FEDERAL TRADE COMMISSION

v.

UNITED INDIGO & CHEMICAL COMPANY, LTD.

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

Docket 596.—June 30, 1921.

SYLLABUS.

Where a corporation dealing in dyestuffs, chemicals, and other dyeing goods and products, gave to employees of customers and prospective customers, without the knowledge and consent of their employers,

(*a*) Gratuities of money, and

(*b*) Dinner parties, theater and baseball tickets, and lavish entertainment at large expense,

As an inducement for them to influence their employers to purchase its products or to refrain from dealing with its competitors:

Held, That such gifts and entertainment, 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 the United Indigo & Chemical Co. (Ltd.) has been and is now using unfair methods of competition in commerce, in violation of 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, and the Federal Trade Commission, having determined that a complaint should issue against said United Indigo & Chemical Co. (Ltd.) and that a full and complete inquiry with respect thereof would be to the interest of the public.

Therefore, the Federal Trade Commission, complaining, shows that it is informed, in such a manner that it believes the facts to be substantially as herein set out, and therefore charges as follows:

PARAGRAPH 1. That the said United Indigo & Chemical Co. (Ltd.) is a corporation, as defined by the act known as the Federal Trade Commission act, approved September 26, 1914, chartered, organized, and existing under the laws of Great Britain; that it has domesticated and registered in the State of Massachusetts, in the United States of America, and maintains its principal office and place of business in the United States, in the city of Boston, in said State of Massachusetts, and is engaged in the manufacture and sale, in commerce, of dyestuffs, chemicals, and other dyeing goods and products.

PAR. 2. That the said United Indigo & Chemical Co. (Ltd.) is and has been continuously for the year last past, and for a longer period of time, engaged in commerce as defined by the act of Congress, approved September 26, 1914, above mentioned, and that it is manufacturing and purchasing dyestuffs, chemicals, and other dyeing goods and products from manufacturers, dealers, and others in the State of Massachusetts and in other States and Territories of the United States and in the District of Columbia and foreign countries and having the said dyestuffs, chemicals, and other dyeing goods and products shipped and transported, in commerce, to, in, and through the State of Massachusetts to its place of business in the city of Boston and selling, shipping, and transporting said goods, in commerce, from its place of business in said city of Boston, in the State of Massachusetts, among other States and Territories of the United States and the District of Columbia and into foreign countries, and there is continuously and has been, at all times within the year last past and more, a constant current of trade in commerce, by said respondent, in said dyestuffs, chemicals, and other dyeing goods and products, among and between the various States of the United States, the Territories thereof, and the District of Columbia and into foreign countries to and through the city of Boston, in the State of Massachusetts, and therefrom to and through other States of the United States and Territories thereof and the District of Columbia and into foreign countries.

PAR. 3. That the United Indigo & Chemical Co. (Ltd.), in the course of selling dyestuffs, chemicals, and other dyeing goods and products, in commerce, as defined by 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," has been for more than a year last past, and still is, engaged in unfair methods of competition, in commerce, in violation of section 5 of the abovenamed act, approved September 26, 1914, in that, in the conduct of its business in selling dyestuffs, chemicals, and other dyeing goods and products, it secretly and without the knowledge of the purchasers, consumers, or prospective purchasers of its goods offered to give, and did actually give, to the employees of its customers and purchasers of its goods and offered to give, and did actually give, to the employees of the customers of its competitors, dinners, theater tickets, prize-fight tickets, and also paid out and expended large sums of money in lavish entertainments to the employees of its customers, purchasers, and proposed customers and purchasers, and to employees of the customers and purchasers of its competitors, and also offered to pay, and did actually pay, secretly and without the

knowledge of its customers, purchasers, and competitors, cash commissions and other bonuses, prizes, rewards, compensations, and gratuities to the employees of its customers, purchasers, and to the employees of its competitors, all of which was done by respondent to induce such employees to advocate, push, and favor the goods and the sale of the dyestuffs, chemicals, dyeing, and other products of respondent over its competitors, and to induce the said employees of its customers, purchasers, and competitors to pursuade, urge, and recommend to their employers to purchase the dyestuffs, chemicals, and other dyeing goods and products of respondent, instead of the goods of the competitors of the respondent, in order that such employees might receive the cash commissions, bonuses, prizes, rewards, compensation, and gratuities offered and promised by the said respondent, all of which acts of respondent are unfair methods of competition and in violation of the intent and meaning of section 5 of the Federal Trade Commission act, approved September 26, 1914.

PAR. 4. That by reason of the facts set out in the foregoing paragraphs of this complaint, the respondent has been guilty of unfair methods of competition in commerce as defined and prohibited by 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."

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, United Indigo & Chemical Co. (Ltd.), charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered its appearance and filed its answer and amended answer herein, and a hearing having been had and evidence introduced in support of the allegations of said complaint before an examiner of the Federal Trade Commission theretofore duly appointed;

Thereupon this proceeding came on for final hearing, and the respondent having waived the introduction of further evidence, and the attorneys for the Commission and the respondent 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, United Indigo & Chemical Co. (Ltd.), is a corporation organized and existing under the laws of Great Britain, having a registered office in the State of Massachusetts, in the United States of America, and a place of business in the city of Boston, in said State of Massachusetts, and is now and at all times hereinafter mentioned has been engaged in the selling and transporting of dyestuffs, chemicals, and other dyeing goods and products through and among the various States and Territories of the United States, the District of Columbia, and into foreign countries in direct competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That the respondent, the United Indigo & Chemical Co. (Ltd.), in the course of its business as described herein, purchases dyestuffs, chemicals, and other dyeing goods and products from manufacturers, dealers, and others in the State of Massachusetts and in other States of the United States and foreign countries, transporting such products from said places of purchase through other States of the United States to their place of business in the city of Boston, State of Massachusetts, where they are kept and stored for their trade in selling such commodities.

PAR. 3. That the respondent, the United Indigo & Chemical Co., in the course of its business of selling dyestuffs, chemicals, and other dyeing goods and products, as described herein, for several years last [past] to July 1, 1919, gave to employees of its customers, without the knowledge and consent of their employers, gratuities in the form of money as an inducement to persuade, urge, and recommend to their employers the purchase of dyestuffs, chemicals, and other dyeing goods and products from respondent, or to refrain from purchasing such products from competitors of the respondent.

PAR. 4. That the respondent, the United Indigo & Chemical Co. (Ltd.), in the course of its business in selling dyestuffs, chemicals, and other dyeing goods and products, as described herein, for several years last past has given to employees of its customers and prospective customers, without the knowledge and consent of their employers, dinner parties, theater and baseball tickets, and expended large sums of money in lavish entertainment of such employees, as an inducement to persuade, urge, and recommend to their employers the purchase of dyestuffs, chemicals, and other dyeing goods and products from the respondent, or to refrain from purchasing such products from competitors of the respondent.

PAR. 5. That the annual sales of dyestuffs, chemicals, and other dyeing goods and products in the United States by the respondent,

the United Indigo & Chemical Co., during the years 1916, 1917, and 1918 amounted to approximately $700,000 per year, and its expenditures for entertainment and gratuities given to employees during that period averaged from $40,000 to $50,000 per year.

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 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer and amended answer of respondent, and 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 therefore ordered, That the respondent, the United Indigo & Chemical Co. (Ltd.), its officers, directors, agents, salesmen, servants, and employees cease and desist from directly or indirectly giving to employees of its customers, or prospective customers, or those of its competitors' customers or prospective customers, without the knowledge and consent of their respective employers, sums of money, dinner parties, theater and baseball tickets, and other forms of entertainment as an inducement to persuade, urge, or recommend to their employers the purchase of dyestuffs, chemicals, and other dyeing goods and products from the respondent, or to refrain from purchasing such dyestuffs, chemicals, and other dyeing goods and products from competitors of respondent, and

It is further ordered, That the respondent, within 60 days after the date of 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 herein set forth.

FEDERAL TRADE COMMISSION
v.
ORLEANS IRON WORKS, INC.