

Complaint.

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## FEDERAL TRADE COMMISSION

v.

## HAAS BROTHERS PACKING COMPANY, INC.

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

Docket 823—February 25, 1922.

## SYLLABUS.

Where a corporation engaged in the sale of ship chandlery to coastwise and ocean-going ships, including vessels under foreign registry, the business of which it solicited, paid to the captains and stewards of the vessels, without the knowledge or consent of their employers or principals, commissions of 5 per cent of the invoices as an inducement for them to purchase of it; with the effect of increasing the price of its products over and above their fair market value, of increasing the cost to the public of the service rendered by the employers, and of compelling competitors to adopt the same method in order to retain their business:

*Held*, That such payments, 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 Haas Brothers Packing Company, Inc., hereinafter referred to as the respondent, has been and is 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 that respect on information and belief as follows:

PARAGRAPH 1. That the respondent is a corporation organized and existing under the laws of the State of Alabama, with its principal place of business at Mobile, in said State.

PAR. 2. That the respondent is engaged in the business of selling meats and provisions to officers and employees in charge of vessels and the agents of owners of vessels which reach the port of Mobile, Ala., while engaged in the transportation of passengers and cargoes between ports of the United States and foreign countries, such meats and provisions sold by respondent being for consumption on the said vessels while so engaged in and beyond the territorial jurisdiction of the United States; respondent carries on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. That respondent in the course of his business, as described in paragraph 2 hereof, gives and has given to captains and other officers and employees in charge of vessels to which it furnishes meats and provisions, without the knowledge or consent of their employers or principals, cash commissions and gratuities to induce said officers and employees to purchase from respondent meats and provisions for consumption upon the vessels operated by them for the owners thereof, or as a reward for having purchased same from respondent; that respondent pays out for such commissions and gratuities, large sums of money which amount in the aggregate to 5 per cent of the gross income derived from that branch of its business; that as a result of the giving of such commissions and gratuities respondent adds to its cost of doing business approximately \$2,000 per year and is compelled to and does add to the selling price of the commodities sold by it, as aforesaid, an amount approximating 5 per cent of a fair market value of said commodities, which amount customers of respondent and eventually the public must pay; that as a further result of respondent's said practices, all of its competitors are affected; that such practices tend to cause competitors to pay like commissions and gratuities to officers and employees in charge of vessels which reach the port of Mobile, Ala., for the same purposes and with the same effect, as a means of protecting their trade and preventing the respondent from obtaining the business enjoyed by them.

PAR. 4. That by reason of the facts recited, the respondent is 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 respondent, Haas Brothers Packing Company, Incorporated, charging it with the use of unfair methods of competition in violation of the provisions of said Act.

The respondent having entered its appearance and filed its answer herein, hearings were had and evidence was thereupon introduced in support of the allegations of the said complaint before F. C. Baggarly, an examiner of the Federal Trade Commission theretofore duly appointed.

And thereupon this proceeding came on for final hearing and the Commission, having duly considered the record and being now fully

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advised in the premises, makes this its findings as to the facts and conclusion.

## FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent Haas Brothers Packing Company, Incorporated, is a corporation, organized under the laws of the State of Alabama about fifteen years ago, with an authorized capital stock at this time of \$12,000. Its principal place of business and executive offices are located in Mobile, Ala.

PAR. 2. The respondent, trading as aforesaid, is now and has for more than two years last past been engaged in the selling of ship chandlery or steward supplies, consisting mostly of meats for consumption upon vessels which reach the Port of Mobile, Ala., while engaged in the transportation of passengers and cargoes between ports in the various States of the United States and in commerce between ports of the United States and ports in foreign countries, and such business has been and is being conducted by respondent in direct, active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 3. The respondent, in the course of its business as described in paragraph 2 hereof, has solicited the business of and has sold and delivered to vessels engaged in coastwise trade, plying between the ports of Mobile, Ala., and ports in other States of the United States, and has also solicited the business of and has sold and delivered to vessels under foreign registry, including Norwegian, Spanish, Italian, and British, while said vessels were engaged in commerce, steward or food supplies necessary for the use and maintenance of the officers and crew of such vessels while in port and upon the high seas; said supplies so furnished were necessary in order that said vessels could continue to operate as instrumentalities of commerce.

PAR. 4. The respondent, trading as aforesaid and in the course of its business as heretofore described, has given to captains and stewards of vessels, engaged in interstate and foreign commerce, and without the knowledge or consent of their employers or principals, and without other consideration therefor, cash commissions or gratuities to an amount approximating 5 per cent of the invoice of sales so made to induce such officers to purchase meats and provisions from respondent for use and consumption upon vessels while engaged in commerce and while operated by said officers for their principals or owners thereof, and particularly gave to captains and stewards of vessels for their personal use, sums of money in cash,

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## Findings.

the same being approximately 5 per cent of the invoice sales covering ship supplies purchased on the following dates:

|                                                  |      |
|--------------------------------------------------|------|
| Jan. 9, 1919. Decatur Bridge                     | \$47 |
| Jan. 25, 1919. Luf Coma                          | 100  |
| Feb. 19, 1919. Steamship <i>Everglade</i>        | 50   |
| Feb. 23, 1919. Steamship <i>Knoxville</i>        | 20   |
| Mar. 6, 1919. Lake Elmhurst                      | 65   |
| Mar. 25, 1919. Steamship <i>West Kyska</i>       | 35   |
| Apr. 5, 1919. Steamship <i>Lake Allen</i>        | 50   |
| Apr. 16, 1919. Steamship <i>Lake Gardner</i>     | 60   |
| Apr. 26, 1919. Steamship <i>Lake Tesco</i>       | 30   |
| May 21, 1919. Steamship <i>Laurel</i>            | 45   |
| May 22, 1919. Steamship <i>Glorietta</i>         | 25   |
| June 9, 1919. Steamship <i>Cave Nest</i>         | 85   |
| June 16, 1919. Steamship <i>Asquain</i>          | 25   |
| July 13, 1919. Steamship <i>Lake Falcraft</i>    | 60   |
| Sept. 2, 1919. Steamship <i>Lake Elnebert</i>    | 60   |
| Sept. 14, 1919. Steamship <i>West Kyska</i>      | 50   |
| Sept. 6, 1919. Steamship <i>Lake Garza</i>       | 60   |
| Sept. 10, 1919. Steamship <i>Tuecom</i>          | 50   |
| Sept. 15, 1919. Steamship <i>Quattagus</i>       | 75   |
| Sept. 22, 1919. Steamship <i>Ossining</i>        | 100  |
| Sept. 24, 1919. Steamship <i>Lake Fon du Lac</i> | 50   |
| Oct. 2, 1919. Steamship <i>Munisca</i>           | 60   |
| Oct. 5, 1919. Steamship <i>Lockhart</i>          | 50   |
| Oct. 5, 1919. Steamship <i>Lake Gunce</i>        | 125  |
| Oct. 5, 1919. Steamship <i>Tuecoma</i>           | 50   |
| Oct. 6, 1919. Steamship <i>Lake Fernwood</i>     | 50   |
| Oct. 16, 1919. Steamship <i>Lake Kytile</i>      | 50   |
| Oct. 18, 1919. Steamship <i>Hutchinson</i>       | 90   |
| Oct. 18, 1919. Steamship <i>Hutchinson</i>       | 100  |
| Nov. 5, 1919. Steamship <i>Brabant</i>           | 20   |
| Feb. 26, 1920. Steamship <i>Brabant</i>          | 21   |
| Mar. 4, 1920. Tug <i>S. American</i>             | 10   |
| 1920. Steamship <i>Tuscan</i>                    | 10   |
| Mar. 18, 1920. Steamship <i>Tuscan</i>           | 15   |

Said sums of money allowed and paid to captains and stewards of vessels as commissions or gratuities, aggregating approximately 5 per cent of the volume of sales so made, is added by respondent to its cost of doing business, and respondent adds to the selling price of the supplies so sold by him an amount sufficient to cover the amount so expended, which is an addition to the fair market value of such commodities, and which additional amount as paid becomes a charge against the owner or operator of said vessels and ultimately against the public.

PAR. 5. The giving of cash commissions or gratuities causes competitors of the respondent who do not desire to engage in such practices to give commissions or gratuities of substantially like amounts

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to the officers or employees of said vessels for the purpose of protecting their trade and as a means of preventing respondent from obtaining the business enjoyed by such competitors.

## CONCLUSION.

The practices of said respondent, as set forth in the foregoing findings as to the facts, are unfair methods of competition in 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 of the respondent, and the testimony and evidence submitted, 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,"

*It is now ordered*, That the respondent, Haas Brothers Packing Company, Incorporated, Mobile, Ala., and its officers, agents, representatives, servants, and employees cease and desist from directly or indirectly giving to agents, captains, masters, stewards, engineers, or other employees of vessels, engaged in commerce, cash or other gratuities without the knowledge or consent of their employers, as inducements to influence their employers to purchase and as gratuities for purchasing for said employers, ship chandlery consisting of meats and provisions or similar supplies necessary or essential in the operation of said vessels as instrumentalities of commerce.

*It is further ordered*, That the respondent, within sixty (60) days after the 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.

**COWLEY PACKING CO., INC.**

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*v.*

**COWLEY PACKING COMPANY, INC.**