

Complaint.

FEDERAL TRADE COMMISSION

v.

MARINE EQUIPMENT COMPANY, INC.

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

Docket 615.—January 23, 1921.

SYLLABUS.

Where a corporation engaged in the sale of steel cables, rope, pulleys, hardware, and general merchandise required for deck and engine supplies on ships, gave to engineers and to other employees and representatives of customers and shipowners, small cash gratuities or commissions and presents of small value, meals, and occasional entertainment such as the theater and automobile rides, 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 the Marine Equipment Co. (Inc.), hereinafter referred to as respondent, has been and 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 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 Marine Equipment Co. (Inc.), is now and was at all times hereinafter mentioned, a corporation organized and existing under and by virtue of the laws of the State of Virginia, with its principal office and place of business at the city of Norfolk, State of Virginia, and is now and for more than one year last past has been engaged in selling and delivering for transportation in interstate and foreign commerce, steel cables, rope, pulleys, hardware of all descriptions, and general merchandise required for deck and engine supplies on ships, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

Findings.

3 F. T. C.

PAR. 2. That the respondent in the conduct of its business purchases such merchandise and supplies for ships in various States of the United States and Territories thereof and transports 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 respondent, the Marine Equipment Co. (Inc.), within the two years last past in the course of its business as aforesaid, has given to captains, engineers, and other employees of vessels to which it sold and delivered merchandise and ship supplies, 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 supplies from the respondent.

PAR. 4. That by reason of the facts recited, the respondent is 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 respondent, the Marine Equipment Co. (Inc.), charging it with the use of unfair methods of competition in interstate and foreign commerce, in violation of the provisions of said act.

The respondent having entered its appearance and filed its answer herein, and having stipulated and agreed that a statement of facts signed and executed by Adrien F. Busick, acting chief counsel for the Federal Trade Commission, and the respondent, subject to

Findings.

the approval of the Commission, shall be taken by the Commission in lieu of testimony, and agreeing and consenting that the Federal Trade Commission shall forthwith proceed to make and enter its findings as to the facts, its conclusions, and order disposing of this proceeding without the introduction of testimony in support thereof; and thereupon this proceeding came on for final hearing and the attorneys 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 respondent, the Marine Equipment Co. (Inc.), is a corporation organized and existing under the laws of the State of Virginia, having its principal office and place of business at the city of Norfolk, State of Virginia, and is now and for more than one year last past has been engaged in selling steel cables, rope, pulleys, hardware, and general merchandise required for deck and engine supplies on ships; that in the conduct of its business the respondent purchases such merchandise and supplies in various States of the United States and transports same through other States 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 transporting goods between American ports, 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 being conducted in direct competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That the respondent, the Marine Equipment Co. (Inc.), in the course of its business as described in paragraph 1 hereof, for several years last past has given cash gratuities or commissions of \$5 each to engineers of certain boats of customers upon the purchase of a barrel of oil, and presents of hats and other things of small value to representatives and employees of customers to whom it was selling supplies, and it has frequently taken the agents and representatives of customers and shipowners to whom it was selling supplies to lunch or dinner, and occasionally to the theater and on automobile rides in and about the city of Norfolk, as an inducement to influence their employers to purchase, and as gratuities for purchasing for said employers, steel cables, rope, pulleys, hardware, general merchandise, and other supplies for ships from the respondent.

Order.

S F. T. C.

CONCLUSION.

The practices of the said respondent, 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 respondent, and an agreed statement of facts, and the Commission having made its findings as to the facts with its conclusion that the respondent has 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 now ordered, That the respondent, the Marine Equipment Co. (Inc.), and its officers, directors, agents, servants, and employees, cease and desist from directly or indirectly giving to captains, engineers and other employees of vessels cash gratuities, commissions, valuable presents and entertainment as inducements to influence their employers to purchase, and as gratuities for purchasing for said employers, steel cables, rope, pulleys, hardware, general merchandise, and other supplies for ships from respondent.

It is further ordered, That the respondent within 60 days after the date of the service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

EVERETT SUPPLY CO., INC.

231

Complaint.