

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

Docket 652—March 23, 1921.

SYLLABUS.

Where an individual engaged in the sale of ship chandlery, gave to captains and other employees of vessels to which he furnished supplies, without the knowledge and consent of their employers, 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 McKenzie Oerting, doing business under the trade name and style of McKenzie Oerting & Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate 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, McKenzie Oerting, carries on business at Pensacola, Fla., under the name and style of McKenzie Oerting & Co.

PAR. 2. That respondent is engaged in the business of selling ship chandlery for ships engaged in coastwise and foreign commerce, and delivers the commodities so sold to ships reaching ports in the State of Florida, while engaged in transporting passengers and commodities between ports in various States of the United States and in transporting passengers and commodities between ports of the United States and foreign countries, in due course of commerce between the several States of the United States and with foreign nations, such supplies so sold by respondent being for consumption and use by the

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purchasers thereof upon the high seas in and beyond the territorial jurisdiction of the United States. Said business is and has been conducted by respondent in direct, active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 3. That the respondent in the course of its business as set out in paragraph 2 hereof, gives and has given to captains and other officers and employees of vessels to which it furnishes ship chandlery, expensive gifts and large sums of money in the form of cash commissions, to induce such officers and employees to purchase their requirements of ship chandlery from respondent and without other consideration therefor.

PAR. 4. That by reason of the facts recited, the respondent has been 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, FINDING 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, McKenzie Oerting, doing business under the name and style of McKenzie Oerting & Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of the said act.

The respondent having entered his appearance and having filed his answer 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, after which the respondent filed an amended answer in which he agrees and consents that the Federal Trade Commission shall forthwith proceed upon said amended answer and the evidence submitted herein to make and enter its findings as to the facts, its conclusion, and order disposing of this proceeding, without the introduction of further testimony, or the filing of briefs or oral argument in support thereof.

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 the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, McKenzie Oerting, is engaged in the business of selling ship chandlery supplies, under the trade

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name and style of McKenzie Oerting & Co., at the city of Pensacola, State of Florida, to ships engaged in coastwise and foreign commerce, and causes said commodities to be delivered to ships reaching ports in the State of Florida while engaged in transporting passengers and commodities between ports in the various States of the United States, and in transporting passengers between ports of the United States and foreign countries, in due course of commerce, among the several States of the United States and with foreign nations; that such supplies so sold by the respondent are consumed and used by the purchasers thereof upon the high seas in and beyond the territorial jurisdiction of the United States, and said business is and has been conducted by the respondent in direct, active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That the respondent, in the course of his business as described in paragraph 1 hereof, for several years last past has given to captains and other officers and employees of vessels reaching the port of Pensacola to which he has furnished ship chandlery supplies, without the knowledge or consent of their employers and without other consideration therefor, cash commissions and gratuities, amounting in value from 3 to 5 per cent of their invoices, as inducements to purchase for the owners of the vessels operated by them ship chandlery supplies from the respondent.

CONCLUSION.

That 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 amended answer of the respondent, and the testimony, and the Commission having made its findings as to the facts, with its conclusion that the respondent has 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 respondent, McKenzie Oerting, doing business under the name and style of McKenzie Oerting & Co., and

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his agents, servants, and employees, cease and desist from directly or indirectly giving to captains or other officers or employees of vessels cash commissions or gratuities of any kind whatsoever as inducements to purchase for the owners of the vessel operated by them ship chandlery supplies from the respondent.

It is further ordered, That the respondent, within 60 days after the date of service upon him 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 hereinabove set forth.

Complaint.

FEDERAL TRADE COMMISSION

v.

ST. LOUIS LIGHTNING ROD CO., MONARCH LIGHTNING
ROD CO., AND FRANKLIN LIGHTNING ROD CO.COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF
AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 307—March 30, 1921.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of lightning rods, couplings, and fixtures under its patents, brands, trade-marks, and trade names of "Franklin," "Franklin lightning rods," and "C. B. F. R." (Cole Bros. Franklin Rods), and in its stationery and advertising used therewith a picture of Benjamin Franklin, and thereafter a competitor, whose acknowledged products were made and sold under its own well-known name, brand and trade-mark,

- (a) Secretly organized and operated two other companies with fictitious addresses for nonexistent offices and manufacturing plants as independent manufacturers and competitors, in whose names it solicited business and sold its own products to customers to whom it could not sell under its own name and brand;
- (b) Adopted for one of these bogus independent companies the name of "Franklin Lightning Rod Co.," using therewith on its stationery and advertising a picture of Benjamin Franklin, and sold under the name of "Franklin lightning rods" its products, similar to its competitor's, thus passing off its goods for its competitor's;
- (c) Published false and disparaging statements and criticisms of a competitor and its course of business, together with letters of said competitor procured from its customers;

All with the intent and effect of deceiving and confusing the public, embarrassing its competitor, and restraining his trade:

Held, That such acts and practices, under the circumstances set forth, constituted unfair methods of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that St. Louis Lightning Rod Co., Monarch Lightning Rod Co., and Franklin Lightning Rod Co., hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate 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 ap-

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pearing 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, St. Louis Lightning Rod Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at the city of St. Louis, in said State, and is now and at all times hereinafter mentioned, has been engaged, directly and through its subsidiaries and owned and controlled concerns, in the manufacture and sale of lightning rods, fixtures, and ornaments generally in commerce throughout the States of the United States, the Territories thereof, and the District of Columbia, in direct competition with other persons, partnerships, and corporation similarly engaged; that the respondent, Monarch Lightning Rod Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at the city of St. Louis, in said State, and is now and at all times hereinafter mentioned has been engaged in the sale of lightning rods, fixtures, and ornaments generally in commerce throughout the United States, the Territories thereof, and the District of Columbia, in direct competition with other persons, partnerships, and corporations similarly engaged; that the respondent, Franklin Lightning Rod Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business in St. Louis, in said State, and is now and at all times hereinafter mentioned has been engaged in the sale of lightning rods, fixtures, and ornaments generally in commerce throughout the United States, the Territories thereof, and the District of Columbia, in direct competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. That the respondent St. Louis Lightning Rod Co. was organized in 1902 by H. F. Kretzer, who afterwards, in October, 1916, organized and financed the respondent Monarch Lightning Rod Co. as a subsidiary of said St. Louis Lightning Rod Co., and afterwards, in August, 1917, organized and financed the respondent Frankling Lightning Rod Co. also as a subsidiary of the said St. Louis Lightning Rod Co.; that the stock ownership and control of the respondent St. Louis Lightning Rod Co. and its subsidiaries have always been vested in said H. F. Kretzer and members of his family up to the date of the death of the said H. F. Kretzer in January, 1919, and since his death in the surviving members of the

family; that the nominal incorporators and officers of said subsidiary corporations are former employees of said St. Louis Lightning Rod Co.; that the respondent St. Louis Lightning Rod Co. has concealed and still continues to conceal from the purchasing public its control of an interest in the respondents Monarch Lightning Rod Co. and Franklin Lightning Rod Co. and has permitted and still permits said respondents to be held out and advertised as wholly independent of said St. Louis Lightning Rod Co., and has authorized and permitted the products of said subsidiaries to be sold and offered for sale without any disclosure of the real stock ownership or control of said subsidiaries, thereby acquiring for such subsidiaries certain trade and business which could not have been acquired had the stock ownership and control of said subsidiaries been known to the public.

PAR. 3. That the selection of the corporate name for the respondent Monarch Lightning Rod Co. has had the effect of creating confusion in the trade, thereby enabling respondents to compete unfairly for the business of a competitor, which competitor had given to its products the trade name of "Monarch," and had adopted for its products the trade slogan of "Monarch of all rods"; that the selection of the corporate name for the respondent Franklin Lightning Rod Co. has had the effect of creating confusion in the trade, thereby enabling respondents to compete unfairly for the business of another competitor which had succeeded to the business and assets, including the good will, of the Cole Bros. Lightning Rod Co., which company had marketed its product under the trade name of "Franklin"; that the name of an employee of the St. Louis Lightning Rod Co., with the name of "Daniels," was used as an incorporator of said Franklin Lightning Rod Co., which had the effect of causing further confusion in the trade, due to the fact that in the organization of a leading competitor of respondents' there was a man well known to the trade by the name of "Daniels."

PAR. 4. That respondents for more than two years last past have been pursuing the policy of spying on the business of their competitors, thereby obtaining confidential information concerning the business of said competitors, and have been secretly paying employees of its competitors large sums of money for confidential information concerning the business of such competitors, including names of customers and destinations of shipments of products sold by said competitors and other information constituting business secrets, and have used the information thus obtained in acquiring the business of their competitors.

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PAR. 5. That respondents have pursued the policy of making disparaging statements concerning the responsibility and business of their competitors and have reported to the trade that one of its most active competitors had retired from the lightning-rod business and had gone into the moving-picture business.

PAR. 6. That respondents have misbranded certain products sold by them and have designated a rod sold by them with a joint or connection which it designated as a "rivet grip" connection, whereas there is no rivet used in making such connection or joint, but said connection or joint contains only an imitation of a head of a rivet.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served upon the above-named respondents its complaint herein, wherein it is alleged that it had reason to believe that said respondents have been, and now are, using unfair methods of competition in interstate 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 that a proceeding by it in that respect would be to the interest of the public, and fully stating its charges in this respect, and the said respondents having entered their appearances and filed their answers to said complaint, and the issues so raised having come on for hearing before an examiner of the Commission, and the Federal Trade Commission having duly appeared and introduced its evidence in support of the said charges, and the said respondents having duly appeared in person and by attorney and introduced their evidence in denial thereof, and all testimony heard at said hearing having been reduced to writing, and, together with the evidence received, having been duly filed in the office of the Commission, and the Commission and respondents having, through their respective attorneys, submitted briefs and made oral argument herein, and the Commission having duly considered the same and being fully advised in the premises, makes this its report in writing, stating its findings as to the facts and conclusions as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That respondent St. Louis Lightning Rod Co. is a corporation organized and existing under and by virtue of the laws of the State of Missouri, having its principal office and place of business located at the city of St. Louis in said State, and is now, and at all times hereinafter mentioned has been, engaged in the business

of manufacturing and selling and shipping lightning rods and lightning-rod couplings and fixtures from the city of St. Louis in the State of Missouri to purchasers thereof, located throughout various States of the United States, in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 2. That respondent Monarch Lightning Rod Co. is a trade-name company, under which trade name the respondent St. Louis Lightning Rod Co. conducts a part of its business. That respondent St. Louis Lightning Rod Co., through respondent Monarch Lightning Rod Co. is now, and at all times hereinafter mentioned has been, engaged in the business of selling and shipping lightning rods and lightning-rod couplings and fixtures from the city of St. Louis, in the State of Missouri, to purchasers thereof located throughout various States of the United States in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 3. That respondent Franklin Lightning Rod Co. is a corporation organized and existing under and by virtue of the laws of the State of Missouri, having its principal office and place of business located in the city of St. Louis in said State, and is now, and at all times hereinafter mentioned has been, engaged in the business of selling and shipping lightning rods and lightning-rod couplings and fixtures from the city of St. Louis in the State of Missouri to purchasers thereof located throughout various States of the United States in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 4. That Henry F. Kretzer organized and caused to be incorporated respondent St. Louis Lightning Rod Co. in 1902, and became its president, and served as such until his death, in January, 1919; that Henry F. Kretzer during his lifetime owned and controlled respondent St. Louis Lightning Rod Co., and that since his death the personal representatives of Henry F. Kretzer have owned and controlled and do now own and control respondent St. Louis Lightning Rod Co.; that at the time of the organization of the respondent St. Louis Lightning Rod Co. it adopted, applied, and used the trade name "Kretzer Brand" for its lightning rods; that respondent St. Louis Lightning Rod Co., under its corporate name, has continuously since 1902 manufactured and sold "Kretzer Brand" lightning rods to the lightning-rod trade in interstate commerce, through the medium of traveling agents, correspondence, and advertising; that the trade name "Kretzer Brand" as adopted and applied to lightning rods manufactured and sold by respondent St. Louis Lightning Rod Co. under its corporate name has long since come to mean and designate

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to the lightning-rod trade lightning rods manufactured by respondent St. Louis Lightning Rod Co.

PAR. 5. That the respondent St. Louis Lightning Rod Co. through its traveling agents, for more than one year prior to the filing of the complaint herein, secured and procured from customers and prospective customers of a competitor letters written to said customers and prospective customers by its said competitor, and, with the purpose of embarrassing and restraining its said competitor in the manufacture and sale of lightning rods in interstate commerce, published and circulated among lightning-rod dealers located throughout various States of the United States certain printed publications wherein was printed and set forth copies of the aforesaid letters written by its said competitors to its customers and prospective customers, and wherein was printed and set forth false and disparaging statements, criticisms, and comments concerning its said competitor and the method and manner in which its said competitor conducted and transacted its said business, and that the tendency of such acts has been to hinder and dissuade customers and prospective customers from purchasing lightning rods from its said competitor.

PAR. 6. That respondent St. Louis Lightning Rod Co., in October, 1916, organized respondent Monarch Lightning Rod Co.; that respondent Monarch Lightning Rod Co. is owned and controlled by respondent St. Louis Lightning Rod Co.; that respondent St. Louis Lightning Rod Co., through the respondent Monarch Lightning Rod Co. and under the trade name Monarch Lightning Rod Co. has continuously since October, 1916, through the medium of advertising and correspondence, sold lightning rods in interstate commerce to the lightning-rod trade, said lightning rods being sold as and designated "Monarch lightning rods."

PAR. 7. That respondent St. Louis Lightning Rod Co. through respondent Monarch Lightning Rod Co. since the organization of said Monarch Lightning Rod Co., has represented, advertised, and held the said Monarch Lightning Rod Co. out to the lightning-rod trade and the general public to be an independent manufacturer of lightning rods and lightning-rod couplings and fixtures, with manufacturing plant and business office located at 822 Chestnut Street, St. Louis, Mo., whereas in truth and in fact respondent Monarch Lightning Rod Co. has not now and has never had any manufacturing plant and does not now and has never manufactured lightning rod or lightning-rod couplings and fixtures, and in truth and in fact respondent Monarch Lightning Rod Co.'s business office is not located at 822 Chestnut Street, in the city of St. Louis, in the State of

Missouri, but is located in the office of respondent, St. Louis Lightning Rod Co., located at 2135 DeKalb Street, in the city of St. Louis, in the State of Missouri.

PAR. 8. That respondent St. Louis Lightning Rod Co., at the time of the organization of respondent Monarch Lightning Rod Co., furnished and gave to respondent Monarch Lightning Rod Co. a list containing the names and address of lightning-rod dealers to whom respondent St. Louis Lightning Rod Co. had been unable to sell its "Kretzer Brand" lightning rods; that respondent St. Louis Lightning Rod Co., through the said Monarch Lightning Rod Co., has, through the medium of correspondence and advertising, solicited the sale of and sold Monarch lightning rods to lightning-rod dealers subsequent to and in instances where respondent St. Louis Lightning Rod Co. solicited the sale of and had been unable to sell its "Kretzer Brand" lightning rods.

PAR. 9. That Henry F. Kretzer organized and caused to be incorporated respondent Franklin Lightning Rod Co. in August, 1917, to engage in the business of selling lightning rods and lightning-rod couplings and fixtures, manufactured by respondent, St. Louis Lightning Rod Co.; that Henry F. Kretzer, during his lifetime owned and controlled respondent Franklin Lightning Rod Co. and that since his death his personal representatives have owned and controlled and do now own and control respondent Franklin Lightning Rod Co. That respondent Franklin Lightning Rod Co. under its corporate name has continually, since 1917, through the medium of advertising and correspondence, sold lightning rods in interstate commerce to the lightning-rod trade, said lightning rods being sold as and designated "Franklin lightning rods."

PAR. 10. That Cole Bros. Lightning Rod Co., a corporation organized under the laws of the State of Missouri, and located at the city of St. Louis, in said State, adopted, applied and used the name "Franklin" for lightning rods and lightning-rod couplings and fixtures and adopted and used a certain cut or picture of Benjamin Franklin upon its stationery and advertising matter; that the name "Franklin" as adopted and applied to lightning rods and lightning-rod couplings and fixtures had been used by Cole Bros. Lightning Rod Co. in the manufacture and sale of its lightning rods and lightning-rod couplings and fixtures for many years prior to the organization of respondent Franklin Lightning Rod Co.; that the name "Franklin," as adopted and applied to lightning rods and lightning-rod couplings and fixtures, had come to mean and designate to the lightning-rod trade lightning rods manufactured and sold by Cole Bros. Lightning Rod Co.

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PAR. 11. That Cole Bros. Lightning Rod Co., prior to the organization of respondent Franklin Lightning Rod Co., was the owner of United States registered trade-mark "Franklin" as applied to lightning rods and lightning-rod couplings and fixtures, same being the name it had for many years adopted, applied, and used to designate lightning rods and lightning-rod couplings and fixtures of its manufacture; said trade-mark being evidenced by registered certificate No. 104531.

PAR. 12. That Cole Bros. Lightning Rod Co., prior to the organization of respondent Franklin Lightning Rod Co., was the owner of United States registered trade-mark "C. B. F. R." as applied to lightning rods and lightning-rod couplings and fixtures, same being letters indicating Cole Brothers Franklin rods, which it had for many years adopted, applied and used to designate lightning rods and lightning-rod couplings and fixtures of its manufacture, said trade-mark being evidenced by registered certificate No. 104530.

PAR. 13. That Cole Bros. Lightning Rod Co., having decided to discontinue the further manufacture and sale of lightning rods and lightning-rod couplings and fixtures, on June 30, 1917, sold, assigned, and transferred to the Miller Lightning Rod Co., a corporation organized under the laws of the State of Missouri, having its business office and manufacturing plant located at the city of St. Louis, in the State of Missouri, its business, trade-marks, and patents; and that the said assignment of said trade-marks and patents was duly recorded in the United States Patent Office, October 27, 1917.

PAR. 14. That the Miller Lightning Rod Co., after purchase of the Cole Bros. Lightning Rod Co., notified the lightning-rod trade and advertised to said trade that it had purchased the business, trade-marks, and patents of Cole Bros. Lightning Rod Co. and would be prepared to manufacture and sell "Cole Bros. Franklin rods"; that the Miller Lightning Rod Co., after purchase of the Cole Bros. Lightning Rod Co.'s business, trade-marks, and patents, did manufacture and sell lightning rods and lightning-rod couplings and fixtures, branded, marked, and designated "Cole Bros. Franklin rods," and that the lightning rods and lightning-rod couplings and fixtures so branded and designated are the same in every respect as the lightning rods and lightning-rod couplings and fixtures formerly manufactured and sold by Cole Bros. Lightning Rod Co. and well-known to the trade as "Franklin lightning rods."

PAR. 15. That at the time of the organization of respondent, Franklin Lightning Rod Co., Henry F. Kretzer, selected and chose the corporate name "Franklin Lightning Rod Co."; that the lightning rods and lightning-rod couplings and fixtures manufactured by re-

spōndent St. Louis Lightning Rod Co. and sold to the lightning-rod trade by respondent Franklin Lightning Rod Co., under its corporate name, and designated and advertised as "Franklin Lightning rods," are similar in size, shape, and appearance to the lightning rods and lightning-rod couplings and fixtures formerly manufactured and sold by Cole Bros. Lightning Rod Co. and known to the trade as "Franklin Lightning rods," now manufactured and sold by the Miller Lightning Rod Co.; that respondent, Franklin Lightning Rod Co., in the conduct of its business since the time of its organization has used a certain cut or picture of Benjamin Franklin upon its stationery and advertising matter.

PAR. 16. That respondent St. Louis Lightning Rod Co. has represented, advertised, and held respondent Franklin Lightning Rod Co. out to the lightning-rod trade and the general public to be an independent manufacturer of lightning rods and lightning-rod couplings and fixtures, with manufacturing plant and business office located at 2134 South Second Street, St. Louis, Mo., whereas in truth and in fact respondent Franklin Lightning Rod Co. has not now and has never had any manufacturing plant and does not now and has never manufactured lightning rods or lightning-rod couplings and fixtures, and in truth and in fact respondent Franklin Lightning Rod Co.'s business office is not located at 2134 South Second Street, in the city of St. Louis, in the State of Missouri, but is located at the office of respondent St. Louis Lightning Rod Co., located at 2134 De Kalb Street, in the city of St. Louis, in the State of Missouri.

PAR. 17. That respondent St. Louis Lightning Rod Co., at the time of the organization of respondent Franklin Lightning Rod Co., furnished and gave to respondent Franklin Lightning Rod Co. a list containing the names and addresses of lightning-rod dealers to whom respondent St. Louis Lightning Rod Co. had been unable to sell its "Kretzer Brand" lightning rods; that respondent Franklin Lightning Rod Co. has, through the medium of correspondence and advertising, solicited the sale of and sold Franklin lightning rods to lightning-rod dealers subsequent to and in instances where respondent St. Louis Lightning Rod Co. solicited the sale of and has been unable to sell its "Kretzer Brand" lightning rods.

PAR. 18. That the effect of the acts, practices, and representations of respondents in the manner and form mentioned and set forth in the foregoing paragraphs are designed and calculated to embarrass competitors of said respondents in the conduct of their said business, and have the tendency and capacity to confuse and deceive the lightning-rod trade, and have resulted in confusion and uncertainty

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regarding the relation between respondents and a competitor of said respondents and have resulted in the lightning-rod trade being misled into believing that lightning rods sold by respondents were of the manufacture and sale of a competitor of said respondents.

CONCLUSIONS.

The practices of the said respondents, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in interstate 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 and answer of the respondents, testimony, and evidence, and the argument of counsel, and the Commission having made its findings as to the facts, with its conclusions 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 now ordered, That the respondent St. Louis Lightning Rod Co., and its agents, servants, and employees, and each and every one of them, do cease and desist from directly or indirectly:

1. Publishing or circulating advertising matter or other written or printed matter wherein is printed or set forth any false or disparaging statement, comment, or criticism concerning the business or business method of any competitor, or wherein is printed or set forth any false or disparaging statement, comment, or criticism concerning a letter or letters written by any competitor to a customer or prospective customer, with the purpose or effect of restraining or embarrassing any competitor in the conduct of its business or hindering or dissuading customers or prospective customers from purchasing lightning rods from any of its competitors.

2. Until such time as respondent Monarch Lightning Rod Co. may be actually engaged in the manufacture of lightning rods and lightning-rod couplings and fixtures, circulating in advertising matter, in letters, or otherwise, statements or representations to the effect that said Monarch Lightning Rod Co. is a manufacturer of lightning rods and lightning-rod couplings and fixtures, or in any other manner conveying the impression that said Monarch Lightning Rod Co.

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is engaged in the business of manufacturing lightning rods or lightning-rod couplings or lightning-rod fixtures, when it is not actually so engaged.

3. Circulating in advertising matter, in letters, or otherwise statements or representations which falsely state or represent the address or location of respondent Monarch Lightning Rod Co.'s office or place of business.

4. Selling lightning rods or lightning-rod couplings or fixtures through respondent Franklin Lightning Rod Co. without fully disclosing to the trade and the purchasing and consuming public that the St. Louis Lightning Rod Co. controls the distribution and sale of lightning rods and lightning-rod couplings and fixtures sold through, by, or under the name of respondent Franklin Lightning Rod Co.

5. Until such time as respondent Franklin Lightning Rod Co. may be actually engaged in the manufacture of lightning rods and lightning-rod couplings and fixtures, circulating in advertising matter, in letters, or otherwise, statements or representations to the effect that said Franklin Lightning Rod Co. is a manufacturer of lightning rods and lightning-rod couplings and fixtures, or in any other manner conveying the impression that said Franklin Lightning Rod Co. is engaged in the business of manufacturing lightning rods, or lightning-rod couplings, or lightning-rod fixtures when it is not actually so engaged.

6. Circulating in advertising matter, in letters, or otherwise statements or representations which falsely state or represent the address or location of respondent Franklin Lightning Rod Co.'s office or place of business.

It is further ordered, That the respondent St. Louis Lightning Rod Co. shall, within 60 days after the service upon it of a copy of this order, file with the Federal Trade 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 herein set forth.

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FEDERAL TRADE COMMISSION
v.
BIG FOUR GROCERY COMPANY.