

Complaint.

8 F. T. C.

IN THE MATTER OF

RELiance VARNISH COMPANY, B. G. ROBERTSON, AND
B. J. ROBERTSON, INDIVIDUALLY AND AS PRESIDENT
AND VICE PRESIDENT RESPECTIVELY OF SAID RE-
LIANCE VARNISH COMPANY.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1208—November 28, 1924.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of varnish, acting through its president and vice president, gave and offered to give to superintendents, foremen and other employees of furniture and automobile manufacturers, without the knowledge or consent of their employers, substantial sums of money as an inducement for them to make their purchases of varnish and allied products for and on behalf of their employers, from it, and to recommend such purchases to their employers, and as rewards for having induced the same:

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

Mr. Henry A. Cox for the Commission.

Mr. J. Matt Chilton, Mr. J. S. Laurent and Mr. Ben F. Washer,
of Louisville, Ky., for respondent.

COMPLAINT.

Acting in the public interest pursuant to 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," the Federal Trade Commission charges that the Reliance Varnish Company and B. G. Robertson and B. J. Robertson, individually and as president and vice president, respectively, of said Reliance Varnish Company, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent Reliance Varnish Company, hereinafter referred to as corporation respondent, is a corporation organized under the laws of the State of Kentucky with its principal office and place of business in the city of Louisville, in said State. It is engaged in the manufacture of varnish and allied products and

the sale thereof to manufacturers of furniture and to manufacturers of automobiles located at points in various States of the United States. It causes said products when so sold to be transported from its said place of business in the city of Louisville, Ky., into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of its said business corporation respondent is in competition with other individuals, partnerships and corporations also engaged in the manufacture and/or sale and transportation of varnish and allied products between and among the various States of the United States.

Respondents B. G. Robertson and B. J. Robertson are respectively president and vice president of corporation respondent, in charge of and conducting its business and affairs, and among other duties and activities in that regard act as salesmen for corporation respondent, visiting the trade hereinbefore mentioned and soliciting and securing orders from said trade for aforesaid products manufactured by corporation respondent.

PAR. 2. In the course of its aforesaid business corporation respondent, through respondents B. G. Robertson and B. J. Robertson who have acted and still act for corporation respondent in that behalf, has from time to time during a period of about two years last past offered and given, and still offers and gives, to superintendents, foremen and other employees of aforesaid manufacturers of furniture and aforesaid manufacturers of automobiles, without the knowledge or consent of the respective employers of said employees, substantial sums of money as inducements to influence said employees to purchase varnish and allied products from respondent for and on behalf of their respective employers, to recommend such purchases to said employers, and as promised rewards for having induced such purchases by such employers. In making said gifts of money respondents B. G. Robertson and B. J. Robertson, in order to conceal said transactions and the identity of the donors of said sums, have made remittances of said sums to aforesaid donees by means of money orders procured by said respondents under fictitious names.

PAR. 3. The above alleged acts and things done by respondents and by each of them are prejudicial to the public and to the competitors of corporation respondent, and constitute 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.

Findings.

8 F. T. C.

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 charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Respondents having entered their appearance herein, and made, executed and filed an agreed statement of facts in which it is stipulated and agreed by the respondents that the Federal Trade Commission may take such agreed statement as the facts in this case and in lieu of testimony, and may proceed upon the same to make its report on said proceedings, stating its findings as to the facts and conclusion and entering its order disposing of the proceedings, without the introduction of testimony or the presentation of argument in support of same or in opposition thereto; and the complaint herein having been amended with the consent of the respondents to conform to the facts set forth in said agreed statement of facts, and the Federal Trade Commission 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, Reliance Varnish Company, is, and at all times hereinafter mentioned has been a corporation organized under the laws of the State of Kentucky, with its principal office and place of business in the city of Louisville, in said State. It is engaged in the manufacture of varnish and allied products and the sale thereof to manufacturers of furniture and to manufacturers of automobiles located at points in various States of the United States. It causes said products when so sold to be transported from said place of business in the city of Louisville, Ky., into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of its said business, respondent, Reliance Varnish Company, is in competition with other individuals, partnerships and corporations also engaged in the manufacture and/or sale and transportation of varnish and allied products between and among the various States of the United States in interstate commerce. The respondents B. G. Robertson and B. J. Robertson were at all times hereinafter mentioned respectively president and vice president of said Reliance Varnish Company, in charge of and conducting its business and affairs, and among other duties and activities in that regard acted as salesmen

for said company, visiting the trade hereinabove mentioned and soliciting and securing orders from said trade for aforesaid products manufactured by said company.

PAR. 2. In the course of its aforesaid business, the Reliance Varnish Company's president and vice president, respondents B. G. Robertson and B. J. Robertson have from time to time during a period of about two years immediately prior to the filing of the complaint in this case offered and given to superintendents, foremen and other employees of aforesaid manufacturers of furniture and aforesaid manufacturers of automobiles, without the knowledge or consent of the respective employers of said employees, substantial sums of money as inducements to influence said employees to purchase varnish and allied products from respondent Reliance Varnish Company for and on behalf of their respective employers, to recommend such purchases to said employers, and as promised rewards for having induced such purchases by such employers. These cases involved shipments of the goods purchased from Louisville, Ky., to purchasers in States other than the State of Kentucky. In making such gifts of money, respondents B. G. Robertson and B. J. Robertson, in order to conceal said transactions and the identity of the donors of said sums, have made remittances of aforesaid sums to aforesaid donees by secret and surreptitious means including among other plans the use of fictitious names and addresses and the depositing of moneys in banks to the credit of employees of customers and payments in cash handed to employees of customers.

PAR. 3. As an illustration of the cases described generally in paragraph 2 hereof the following specific instance was admitted by respondents to have occurred: During the early part of 1923 three barrels of varnish were sold to the Ebert Furniture Company of Red Lion, Pa., and shipped to them by the respondent Reliance Varnish Company from its factory at Louisville, Ky. These sales were made by the said respondent through the recommendation and influence of one M. D. Blair, foreman finisher of the Ebert Furniture Company, with the understanding between him and the respondent B. G. Robertson that he was to be compensated for using his influence to secure said sales. The officers and persons in responsible control of the Ebert Furniture Company were not aware of this understanding between Mr. Blair and the said respondent at the times of said sales, and this fact was known to the said respondent. Following the consummation of these sales and in pursuance of said understanding, said respondent, B. G. Robertson, made payments in the sums of \$9 and \$18 to the said Blair at Red Lion, Pa., as compensation for procuring the sale of one barrel of varnish and

Order.

8 F. T. C.

two barrels of varnish, respectively, of the three barrels above mentioned to the Ebert Furniture Company. In order to conceal the identity of the sender and enable the transaction to be kept secret, said respondent, B. G. Robertson, did not use his real name in connection with this transaction, but used the name of a fictitious person, which he knew would be understood by the said Blair, it having been previously understood in correspondence between these parties. Fictitious addresses were also used by the respondent B. G. Robertson for the purpose of concealing his identity.

PAR. 4. There are a number of manufacturers situated in the various States of the United States, engaged in the business of manufacturing and selling varnishes and allied products in competition with the respondents, who cause their products to be transported from their several places of business into and through other States of the United States to the purchasers thereof, who do not promise or give sums of money, or other things of value as gratuities to employees of the purchasers of their said products as inducements to such employees to recommend or induce the purchase and use by their employers of such products.

CONCLUSION.

The practices of the said respondents, under the conditions and circumstances, described in the foregoing findings, are unfair methods of competition in 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 amended complaint of the Commission, and the statement of facts agreed upon by the respondents and the counsel for the Commission, filed herein, and the commission having made its findings as to the facts and its conclusion that the respondents have 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 respondents Reliance Varnish Company, B. G. Robertson and B. J. Robertson and each of them, their officers, agents, representatives, servants and employees, cease and desist from giving or offering to give, either directly or indirectly, to superintendents, foremen, or other employees of their customers

or prospective customers, without the knowledge and consent of such customers, or prospective customers, any sum or sums of money, whether such money be given or offered:

(1) As inducements to influence said employees to purchase from respondents, or any of them, any varnish or other product for and on behalf of the employers of said employees;

(2) As inducements to influence said employees to recommend such purchases to their employers;

(3) Or as rewards for having induced such purchases by their employers.

It is further ordered, That said respondents, their officers, agents, representatives, servants and employees, cease and desist from directly or indirectly giving or offering to give to such employees of their customers or prospective customers, without the knowledge and consent of such customers or prospective customers, any sums of money or other things of value for any purpose whatsoever.

It is further ordered, That the respondents Reliance Varnish Company, B. G. Robertson, and B. J. Robertson shall within sixty days after the service upon them of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set forth.

Complaint.

8 F. T. C.

IN THE MATTER OF

JACOB C. WINTER AND TITUS A. SMITH, PARTNERS
DOING BUSINESS UNDER THE TRADE NAMES AND
STYLES OF J. C. WINTER & COMPANY, AND KEY WEST
CIGAR COMPANY.

COMPLAINT FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1209—December 2, 1924.

SYLLABUS.

Where it had been long known that cigars manufactured at Key West, Florida, were composed of tobacco grown in and imported from the Island of Cuba, and such cigars had come to be widely and favorably known and referred to as "Key West Cigars" by a substantial part of the purchasing public; and thereafter a firm engaged elsewhere in the manufacture and sale of cigars not composed of tobacco grown on the Island of Cuba, applied to its product, in the labeling and advertising thereof, the words "Key West Perfectos," or "Key West Perfectos Imported"; with the capacity and tendency to mislead and deceive the trade and consuming public into believing said cigars to have been manufactured in Key West or the Key West district from tobacco grown on the Island of Cuba, and to induce them to purchase the same in such belief:

Held, That the use of such labels, brands and legends, under the circumstances set forth, constituted unfair methods of competition.

Mr. William A. Sweet for the Commission.

Mr. A. W. Hermann of York, Pa., for respondents.

COMPLAINT.

Acting in the public interest pursuant to 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," the Federal Trade Commission charges that Jacob C. Winter and Titus A. Smith, partners doing business under the trade names and styles, J. C. Winter & Company, and Key West Cigar Company, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondents are partners doing business under the trade names and styles of J. C. Winter & Company and Key West Cigar Company, with their principal place of business in the city of Red Lion, State of Pennsylvania. They are engaged in the manufacture of cigars and the sale thereof to dealers in cigars located at points in various States of the United States. They cause said