

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

Docket 744—October 26, 1921.

SYLLABUS.

Where an individual engaged in the business of repairing and furnishing repair parts to ships, paid and offered to pay to a ship company's port engineer and to a scaler who brought said individual work, without the knowledge or consent of the boat owners or employers of said engineer, a cash gratuity of 10 per cent of the total amount of all repair work they were instrumental in securing for him, tending thereby to induce employees of boat owners to prefer him unduly over his competitors, to induce his competitors to maintain similar practices, to increase the cost of repairs unduly and unfairly, and to increase unduly the cost of transportation to the general public:

Held, That such payments and offers to pay, under the circumstances set forth, constituted an unfair method of competition.

AMENDED COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Wm. Robinson, doing business under the name and style of Southern Machine Works, 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 amended complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Wm. Robinson, carries on a business at New Orleans, in the State of Louisiana, under the trade name and style of Southern Machine Works.

PAR. 2. That respondent is engaged in the business, among other things, of repairing and furnishing repair parts to ships which reach the port of New Orleans, State of Louisiana, while engaged in the transportation of passengers and cargoes between ports in the various

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States of the United States, and the transportation of passengers and cargoes between ports of the United States and foreign nations, in direct, active competition with other persons, partnerships and corporations similarly engaged. That the respondent carries or causes to be carried aboard such vessels so engaged, materials and repair parts, and sends his employees aboard such vessels to install such parts and make such repairs thereon as may be required by such vessel owner.

PAR. 3. That the respondent in the course of his business as described in Paragraph 2 hereof, since January 1, 1920, has given and offered to give to port engineers, or purchasing agents, or other representatives or employees of the owners of vessels reaching the port of New Orleans, without the knowledge and consent of their employers, and without other consideration therefor, valuable gifts and gratuities in the form of money amounting to approximately 10 per cent of their bills for repair work, to induce such engineers, employees, or representatives to have such vessels, for the owners thereof, repaired, and repair parts for same furnished by the respondent. That as a result of the giving of such valuable gifts and gratuities in the form of money, the respondent adds to his annual cost of doing business and is compelled to and does add to his charge for the repair work done and for the repair parts furnished an amount approximating 10 per cent of a fair charge for such services, which is in addition to a fair charge for such services, and which additional amount the customers of the respondent, and eventually the public, must pay. That as a further result of the respondent's said practices, all of his competitors are affected, and the giving of valuable gifts and gratuities in the form of money, as aforesaid, has tended to cause competitors of the respondent, who in many instances have not engaged in such practices, to give engineers, officers, employees and other representatives of the owners of ships, valuable gifts and gratuities in the form of money, of substantially equal value and like amounts to those paid by respondent as aforesaid, for the same purposes and with the same effect, as a means of protecting their trade and preventing respondent from obtaining the business enjoyed by them.

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, 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 and an amended complaint upon the respondent, William Robinson, doing business under the trade name and style of Southern Machine Works, 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 filed his answers herein, admitting all of the allegations of said amended complaint and each count and paragraph thereof, and agreeing and consenting that the Federal Trade Commission shall forthwith proceed to make and enter its report, findings as to the facts and order, without the introduction of testimony in support thereof, and that said answers shall be taken and considered as and in lieu of testimony, and whereupon 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 report, stating its findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, William Robinson, is an individual trader doing business in the City of New Orleans, State of Louisiana, under the trade name and style of Southern Machine Works, conducting a general machine repairing plant, repairing and furnishing repair parts to vessels which reach the port of New Orleans, State of Louisiana, while engaged in the transportation of passengers and cargoes between ports in the various states of the United States and the transportation of passengers and cargoes between ports of the United States and foreign nations, in direct and active competition with other persons, partnerships and corporations similarly engaged; that the respondent carries or causes to be carried aboard such vessels so engaged materials and repair parts and sends his employees aboard such vessels to install such parts and make such repairs thereon as may be required by representatives and employees of the owners of such vessels.

PAR. 2. That the respondent in the course of his business, as described in Paragraph 1 herein, during the year 1920, in order to secure business of making repairs on the vessels of a certain steamship company, entered into an agreement and understanding with the port engineer of said line of ships, to pay him a gratuity of ten per cent in cash of the total amount of all the repair jobs the said engi-

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neer turned his way for the company he represented; that from June 22nd to October 13th, 1920, the total repairs done by the respondent under this arrangement amounted to \$8,174; that the respondent gave said port engineer \$400 under the arrangement between them to secure said repair business, and that he expected to give said port engineer an additional amount of \$417 on the payment of the balance due him for the repair work done on the vessels of said steamship company; that he also gave a scaler who brought him a repair job on a vessel \$15 in the manner and for the purpose aforesaid; that said gratuities were added into the bill for the work and do not appear on the respondent's books as such and were given without the knowledge and consent of the owners of said steamship line or employers of said port engineer.

PAR. 3. That this method of competition set out in the preceding paragraph tends to induce the employees of the owners of vessels touching at the port of New Orleans in the course of foreign and domestic commerce unduly to prefer the respondent to its competitors in the business of furnishing repair parts and repair work upon such vessels, to induce its competitors to maintain similar practices, to increase the cost of repair parts and repair work unduly and unfairly and to increase unduly the cost of transportation to the general public.

CONCLUSION.

That the practices of 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 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 TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint and an amended complaint of the Commission and the answers of the respondent admitting all of the allegations of the amended complaint and each count and paragraph thereof, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report, findings as to the facts and order without the introduction of testimony in support thereof, and that his answers shall be taken and considered as and in lieu of testimony, and the Commission having made its findings as to the facts and 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 ordered, That the respondent, William Robinson, doing business under the trade name and style of Southern Machine Works, his agents, servants and employees cease and desist from directly or indirectly giving to port engineers or other employees or representatives of steamship companies, sums of money or gratuities of any kind whatsoever as an inducement to have vessels repaired and repair parts for same furnished by the respondent, or as a reward for having such vessels repaired by the respondent.

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

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v.

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