, a copartnership doing business under the name and style of T. C. Hurst & Son, within one year last past, in the course of their business as aforesaid, have given to captains, engineers, and other employees of foreign and American owned ships and vessels to which they sold and delivered merchandise and ship supplies, as aforesaid, without the knowledge and consent of their employers or owners of said ships or vessels, sums of money and other gratuities as an inducement to influence their employers or owners of said ships or vessels to purchase said merchandise and ship supplies from the respondents.

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, T. C. Hurst and Floyd Hurst, a copartnership doing business under the name and style of T. C. Hurst & 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 an answer admitting the allegations of the complaint as alleged, except that gratuities have only been given to a small percentage of

their trade for the purpose of retaining the good will of captains, engineers, and other employees of ships and of keeping the trade of the ships upon which they are employed, and that no gratuities have been given by them for the purposes alleged since January 1, 1920, and agreeing and consenting that the Federal Trade Commission shall forthwith proceed to make and enter its findings as to the facts and its order disposing of this proceeding without the introduction of testimony, and that this answer shall be taken and considered as and in lieu of testimony, the taking of which the respondents waive.

And thereupon this proceeding came on for final hearing, and the attorneys for the Commission and the respondents having waived the filing of briefs and oral argument, and the Commission having duly 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, T. C. Hurst and Floyd Hurst, are copartners doing business under the name and style of T. C. Hurst & Son, with their principal place of business at the city of Norfolk, State of Virginia, and are now and at all times hereinafter mentioned have been engaged in selling groceries, provisions, meats, deck, engine, 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 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 the 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 groceries, provisions, meats, deck, engine, and other supplies for ships in various States of the United States, transporting same from said places of purchase through other States to their place of business in the State of Virginia, where they are kept and stored for their trade in furnishing supplies for ships as aforesaid.

Order.

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PAR. 3. That in the course of their business of selling supplies for ships as described herein, the respondents for several years last prior to 1920 have given to captains, engineers, and other employees of vessels to which they have furnished supplies, without the knowledge and consent of their employers and without other consideration therefor, sums of money and other gratuities as inducements to influence their employers to purchase, and as gratuities for purchasing for said employers groceries, provisions, meats, deck, engine, and other supplies for ships from the respondents.

CONCLUSION.

The practices of said respondents, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in 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 and answer of the respondents, 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, T. C. Hurst and Floyd Hurst, copartners doing business under the name and style of T. C. Hurst & Son, their agents, representatives, servants, and employees, do cease and desist from directly or indirectly giving, or offering to give, to captains, engineers, and other employees of vessels sums of money and other gratuities as inducements to influence their employers to purchase and as gratuities for purchasing for said employers groceries, provisions, meats, deck, engine, and other supplies for ships from the respondents.

It is further ordered, That the respondents, T. C. Hurst and Floyd Hurst, copartners doing business under the name and style of T. C. Hurst & Son, file report in writing with the Commission not later than the 1st day of April, A. D. 1921, stating in detail the manner and form in which this order has been complied with and conformed to.

MARINE EQUIPMENT CO., INC.

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Complaint.