

Complaint.

FEDERAL TRADE COMMISSION

v.

E. E. WHITE, TRADING UNDER THE NAME AND STYLE
OF WHITE STAR MARKET.COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 832—March 6, 1922.

SYLLABUS.

Where an individual engaged in the sale to coastwise and ocean-going vessels under foreign registry, of ship chandlery supplies required by them in order to operate as instrumentalities of interstate or foreign commerce, paid to the captains of such vessels, without the knowledge or consent of their employers or principals, cash commissions of 5 per cent of the invoices as an inducement for them to purchase of him; with the effect of increasing the price of his products to the employers or owners over and above their fair market value, 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 E. E. White trading under the name and style of White Star Market, hereinafter referred to as 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 respondent carries on business at Pensacola, Fla., under the name and style of White Star Market and is engaged in the business of selling meats and vegetables for consumption upon vessels which reach the port of Pensacola, Fla., while engaged in the transportation of passengers and cargoes between ports in various States of the United States and between ports of the United States and foreign countries; respondent carries on said business in direct, active competition with said persons, partnerships and corporations similarly engaged.

PAR. 2. That respondent in the course of his business as described in Paragraph 1 hereof, gives and has given to captains and other

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officers and employees of vessels, without the knowledge or consent of their employers or principals, cash commissions and gratuities to induce such officers and employees to purchase meats and vegetables from respondent for consumption upon such vessels operated by them, for the owners thereof, or as a reward for having purchased such supplies from respondent, and without other consideration therefor; that respondent expends for cash commissions and gratuities, as aforesaid, large sums of money aggregating approximately 5 per cent of the volume of sales so made, which sums are added to respondent's cost of doing business, and respondent is compelled to, and does, add to the selling price of the commodities so sold by him, an amount sufficient to cover the amount so expended, which is in addition to the fair market value of such commodities, which additional amount the customers of respondent, and eventually the public, must pay; that as a further result of respondent's said practices, all of his competitors are affected and such practices have tended to cause competitors of respondent to give to employees of their customers, commissions and gratuities of substantially 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. 3. 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, E. E. White, trading under the name and style of White Star Market, charging him with the use of unfair methods of competition in violation of the provisions of said Act.

The respondent having entered his appearance and filed his answer herein, hearings were had and evidence was thereupon introduced in support of the allegations of 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 advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent, E. E. White, trading under the name and style of White Star Market, is an individual having his principal office and place of business in the City of Pensacola, State of Florida.

PAR. 2. The respondent, trading as aforesaid, is now and has since July, 1920, been engaged in the selling of ship chandlery or steward supplies, consisting mostly of fish, oysters and meats for consumption upon vessels which reach the port of Pensacola, Fla., while engaged in the transportation of 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 his business as described in Paragraph 2 hereof, has solicited the business of and has sold and delivered to vessels of the United States Shipping Board, plying between the ports of Pensacola, Fla., 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 Italian and Portuguese, 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, all of which supplies so furnished were necessary in order that said vessels could operate as an instrumentality of interstate or foreign commerce.

PAR. 4. The respondent, trading as aforesaid and in the course of his business as heretofore described, has given to captains of foreign vessels, engaged in 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 of 5 per cent of the invoice of sales so made to induce such officers to purchase provisions or steward supplies from respondent, and particularly gave to captains of foreign vessels for their personal use sums of money aggregating 5 per cent commission upon the amounts covering supplies purchased on the following dates:

Jan. 8, 1921, Italian, <i>Rosendo</i>	invoice..	\$224. 85
Jan. 18, 1921, Portuguese, <i>Cuavas</i>	do.....	783. 00
Mar. 19, 1921, Portuguese, <i>Dainantino</i>	do.....	288. 45
Mar. 19, 1921, Italian, <i>Rosa M</i>	do.....	438. 00
May 7, 1921, Italian, <i>Sulima</i>	do.....	78. 90

Said sums of money allowed and paid to captains of vessels as cash commissions or gratuities, aggregating 5 per cent of the volume of sales so made are added by respondent to his cost of doing busi-

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ness, 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 in addition to the fair market value of such commodities, which additional amount the vessel owner pays.

PAR. 5. The giving of such 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 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 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 of respondent, and 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, E. E. White, of Pensacola, Fla., and his representatives, agents, servants and employees, cease and desist from directly or indirectly giving to captains, masters, stewards, engineers or other employees of vessels engaged in commerce, without the knowledge and consent of their employers, cash or other gratuities, as inducements to influence their employers to purchase and as gratuities for purchasing for said employers, ship chandlery or other 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 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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FEDERAL TRADE COMMISSION

v.

SOL GOODMAN, ADOLPH GREENSPAN AND IRVINE
GREENSPAN, PARTNERS TRADING UNDER THE NAME
AND STYLE OF SOLUS MANUFACTURERS COMPANY.

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

Docket 855—March 6, 1922.

SYLLABUS.

Where a firm engaged under the style of Solus Manufacturers Co. in the sale by mail of razors which were bought by them for approximately 45¢ each and were packed in individual containers labeled, at their request, "Solus Manufacturers Company, Nashville, Tennessee, Price \$3.50. Fully warranted," advertised, offered and sold said razors, so packed, on approval at \$1.95, offering free to purchasers a hone costing from 15¢ to 20¢ each and usually retailing at 50¢, which they advertised as "A fine \$1.00 razor hone"; thereby intentionally misleading and deceiving the purchasing public into believing that they were offering and selling razors of special quality at manufacturers' prices, and inducing the public to purchase said razors in the mistaken belief that they were securing a high grade razor at a greatly reduced price:

Held, That such practices, 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 Sol Goodman, Adolph Greenspan and Irvine Greenspan, partners trading under the name and style of Solus Manufacturers Company, 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 that respect upon information and belief, as follows:

PARAGRAPH 1. That respondents are partners trading under the name and style of Solus Manufacturers Company, and carry on business at Nashville, Tennessee, and are engaged, in part, in the business of buying at wholesale, razors, and selling same upon mail orders to the general public in various States of the United States; and respondents cause razors sold by them to be transported to the purchasers thereof from the State of Tennessee through and into other

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States of the United States, and carry on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. That respondents, in the course of their business as described in Paragraph One hereof, cause advertisements to be published in newspapers and periodicals having general circulation throughout various States of the United States, in which advertisements the offer is made by respondents to send razors to prospective purchasers for free trial for a period of fifteen days, and that after such trial, if the customer should desire to purchase such razor, and send to respondents \$1.95 in payment of same, that respondents would then send to such customer a razor hone which is described and represented in said advertisement to be "a fine, \$1.00 razor hone" free; the customer is further given the option of returning the razor without charge if he should not desire to purchase it after trying it.

PAR. 3. That the razors sent by respondents to prospective purchasers in accordance with the terms of the advertisements described and referred to in Paragraph Two hereof are not manufactured by respondents, but are purchased by respondents from manufacturers at prices of approximately 45¢ each, and are packed singly in containers upon which there is printed at the instance and request of respondents, "Solus Manufacturers Company, Nashville, Tennessee. Price \$3.50. Fully Warranted." That such printed matter is false and misleading and is intended by respondents to deceive the purchasing public, and does actually mislead and deceive the purchasing public into believing that the respondents are manufacturers of razors, and are offering for sale and selling razors of a special quality at the manufacturers' price, without the intervention of a middleman; whereas, respondents do not sell such razors at the manufacturers' price, but at a price in excess of that at which razors of like grade and quality sell for in the usual course of retail trade.

PAR. 4. That the descriptions contained in respondents' said advertisements of the razor hone which respondents offer to give and give free to customers who purchase razors, is false and misleading, in that such hones are not "fine \$1.00 razor hones," but are purchased by respondents at prices ranging from 15¢ to 20¢ each, and are sold in due course of retail trade at about 50¢ each.

PAR. 5. That the price mark printed upon the containers of the razors sold by respondents, as set out in Paragraphs Two and Three hereof, and the claimed price of the hones given free to each purchaser of a razor are false and fictitious and greatly in excess of the price at which razors and hones of like grade and quality sell for

in the usual course of retail trade, and such price marks and claimed prices are used by respondents for the purpose of misleading and deceiving the purchasing public, and thereby inducing the public to purchase such razors at \$1.95 with the hone given free, upon the mistaken belief that they are purchasing a high grade razor at a greatly reduced price, when in truth and in fact they are paying an excessive price for a razor of inferior quality; that in selling the razors in containers upon which are printed such false and fictitious price marks, respondents come in direct competition with other dealers in razors who do not make use of such false and fictitious price marks.

PAR. 6. 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, Sol Goodman, Adolph Greenspan and Irvine Greenspan, partners trading under the name and style of Solus Manufacturers Company, charging them with the use of unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

Respondents having entered their appearance and filed their answer herein, and testimony having been adduced before George McCorkle, an examiner of the Federal Trade Commission duly appointed and qualified to take testimony herein, and respondent having filed with the Commission its stipulation admitting the facts alleged in the complaint, and having formerly waived a hearing in the matter, and the matter having come regularly on to be heard before the Commission upon the testimony and the stipulation hereinbefore referred to, and the matter being fully considered, and the Commission being fully advised in the premises, makes the following

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondents, Sol Goodman, Adolph Greenspan and Irvine Greenspan, are partners trading under the name and style of Solus Manufacturers Company, and carry on business at Nashville, Tennessee, and are engaged, in part, in the business of buying at wholesale, razors, and selling same upon mail orders to the general

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public in various States of the United States; and respondents cause razors sold by them to be transported to the purchasers thereof from the State of Tennessee through and into other States of the United States, and carry on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. Respondents, in the course of their business as described in the next preceding paragraph hereof, cause advertisements to be published in newspapers and periodicals having general circulation throughout various States of the United States, in which advertisements the offer is made by respondents to send razors to prospective purchasers for free trial for a period of fifteen days, and that after such trial, if the customer should desire to purchase such razor, and send to respondents \$1.95 in payment of same, that respondents would then send to such customer a razor hone which is described and represented in said advertisement to be "a fine, \$1.00 razor hone" free; the customer is further given the option of returning the razor without charge if he should not desire to purchase it after trying it.

PAR. 3. The razors sent by respondents to prospective purchasers in accordance with the terms of the advertisements described and referred to in Paragraph One hereof are not manufactured by respondents, but are purchased by respondents from manufacturers at prices of approximately 45 cents each, and are packed singly in containers upon which there is printed at the instance and request of respondents, "Solus Manufacturers Company, Nashville, Tennessee. Price \$3.50. Fully Warranted." Such printed matter is false and misleading and is intended by respondents to deceive the purchasing public, and does actually mislead and deceive the purchasing public into believing that the respondents are manufacturers of razors, and are offering for sale and selling razors of a special quality at the manufacturers' price, without the intervention of a middleman; whereas, respondents do not sell such razors at the manufacturers' price, but at a price in excess of that at which razors of like grade and quality sell for in the usual course of retail trade.

PAR. 4. The descriptions contained in respondents' said advertisements of the razor hone which respondents offer to give and give free to customers who purchase razors, is false and misleading, in that such hones are not "fine \$1.00 razor hones," but are purchased by respondents at prices ranging from 15 cents to 20 cents each, and are sold in due course of retail trade at about 50 cents each.

PAR. 5. The price mark printed upon the containers of the razors sold by respondents, as set out in Paragraphs One and Two hereof, and the claimed price of the hones given free to each purchaser of a razor are false and fictitious and greatly in excess of the price at

which razors and hones of like grade and quality sell for in the usual course of retail trade, and such price marks and claimed prices are used by respondents for the purpose of misleading and deceiving the purchasing public, and thereby inducing the public to purchase such razors at \$1.95 with the hone given free, upon the mistaken belief that they are purchasing a high-grade razor at a greatly reduced price, when in truth and in fact they are paying an excessive price for a razor of inferior quality; that in selling the razors in containers upon which are printed such false and fictitious price marks, respondents come in direct competition with other dealers in razors who do not make use of such false and fictitious price marks.

CONCLUSION.

The practices of the respondent, under the conditions and circumstances set out in the foregoing findings as to the facts, constitute an unfair method of competition in interstate commerce, and are in violation of section 5 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, the answer of the respondents and the stipulation of facts heretofore filed herein by the respondents and approved by the Commission, and the Commission having made its findings of facts and conclusion that the respondents have violated 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,"

It is now, therefore, ordered, That the respondents Sol Goodman, Adolph Greenspan and Irvine Greenspan, partners trading under the name and style of Solus Manufacturers Company, their agents, representatives, servants and employees, cease and desist, directly or indirectly;

From selling, offering for sale, or advertising in interstate commerce, razors in containers or otherwise marked with false and fictitious prices or selling, offering for sale, or advertising in interstate commerce, razor hones at values which are false and fictitious.

It is further ordered, That respondents cease and desist from using the word, "manufacturers" as a part of the trade name or firm style of business under which respondents conduct the selling of razors and

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razor hones unless and until respondents engage in manufacturing razors and razor hones.

It is further ordered, That the respondents, Sol Goodman, Adolph Greenspan and Irvine Greenspan, partners trading under the name and style of Solus Manufacturers Company, shall within sixty days from the date of service of this order upon them, file with the Commission a report setting forth in detail the manner and form in which it has complied with the order of the Commission herein set forth.

“LOUISE” (MARY L. HICKS).

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FEDERAL TRADE COMMISSION

v.

MARY L. HICKS, DOING BUSINESS UNDER THE NAME
OF LOUISE.