

Complaint.

IN THE MATTER OF
CIVIL SERVICE SCHOOL, INCORPORATED.

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

Docket 1255—March 17, 1925.

SYLLABUS.

Where a corporation engaged in conducting a school to qualify students to pass civil service examinations and thereby become eligible for Government employment.

- (a) Falsely advertised in effect that it was engaged for the civil service commission and in behalf of the Government in securing needed employees, and used the words "civil service" as part of its corporate name;
- (b) Falsely stated that its president was a former examiner of the commission and thereby peculiarly qualified to be of value to its students;
- (c) Misrepresented the need for further Government employees, the facts in reference to alleged prospective examinations to secure the same, and the prospects of students passing such examinations promptly securing employment;
- (d) Advertised that its courses for certain specified examinations contained the same matter that would be involved therein, the fact being that the commission supplied free of charge sample question sheets and other informative matter relating thereto; and
- (e) Pretended to guarantee that a student failing to pass two successive examinations would have his money refunded;

With the effect of misleading and deceiving many of the public and of inducing them to purchase its courses:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. T. John Butler for the Commission.

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 Civil Service School, Incorporated, hereinafter referred to as respondent, has been and is 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 is a corporation organized under the laws of the District of Columbia, with its office and place of business in said District. It is engaged in the business of giving courses of

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instruction for hire or payment to persons residing in various States of the United States and in the District of Columbia, said courses of study being designed and adapted to enable such students to pass the examinations of the Civil Service Commission of the United States Government as provided and required by law, and to qualify them for employment in various departments of said Government and in sundry branches and bureaus of said departments. It gives such instruction by means of correspondence through the United States mails with aforesaid persons, in the course of which respondent transmits intelligence and information to such persons and sends to them written lessons, instruction sheets, pamphlets and other printed and written matter necessary or useful in instructing such persons in the duties and requirements of the various aforesaid governmental agencies, in preparing such persons to pass the examinations of the said Civil Service Commission as provided and required by law, and to qualify said persons for said governmental positions. In the course and conduct of its said business respondent is in competition with other individuals, partnerships and corporations engaged in furnishing instruction for hire in various branches of learning through the United States mails in a manner similar to that above set out.

PAR. 2. In connection with its said business respondent advertises its said courses of instruction in various States of the United States and in the District of Columbia, in newspapers and other periodicals and in pamphlets, circulars and other similar publications, which respondent causes to be distributed amongst the public in various States and the District of Columbia, in all of which advertising respondent makes numerous false and misleading statements directly asserting, or importing and implying:

(a) That respondent is an agency of or is connected with the Civil Service Commission of the United States Government.

(b) That as such agency respondent is engaged in securing for the United States Government employees for the various departments of said Government and the various branches and bureaus thereof.

(c) That the Government of the United States is in need of such employees and is seeking to secure the same through the instrumentality of respondent.

(d) That the president of respondent was formerly an examiner in the employ of the Civil Service Commission, and as such is possessed of knowledge and ability peculiarly fitting and enabling him to qualify persons for the passing of aforesaid

examinations and for discharging the duties of aforesaid departments and their various bureaus and branches.

(e) That respondent guarantees that persons taking its courses of instruction will promptly obtain employment in that department of the Government or in that branch or bureau of said department for which such persons are seeking to qualify themselves. Respondent makes similar representations in its correspondence with students and prospective students of its said courses of instruction.

PAR. 3. Aforesaid statements and representations appearing in respondent's advertising and in its correspondence with students and prospective students, all as set out in paragraph 2 hereof, are false and misleading in that respondent is in no wise connected with the United States Government or the Civil Service Commission of said Government; that respondent is in no wise employed by the United States Government or by said Commission to secure employees for the United States in any wise whatsoever; that respondent's president was not formerly an examiner of the Civil Service Commission of the United States; that the United States is not in need of employees in its various departments and the branches and bureaus thereof as and when advertised by respondent and that respondent does not fulfil its pretended guarantee that persons taking its course of instructions will promptly receive positions with or employment by the United States Government, and can not and does not, in fact, secure prompt employment for such of its students as pass the examinations of said Civil Service Commission prescribed and required by law. Said representations made by respondent have the capacity and tendency to and do mislead and deceive many of the public in various States of the United States and the District of Columbia into the belief that they can by taking the appropriate course of study offered by respondent, qualify themselves for employment in the service of that department of said Government or that branch or bureau of such department to which said course of instruction relates, and that having completed said course they will, through the agency and efforts of respondent, promptly secure employment in such department or such branch or bureau thereof, and respondent's said representations tend to and do cause many persons acting in aforesaid belief to take respondent's said course of instruction and to pay the respondent its fees and charges therefor.

PAR. 4. The above alleged acts and things done by respondent are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An

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instruction for hire or payment to persons residing in various States of the United States and in the District of Columbia, said courses of study being designed and adapted to enable such students to pass the examinations of the Civil Service Commission of the United States Government as provided and required by law, and to qualify them for employment in various departments of said Government and in sundry branches and bureaus of said departments. It gives such instruction by means of correspondence through the United States mails with aforesaid persons, in the course of which respondent transmits intelligence and information to such persons and sends to them written lessons, instruction sheets, pamphlets and other printed and written matter necessary or useful in instructing such persons in the duties and requirements of the various aforesaid governmental agencies, in preparing such persons to pass the examinations of the said Civil Service Commission as provided and required by law, and to qualify said persons for said governmental positions. In the course and conduct of its said business respondent is in competition with other individuals, partnerships and corporations engaged in furnishing instruction for hire in various branches of learning through the United States mails in a manner similar to that above set out.

PAR. 2. In connection with its said business respondent advertises its said courses of instruction in various States of the United States and in the District of Columbia, in newspapers and other periodicals and in pamphlets, circulars and other similar publications, which respondent causes to be distributed amongst the public in various States and the District of Columbia, in all of which advertising respondent makes numerous false and misleading statements directly asserting, or importing and implying:

(a) That respondent is an agency of or is connected with the Civil Service Commission of the United States Government.

(b) That as such agency respondent is engaged in securing for the United States Government employees for the various departments of said Government and the various branches and bureaus thereof.

(c) That the Government of the United States is in need of such employees and is seeking to secure the same through the instrumentality of respondent.

(d) That the president of respondent was formerly an examiner in the employ of the Civil Service Commission, and as such is possessed of knowledge and ability peculiarly fitting and enabling him to qualify persons for the passing of aforesaid

examinations and for discharging the duties of aforesaid departments and their various bureaus and branches.

(e) That respondent guarantees that persons taking its courses of instruction will promptly obtain employment in that department of the Government or in that branch or bureau of said department for which such persons are seeking to qualify themselves. Respondent makes similar representations in its correspondence with students and prospective students of its said courses of instruction.

PAR. 3. Aforesaid statements and representations appearing in respondent's advertising and in its correspondence with students and prospective students, all as set out in paragraph 2 hereof, are false and misleading in that respondent is in no wise connected with the United States Government or the Civil Service Commission of said Government; that respondent is in no wise employed by the United States Government or by said Commission to secure employees for the United States in any wise whatsoever; that respondent's president was not formerly an examiner of the Civil Service Commission of the United States; that the United States is not in need of employees in its various departments and the branches and bureaus thereof as and when advertised by respondent and that respondent does not fulfil its pretended guarantee that persons taking its course of instructions will promptly receive positions with or employment by the United States Government, and can not and does not, in fact, secure prompt employment for such of its students as pass the examinations of said Civil Service Commission prescribed and required by law. Said representations made by respondent have the capacity and tendency to and do mislead and deceive many of the public in various States of the United States and the District of Columbia into the belief that they can by taking the appropriate course of study offered by respondent, qualify themselves for employment in the service of that department of said Government or that branch or bureau of such department to which said course of instruction relates, and that having completed said course they will, through the agency and efforts of respondent, promptly secure employment in such department or such branch or bureau thereof, and respondent's said representations tend to and do cause many persons acting in aforesaid belief to take respondent's said course of instruction and to pay the respondent its fees and charges therefor.

PAR. 4. The above alleged acts and things done by respondent are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An

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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 (38 Stat. 719), the Federal Trade Commission issued and served a complaint upon respondent, Civil Service School, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent, having waived its right to file answer herein, and signed and executed and filed herein an agreed statement of facts, wherein it admitted due service upon it and receipt of a copy of said complaint, and in which it is stipulated and agreed by the respondent that the Federal Trade Commission shall take and consider said agreed statement of facts as to the facts in this case in lieu of testimony and proceed forthwith to make its findings as to the facts, its conclusion, and its order disposing of this proceeding, the Federal Trade Commission, having duly considered the record, and being 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. Respondent for more than two years last past has been, and now is, a corporation, organized and existing under the laws of the District of Columbia, having its offices and principal place of business in the District of Columbia. For more than two years last past respondent has been, and now is, engaged in the business of furnishing to its customers, or students, courses of instruction designed and intended by respondent as instruction to prepare or coach its customers or students so as to qualify them to pass successfully certain of the examinations prescribed by the United States Civil Service Commission, and have their names placed upon the rolls or register of eligibles to appointment maintained by said Civil Service Commission, for which courses of instruction said respondent has charged and received, and now charges and receives, payment in money. Respondent's customers or students reside in various States of the United States and in the District of Columbia, and respondent sells its said courses of instruction to them and sends the same from the District of Columbia to the several points throughout the United States where its said customers or students reside. Respondent sends its said courses of instruction in the form of written, typewritten, or printed lessons, instruction sheets, pamphlets,

or other written, typewritten, or printed matter through the United States mails. In the course and conduct of its said business respondent has been, and is now, in active and keen competition with other individuals, partnerships and corporations engaged in the business of providing similar instruction for hire to persons desirous of obtaining employment in the civil service of the United States, the object and purpose of the instruction so furnished for hire by respondent's competitors being similar to that of the courses of instruction furnished by respondent.

PAR. 2. Respondent has advertised and now advertises its courses of instructions in various States of the United States and in the District of Columbia in newspapers, magazines and other periodical publications in general circulation throughout the United States, as well as in circulars, circular letters, booklets and other similar publications and means of advertising, which respondent sends, or causes to be sent and distributed among the public throughout the United States and in the District of Columbia. Respondent particularly advertises in the "want ad" columns of daily and weekly newspapers in circulation throughout the United States, or throughout several of the States of the United States. Said advertisements import or imply that respondent is an agency of, or is connected with, the Civil Service Commission of the United States Government, and that as such agent respondent is authorized to, and is engaged in, securing for the United States Government employees for the various departments, branches of departments, and bureaus of said Government. Said advertisements directly assert and state that the Government of the United States is in need of such employees and is seeking to secure the same through respondent, and further state that the president of respondent formerly was an examiner of said Civil Service Commission, and is possessed of information, knowledge and ability not possessed by, or available to the competitors of respondent, which makes respondent's said courses of instruction of unusual merit and value to its customers, or students, for the reason that such information and knowledge is or will be imparted to such students in respondent's said courses of study, and said advertisements offer this knowledge and information claimed by said president as an inducement to the public to purchase its said course, or courses, of instruction. Respondent further represents that its said courses of instruction consist of questions and answers similar to the questions and answers that will be propounded by the Civil Service Commission to those taking an examination or examinations, and that its customers and students promptly will secure employment in the departments, or branches of departments, or

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bureaus, for which such customers or student is seeking to become eligible by successfully passing the examination therefor prescribed by the Civil Service Commission.

PAR. 3. Respondent is not a part of the United States Civil Service Commission, and is not in any manner connected with said Civil Service Commission, and is not in any manner connected with the Government of the United States, but is a private corporation engaged in business for profit, and is in no way employed by, or authorized by the United States, or by said Civil Service Commission, to secure employees for the United States Government in the departments, branches of departments, or bureaus thereof, referred to in the advertisements and advertising matter of respondent. Respondent's president was not formerly an examiner of the Civil Service Commission of the United States, and the only connection he ever had with said Commission was as a clerk, at a salary of \$900 per year, from September 10, 1914, to April 11, 1915. During nearly all of the time when respondent was advertising, as above found and stated, the United States was not in need of employees in the departments, branches of departments, or bureaus thereof, of the class, grade, kind or character mentioned and referred to in said respondent's said advertisements and advertising matter, and the register, or roll of eligibles, maintained by said Civil Service Commission contained the names of eligibles to employment in the various departments, or branches of departments, or bureaus of the Government more than sufficient to meet and fulfill the immediate or known requirements of the United States Government, and respondent could not and did not secure prompt employment for any of its customers, or students. Examinations held by said Civil Service Commission referred to in respondent's said advertisements and advertising matter were held only occasionally, usually once or twice each year, at times and places fixed by said Civil Service Commission approximately 30 days preceding the date upon which examination, or examinations, were held, which date was not announced by the Civil Service Commission, and was not known to respondent until approximately 30 days before such examination, or examinations, were held. Respondent falsely advertised that examinations were pending, when no date for such examinations had been fixed, and it was not known when the same would be held; and respondent has represented to persons who made inquiry of it concerning certain examinations that such examinations would be held at a certain time and place, when in truth and in fact no such examination, or examinations, was or were scheduled to be held, and no such examination, or examinations, was or were held at the time and place stated by

respondent. Many persons were, by said representations of respondent, induced to purchase its said courses of instruction, and pay for the same, with the intent and purpose of preparing themselves to take and pass the examinations which respondent represented to them would be held at a certain time and place, but which never were held. Respondent particularly advertised that it coached or prepared persons successfully to pass the examinations for general clerical, post office, mail carrier, railway mail clerk, rural mail carrier, fourth class postmaster, stenographer and typist, prescribed by said Civil Service Commission, and represented that its said courses of instruction contained the same matter and were similar to the questions that would be propounded in such examinations. Respondent's students could have obtained from the Civil Service Commission, free of charge, sample question sheets and description of the scope and character of each examination, and any further information concerning examinations which properly may be communicated to an applicant in advance of such examination, all of which was known to respondent. Respondent included in its advertisements and advertising matter, as well as in its enrollment agreement made with its customers or students, a pretended guarantee that it would refund to such customers or students the moneys paid to it for its courses of instruction, provided such customer or student took the examination prescribed by the Civil Service Commission and failed to pass at two successive examinations, which induced many persons to purchase respondent's said courses of instruction, who otherwise would not have done so. Many of respondent's competitors referred to in paragraph 1 herein, engaged in similar business at various points throughout the United States, do not advertise falsely, or make false representations concerning their respective businesses of the nature and character as the above statements made by respondent and distributed throughout the United States.

The representations made by respondent, as above set out, had and have the capacity and tendency to mislead and deceive and did mislead and deceive many persons, members of the public in various States of the United States and the District of Columbia, into the belief that respondent was and is a part of the Civil Service Commission of the United States, and was and is connected therewith, and an agent thereof, and in such belief many persons purchased respondent's said course or courses of instruction, and paid respondent therefor; and said representations had and have the capacity and tendency to mislead and deceive, and did mislead and deceive many persons in various States of the United States and the District of Columbia, into the belief that by purchasing and pursuing the

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appropriate course or courses of study from respondent, they would become qualified for and eligible to employment in the service of the United States in the departments, or branches of departments, or bureaus to which said course of instruction of respondent related or relates, and that having purchased and pursued and completed such course of study, they would, through the agency and effort of respondent, promptly secure employment in a department, or branch of a department, or bureau of the United States Government, and being so misled and deceived, such persons were induced to, and did purchase and pay for respondent's said course or courses of instruction, who otherwise would not have purchased the same.

The use of the words "Civil Service" by respondent as part of its corporate name had the capacity and tendency to mislead and deceive and did mislead and deceive many of the public in the various States of the United States and the District of Columbia into the belief that respondent was a part of the United States Government, or of the United States Civil Service Commission, or so connected therewith as to be under the control and direction thereof, and was acting officially for the United States Government; and particularly the use of said name containing the words "Civil Service" in connection with the advertisements, letters, circular letters, circulars, booklets, and other advertising matter, had the capacity and tendency to and did deceive the public.

CONCLUSION.

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are unfair methods 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 Commission upon the complaint of the Commission and the statement of facts agreed to by counsel for the Commission and by the respondent, and the Commission having made 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 ordered, That the respondent, Civil Service School, Inc., its officers, agents, representatives, servants and employees, do cease and desist from:

1. Using and displaying the words "Civil Service" in its corporate name or upon its letterheads, stationery, letters, advertisements, circulars, literature or other advertising matter or otherwise in connection with the solicitation for customers or students or the sale of its course or courses of instruction.

2. From publishing and circulating, or causing to be published and circulated throughout the various States of the United States, advertisements, circulars, booklets, letters, circular letters, literature or any other printed or written matter wherein it is stated, implied, or imported or held out to the public:

(a) That it is a part of the United States Government or of the United States Civil Service Commission or in any manner connected therewith.

(b) That the United States Government is in need of employees to be selected, appointed and employed from the register of eligibles of the United States Civil Service Commission when such is not the fact.

(c) That the United States Government is seeking employees through respondent.

(d) That its customers or students will secure employment in the Civil Service of the United States.

(e) That an examination or examinations prescribed by Civil Service Commission is or are pending when not announced by said Civil Service Commission.

(f) That R. E. Terry, respondent's president, formerly was an examiner of the United States Civil Service Commission.

(g) That respondent guarantees to its customers or students employment by the United States Government.

It is further ordered, That respondent shall, within sixty days from notice hereof file with this Commission a report in writing stating in detail the manner in which this order has been complied with and conformed to.

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appropriate course or courses of study from respondent, they would become qualified for and eligible to employment in the service of the United States in the departments, or branches of departments, or bureaus to which said course of instruction of respondent related or relates, and that having purchased and pursued and completed such course of study, they would, through the agency and effort of respondent, promptly secure employment in a department, or branch of a department, or bureau of the United States Government, and being so misled and deceived, such persons were induced to, and did purchase and pay for respondent's said course or courses of instruction, who otherwise would not have purchased the same.

The use of the words "Civil Service" by respondent as part of its corporate name had the capacity and tendency to mislead and deceive and did mislead and deceive many of the public in the various States of the United States and the District of Columbia into the belief that respondent was a part of the United States Government, or of the United States Civil Service Commission, or so connected therewith as to be under the control and direction thereof, and was acting officially for the United States Government; and particularly the use of said name containing the words "Civil Service" in connection with the advertisements, letters, circular letters, circulars, booklets, and other advertising matter, had the capacity and tendency to and did deceive the public.

CONCLUSION.

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

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This proceeding having been heard by the Commission upon the complaint of the Commission and the statement of facts agreed to by counsel for the Commission and by the respondent, and the Commission having made 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 ordered, That the respondent, Civil Service School, Inc., its officers, agents, representatives, servants and employees, do cease and desist from:

1. Using and displaying the words "Civil Service" in its corporate name or upon its letterheads, stationery, letters, advertisements, circulars, literature or other advertising matter or otherwise in connection with the solicitation for customers or students or the sale of its course or courses of instruction.

2. From publishing and circulating, or causing to be published and circulated throughout the various States of the United States, advertisements, circulars, booklets, letters, circular letters, literature or any other printed or written matter wherein it is stated, implied, or imported or held out to the public:

(a) That it is a part of the United States Government or of the United States Civil Service Commission or in any manner connected therewith.

(b) That the United States Government is in need of employees to be selected, appointed and employed from the register of eligibles of the United States Civil Service Commission when such is not the fact.

(c) That the United States Government is seeking employees through respondent.

(d) That its customers or students will secure employment in the Civil Service of the United States.

(e) That an examination or examinations prescribed by Civil Service Commission is or are pending when not announced by said Civil Service Commission.

(f) That R. E. Terry, respondent's president, formerly was an examiner of the United States Civil Service Commission.

(g) That respondent guarantees to its customers or students employment by the United States Government.

It is further ordered, That respondent shall, within sixty days from notice hereof file with this Commission a report in writing stating in detail the manner in which this order has been complied with and conformed to.

IN THE MATTER OF
PITTSBURGH COAL CO. OF WISCONSIN ET AL.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914,
AND OF SECTION 2 OF AN ACT OF CONGRESS APPROVED OCTOBER 15, 1914.

Docket 1010—March 19, 1925.

SYLLABUS.

Where a number of the largest distributing corporations engaged in the purchase and transportation of coal from Lake Erie ports via lake steamers to their docks on Lake Superior and Lake Michigan ports, and in its sale at wholesale throughout a substantial part of the Middle West, and at retail in St. Paul, Minneapolis, and Duluth, and the association of which they were members; for the purpose of eliminating price competition among themselves, and certain competitive practices, which they regarded as objectionable; in cooperation with one another, and through meetings, exchange of views and information, and otherwise,

- (a) Adopted and maintained a policy of (1) declining to grant concessions to jobbers, line yard companies, and other retail dealers, or to sell coal to concerns not equipped with sheds and scales and located outside the Twin Cities or Duluth, (2) recognizing all municipal steam business requiring team delivery, as the prospect of local retailers, and not soliciting such business directly, (3) refusing to enter into contracts with retailers for future delivery except where the coal concerned was required for delivery to public utilities, or for customers, under contract, with specific tonnage requirements, (4) using uniform contracts in the sale of coal to large consumers, restricting the use thereof to some particular plant, and (5) observing certain limits in bidding on contracts requiring British Thermal Unit guarantees;
- (b) Adopted rules requiring the standardizing of sizes, with the intent and effect of preventing intentional variations therein as a means of cutting prices;
- (c) Established a so-called Credit and Collection Bureau, which secured and disseminated information with respect, among other things, to the business equipment and trade practices of retailers outside the Twin Cities and Duluth;
- (d) Furnished and disseminated information in reference to their actions in declining, in accordance with the aforesaid competitive policies, to sell concerns, and also in reference to transactions by dealers or competitors contravening said policies;
- (e) Established the so-called "open price competition plan," having for its purpose the object "of competing under conditions which enabled each to know and fairly judge what the other is doing * * *" and "accomplish indirectly what the law does not permit us to accomplish by means of agreements," and involving the periodic furnishing and dissemination, daily and otherwise, of elaborate information in respect of their businesses, including data as to stocks on hand, shipments, costs, sales, prices, contracts, etc., and in connection therewith established a uniform system of cost accounting;