

Complaint.

FEDERAL TRADE COMMISSION

v.

SEALWOOD COMPANY.

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

Docket 601—August 9, 1921.

SYLLABUS.

Where a corporation dealing in a substitute for shellac, and in a reducer used in connection therewith, gave and offered to give to employees of its customers and prospective customers, without the knowledge and consent of their employers, gratuities such as money, liquor, cigars, meals and other personal property as inducements to them to influence their employers to purchase its products to the exclusion of its competitors', with the effect of compelling its competitors to do likewise or lose business, and of increasing the cost of its products to the public: *Held*, That such gifts and offers to give, 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 Sealwood Company, 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 respondent is a corporation, organized and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business in the City of St. Louis, in said State.

PAR. 2. That respondent for more than a year last past has been, and now is, engaged in the business of selling and distributing a commodity used as a substitute for shellac, known as "Sealwood," and in selling and distributing a reducer used in connection therewith; and that such sales are made throughout the States and Territories of the United States in competition with others engaged in selling shellac and reducers therefor.

PAR. 3. That for more than a year last past, respondent, in the course of its said business, has been and now is giving and offering to give to employees, who in the regular course of their employment use

Findings.

4 F. T. C.

shellac, or who direct its use by others, or who are required to purchase shellac for, or recommend the purchase of shellac to, their respective employers, gratuities, such as money, liquor, cigars, meals and other personal property, as inducements to said employees to influence their respective employers to purchase from respondent its said substitute for shellac and the reducer used in connection therewith to the exclusion of the products of its competitors.

PAR. 4. That by reason of the foregoing facts, respondent has been and is using unfair methods 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 Sealwood Company, 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 by its Attorney, and filed its answer herein, hearings were had and evidence was thereupon introduced in support of the allegations of said complaint and on behalf of the respondent, the Sealwood Company, before Examiners of the Federal Trade Commission, theretofore duly appointed.

After considerable testimony and evidence had been offered and received in this proceeding, the respondent through its Attorney formally admitted for the purpose of this proceeding that the facts recited below are true and correct, and requested that the Commission dispose of this matter without the introduction of further testimony, and make its findings as to the facts and issue its order against the respondent, directing it and its officers, agents, salesmen and other representatives to cease and desist from directly or indirectly continuing to use the methods and practices alleged and charged in the complaint.

And thereupon this proceeding came on for final hearing, and the Commission, having heard argument of counsel and 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 respondent is a corporation organized and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business in the city of St. Louis, in said State.

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Order.

PAR. 2. That respondent for more than a year last past has been, and now is, engaged in the business of selling and distributing a commodity used as a substitute for shellac, known as "Sealwood," and in selling and distributing a reducer used in connection therewith; and that such sales are made throughout the States and Territories of the United States in competition with others engaged in selling shellac and reducers therefor.

PAR. 3. That for more than a year last past, respondent, in the course of its said business, has been and now is giving and offering to give to employees, who in the regular course of their employment use shellac, or who direct its use by others, or who are required to purchase shellac for, or recommend the purchase of shellac to, their respective employers, gratuities, such as money, liquor, cigars, meals and other personal property, as inducements to said employees to influence their respective employers to purchase from respondent its said substitute for shellac and the reducer used in connection therewith to the exclusion of the products of its competitors; that respondent in so giving and offering to give gratuities to employees, acted secretly and without the knowledge or consent of the employers of such employees; that the giving of such gratuities by respondent tends to and does compel its competitors to adopt the same or similar methods of competition, or suffer the loss of business; and that the cost of making such expenditures become a part of the expense incurred by respondent in distributing its products and is added to the price charged the purchasing public for such products.

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 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 the answer of the respondent, the testimony and evidence and the argument of counsel, 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,"

Order.

4 F. T. C.

It is now ordered, That the respondent, Sealwood Company, and its officers, agents, servants, representatives and employees cease and desist from giving or offering to give, directly or indirectly, to employees of customers or prospective customers, who in the course of their employment, use, purchase, or recommend for purchase, or who direct or control the use or purchase by others of shellac, or other commodities manufactured or sold by respondent, for their respective employers, gratuities of money, liquor, cigars, meals or other personal property, without the knowledge or consent of their employers, for the purpose of inducing said employees to influence, or as a reward for influencing their respective employers to purchase from the respondent any commodity manufactured for sold by it, or to refuse to purchase products of its competitors.

It is further ordered, That the respondent within sixty (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 hereinbefore set forth.

SEYMOUR CHEMICAL CO. ET AL.

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Complaint.

FEDERAL TRADE COMMISSION

v.

SEYMOUR CHEMICAL CO. AND ALEXANDER S. MANN.