

Complaint.

6 F. T. C.

FEDERAL TRADE COMMISSION

v.

PROSPERITY COMPANY, INC.

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

Docket 997—July 18, 1923.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of garment-pressing machines; for the purpose of inducing purchasers of competitors' machines on the installment plan to violate their contracts and to install and use its own machines in place of said competitors',

- (a) Offered to and did allow purchasers to apply on the purchase price of its machines such sums as had theretofore been paid by them on such competing machines; and
- (b) Offered and agreed to indemnify such purchasers as violated their contracts against any loss which might accrue to them by reason thereof;

Held, That such inducing of breach of contract, under the circumstances set forth, constituted an unfair method of competition.

COMPLAINT.

Acting in the public interest pursuant to 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," the Federal Trade Commission charges that the Prosperity Company, Inc., hereinafter referred to as the respondent, is and has been using unfair methods of competition in commerce in violation of the provisions of Section 5 of the said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Said respondent is a corporation organized under and existing by virtue of the laws of the State of New York with its principal office and place of business at the city of Syracuse in said State. It is and at all times hereinafter mentioned was engaged in the business of manufacturing and selling garment-pressing and laundry machines throughout the United States, shipping such machines when manufactured at its factory in Syracuse, N. Y., to purchasers thereof located in the various States of the United States and the District of Columbia. It marketed its machines by means of orders therefor secured by its salesmen and transmitted to its executive offices at Syracuse, N. Y., where they are accepted or rejected. Upon the acceptance of such orders the machines were shipped from Syracuse, N. Y., to purchasers thereof located in the various States and territories of the United States and the District of Columbia, who paid for the same in cash or by means of promissory notes ac-

companying written contracts with the said respondent providing that title and ownership of said machines would remain in the said respondent until the full purchase price represented by the notes was paid in full in cash.

PAR. 2. Said respondent in the course and conduct of its business, as aforesaid, has adopted and carried out the following methods of competition during several years last past, to wit:

(1) For the purpose of inducing and attempting to induce purchasers of garment-pressing machines of competitors of said company, installed and in use in the places of business of such purchasers on installment-payment contracts, wrongfully and unlawfully to breach their contracts with said competitors, and thereupon to install and use in the place and instead of such machines purchased from the competitors of said respondent, garment-pressing machines manufactured by the said respondent,

(a) Offered to allow, and did allow such purchasers, under contract with such competitors, as part payment of the purchase price of its own machines, such sums as had been paid on contracts for the purchase of such competing machines by the purchasers;

(b) Agreed to furnish, and did furnish such purchasers under contract with such competitors, the services of attorneys to defend suits brought, or expected to be brought by such competitors for the purchase price of such competing machines.

PAR. 3. The above alleged acts and things done by respondents are all to the prejudice of the public and competitors of the respondent corporation and constitute unfair methods of competition in commerce, within the intent and meaning 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."

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 its complaint upon the respondent Prosperity Company, Inc., 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, a statement of facts was agreed upon by counsel for the Commission and counsel for respondent, to be taken in lieu of evidence. 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:

Conclusion.

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FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent Prosperity Company, Inc., is a corporation organized under and existing by virtue of the laws of the State of New York, with its principal office and place of business at the city of Syracuse in said State. It is and at all times herein-after mentioned was engaged in the business of manufacturing and selling garment-pressing and laundry machines throughout the United States, shipping such machines when manufactured at its factory in Syracuse, N. Y., to purchasers thereof located in the various States of the United States and the District of Columbia. It markets its machines by means of orders therefor secured by its salesmen and transmitted to its executive offices at Syracuse, N. Y., where they are accepted or rejected. Upon the acceptance of such orders, the machines are shipped from Syracuse, N. Y., to purchasers therefor located in the various States and Territories of the United States and the District of Columbia, who pay for the same in cash or by means of promissory notes, accompanying written contracts with the said respondent, providing the title and ownership of said machines shall remain in the said respondent until the full purchase price represented by the notes is paid in full in cash.

PAR. 2. In the regular course and conduct of its business, as aforesaid, for more than one year prior to the issuance of said complaint, respondent has adopted and carried out the following methods of competition:

(1) For the purpose of inducing and attempting to induce purchasers of garment-pressing machines of competitors of said respondent, installed and in use in the places of business of such purchasers on installment payment contracts, wrongfully and unlawfully to breach their contracts with said competitors and thereupon to install and use in the place and stead of said machines purchased from the competitors of said respondent, garment-pressing machines manufactured by the said respondent—

(a) It offered to allow and did allow a number of such purchasers under contract with such competitors, as part payment of the purchase price of its own machines, such sums or parts of such sums as had been paid by said purchasers on contracts for the purchase of such competing machines.

(b) It has offered and agreed to indemnify such purchasers who breached their contracts for the purchase of competing machines against any loss which might accrue to them because of such breach.

CONCLUSION.

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods

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Order.

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 complaint of the Commission, the answer thereto and a stipulation as to the facts filed herein, and the Commission having made its report in which it stated its findings as to the facts and 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 now ordered, That the respondent Prosperity Company, Inc., its agents, representatives, servants, and employees, do cease and desist from—

Inducing, or attempting to induce, purchasers of garment-pressing machines of competitors to breach their contracts with such competitors, and to install and use machines purchased from said respondent corporation;

And in particular by any of the following means:

(a) Allowing or offering to allow such purchasers as part payment of the purchase price of its own machines, such sums as have been paid on contracts for the purchase of such competing machines;

(b) Agreeing to indemnify or offering to indemnify such purchasers who breach their contracts for the purchase of competing machines against any loss which may accrue to them because of such breach.

It is further ordered, That the respondent Prosperity Company, Inc., shall within thirty (30) days from the date of service of this order, 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.

Syllabus.

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FEDERAL TRADE COMMISSION

v.

ARMSTRONG PAINT AND VARNISH WORKS, UNITED STATES ROOFING PAPER AND PAINT FACTORIES, INCORPORATED, AND ABE HOCHMAN AND HARRY GOLDFISH, CO-PARTNERS DOING BUSINESS UNDER THE TRADE NAME OF ARMY AND NAVY STORES.