FEDERAL TRADE COMMISSION

v.

THOMAS DUGGAN AND W. C. DUGGAN, PARTNERS STYLING THEMSELVES THOMAS DUGGAN & SON.

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

Docket 691—March 9, 1921.

SYLLABUS.

Where a firm engaged in the sale of ship chandlery, gave to captains and other employees of vessels to which it furnished supplies, without the knowledge and consent of their employers, cash gratuities and commissions, expensive gifts, meals, theater tickets, automobile rides, and other forms of entertainment 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 Thomas Duggan and W. C. Duggan, partners styling themselves Thomas Duggan & Son, hereinafter referred to as respondents, have been and are using unfair methods of competition 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 this respect on information and belief, as follows:

PARAGRAPH 1. That respondents constitute a partnership and carry on business at Savannah, Ga., under the firm name and style of Thomas Duggan & Son, and are engaged in the business of selling ship chandlery supplies for ships engaged in coastwise and foreign commerce, and deliver said commodities to ships reaching the port of Savannah 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, 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 is and has been conducted by respondents

in direct, active 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 give and have given to captains and other officers and employees of vessels to which they furnish ship chandlery supplies, cash gratuities and commissions, expensive gifts, meals, theater tickets, automobile drives, and other forms of entertainment, amusement, or diversion to induce such officers and employees to purchase from respondent ship chandlery supplies for the ships operated by them for the owners thereof, and without other consideration therefor. That respondents expend for cash gratuities and commissions as aforesaid sums of money equaling approximately 5 per cent of the total volume of sales by respondents of such ship chandlery supplies, and have paid out for entertainment purposes as aforesaid sums of money equaling approximately 2½ per cent of the volume of business done.

PAR. 3. 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, Thomas Duggan and W. C. Duggan, partners styling themselves Thomas Duggan & Son, 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 admitting all of the allegations of the complaint and each count and paragraph 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, are the facts in this case and shall be taken by the Federal Trade Commission as such and 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 conclusion and order, without the introduction of testimony, and thereupon this proceeding came on for final hearing, and the respondents having waived the filing of briefs and oral argument, 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, Thomas Duggan and W. C. Duggan, are partners styling themselves Thomas Duggan & Son, having their principal place of business in the city of Savannah, State of Georgia, and are now and at all times hereinafter mentioned have been engaged in the selling of ship chandlery for ships engaged in coastwise and foreign commerce, causing said commodities to be delivered to ships reaching ports in the State of Georgia while engaged in transporting passengers and commodities between ports in the various States of the United States and between ports of the United States and foreign countries, in due course of commerce among the several States of the United States or with foreign nations, such supplies so sold 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 furnish ship chandlery supplies, without the knowledge or consent of their employers and without other consideration therefor, cash gratuities and commissions, expensive gifts, meals, theater tickets, automobile rides, and other forms of entertainment, amusement, or diversion, to induce such officers and employees to purchase from respondents ship chandlery supplies for the ships operated by them for the owners thereof. That respondents have expended for cash gratuities and commissions as aforesaid sums of money equalling approximately 5 percent of the total volume of sales by the respondents of such ship chandlery supplies, and have paid out for entertainment purposes approximately 2½ per cent of the volume of said business.

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, en-

titled "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, Thomas Duggan and W. C. Duggan, partners styling themselves Thomas Duggan & Son, and their agents, servants, and employees, cease and desist from directly or indirectly giving to captains and other officers and employees of vessels cash gratuities and commissions, expensive gifts, meals, theater tickets, automobile rides, and other forms of entertainment, amusement, or diversion, as an inducement to such officers and employees to purchase for the owners of the vessels operated by them ship chandlery supplies 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.