

IN THE MATTER OF

I. S. U. RANK AND FILE GROUP, ET AL.

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

Docket 2694. Complaint, Aug. 1, 1936¹—Decision, June 29, 1937

Where a union, known as the International Seamen's Union, with some 60,000 members scattered along the Atlantic, Pacific, and Gulf coasts and the Great Lakes, had long engaged in the regular publication and circulation of an official paper known as the "Seamen's Journal," and letters "I. S. U." through their use by said union and its local branches, had become known and understood by aforesaid and other unions and by the general public as initials for said union and as a designation thereof; and thereafter, various individual members of I. S. U. Rank and File Group, and groups and organizations thus indicated, and a corporation—

Made use of designation "I. S. U. Pilot" for a periodical sold and solicited, in competition with such "Seamen's Journal," by aforesaid individuals, acting personally and through and by said groups, notwithstanding fact said groups were not committees of the International Seamen's Union, and aforesaid "I. S. U. Pilot" was not publication of said union;

With capacity and tendency, through such unauthorized use of name "I. S. U. Pilot," to mislead and deceive members of aforesaid union, and members of other labor unions and purchasing public, into the beliefs that periodical in question was a publication of said union and into purchase of same in such erroneous beliefs, and with result that trade was thereby diverted to said individuals and groups from their competitors, who do not mislead and deceive, and have not misled and deceived, purchasing public by such misuse of name for their publications; to the substantial injury of substantial competition in commerce:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. John L. Hornor*, trial examiner.

Mr. Wm. T. Chantland, for the Commission.

Mr. Hyman N. Glickstein, of New York City, for Joseph Curran and Uptown Cooperative Press, Inc.

Mr. M. Herbert Syme, of Philadelphia, Pa., for Albert Fleming.

AMENDED COMPLAINT

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, having reason to believe that the I. S. U.

¹ Amended.

Complaint

Rank and File Group, I. S. U. Rank and File Members, Rank and File Committee of the I. S. U., Rank and File International Seamen's Union, hereinafter referred to as respondent associations, James L. Reamey, Charles Rubin, Mrs. Charles Rubin, Watson Myers, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, Frank Mozer, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges, David Gordon, Elmer Brown, Ben Gerjoy, Dora Zucker, Luigi Genovese, A. W. McPherson, E. Crews, Albert Fleming, and Charles B. Killinger, hereinafter referred to as respondent individuals, and the Uptown Cooperative Press, Inc., have been and now are using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to the Commission that proceeding by it in respect thereof would be in the public interest, hereby issues its amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Each and every one of the respondent associations, "I. S. U. Rank and File Group," "I. S. U. Rank and File Members," "Rank and File Committee of the I. S. U.," and "Rank and File International Seamen's Union," is an unincorporated, voluntary association of persons, having its principal office and place of business at 1 Union Square, New York City, in the State of New York. Respondent individuals, James L. Reamey, Charles Rubin, Mrs. Charles Rubin, Watson Myers, Joseph Curran, Louis Weinstock, Abraham Baskoff, Elmer Brown, Ben Gerjoy, Dora Zucker, all of the city of New York, State of New York; Richard M. Kroon, William Allen, both of the city of Detroit, State of Michigan; Frank Mozer and Albert Fleming, both of the city of Philadelphia, State of Pennsylvania; E. Crews and A. W. McPherson, both of the city of Pittsburgh, State of Pennsylvania; Robert Brown of the city of Butte, State of Montana; Harry Bridges, of the city of San Francisco, State of California; John Anderson of the city of Washington, District of Columbia; Elmer Johnson of the city of Chicago, State of Illinois; David Gordon of Middle Village, Long Island, State of New York; Luigi Genovese of the city of Rochester, State of New York; Charles B. Killinger of the city of Flint, State of Michigan; and other persons whose names or addresses are known, are members of each and every one of the respondent associations and compose committees for the purpose of supervising and directing all of the activities of all the said respondent associations, including the publication and distribution by them of the "I. S. U. Pilot," a weekly paper, the "I. S. U. Guide," the "Union Seaman," and "The Pilot." The Uptown Cooperative Press, Inc., with office and place

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of business at 347 East 72nd Street, New York City, N. Y., is a corporation duly organized and existing under the laws of the State of New York, prints the said publications for the other respondents.

One of the principal purposes for the organization of the respondent associations by the respondent individuals was and is the publication by respondent individuals and respondent associations of the aforesaid paper and magazines called by them "The I. S. U. Pilot," "The I. S. U. Guide," "The Union Seaman," and "The Pilot," all of which said publications have been represented therein and are still being represented therein by the respondent individuals and respondent associations as being published by one or another of such respondent associations.

PAR. 2. In the course and conduct of the business of publishing and circulating the aforesaid magazines, "The I. S. U. Pilot," "The I. S. U. Guide," "The Union Seaman," and "The Pilot," the respondent individuals and their associates in the respondent associations, acting personally and through and by the aforesaid respondent associations, sell and solicit the sale of the aforesaid paper and magazines between and among the various States of the United States and in the District of Columbia, and cause copies of the aforesaid publications when sold, to be transported from the place of their publication and the principal place of business of the respondent associations in New York City, and from branch offices in Baltimore, New Orleans, Philadelphia, and other cities, to the purchasers of such copies, some located in the States of New York, Pennsylvania, Maryland, and Louisiana, and others located in various other States of the United States, and there is now and has been for more than one year last past a constant current of trade and commerce carried on by the respondent associations, respondent individuals and the Uptown Cooperative Press, Inc., in such paper and magazines between and among the various States of the United States.

In the course and conduct of their business the respondent associations, the individual respondents and their associate members of said associations, and the Uptown Cooperative Press, Inc., are now and for more than one year last past have been in substantial competition with other associations and individuals, and with corporations, firms, and partnerships engaged in the sale of papers and magazines between and among the various States of the United States. Among such competitors is the International Seamen's Union of America, hereinafter described, which now and for more than one year last past has published a monthly magazine known as the "Seamen's Journal," hereinafter described.

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PAR. 3. The International Seamen's Union of America, an unincorporated association, was organized in the United States in 1892. It is composed of mariners, seamen, and other shipping employees, with local unions and branches in the principal seacoast, lake, bay, and river ports of the United States. It has become known and has been referred to for more than twenty years last past as the "I. S. U." The initials "I. S. U.," through their use by the International Seamen's Union of America, by its local unions and branches in the various cities in the United States are now and for more than one year last past have been known and understood by the International Seamen's Union of America, its local unions and branches, the members thereof and by the general public, to mean and designate and as another name of the aforesaid International Seamen's Union of America.

The International Seamen's Union of America has since 1892 published monthly as its official magazine the "Seamen's Journal," which has had and still has a wide circulation throughout the various States of the United States.

PAR. 4. The aforesaid use by the respondents of the names "I. S. U. Rank and File Group," "I. S. U. Rank and File Members," "Rank and File Committee of the I. S. U.," "Rank and File International Seamen's Union," and of the names of said publications, "The I. S. U. Pilot," "The I. S. U. Guide," "The Union Seaman," and "The Pilot" has been and is without the authority or sanction of the aforesaid International Seamen's Union of America and the use of such names has a capacity and tendency to mislead and deceive members of the International Seamen's Union of America and the purchasing public into the beliefs that the respondent associations are committees of the aforesaid International Seamen's Union of America, that their activities are sanctioned by the aforesaid International Seamen's Union of America and that the aforesaid publications, "The I. S. U. Pilot," "The I. S. U. Guide," "The Union Seaman," and "The Pilot," are publications of the International Seamen's Union of America, and to induce them into purchasing the aforesaid "I. S. U. Pilot," "I. S. U. Guide," "Union Seaman," and "The Pilot," in such erroneous beliefs; thereby trade is diverted by respondent associations and respondent individuals from their competitors who do not by the use of false and misleading names for their publications or by the use of false and misleading names for associations, mislead and deceive the purchasing public. Thereby substantial injury is done by respondent associations and respondent individuals to competition in interstate commerce.

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PAR. 5. The above alleged acts and practices of the respondent association and the respondent individuals are to the prejudice of the public and to the competitors of the said respondents, 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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, on August 1, 1936, issued and served its amended complaint in this proceeding upon respondents James L. Reamey, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges, David Gordon, Elmer Brown, Dora Zucker, Luigi Genovese, A. W. McPherson, Albert Fleming, Charles B. Killinger, and Uptown Cooperative Press, Inc., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. None of the served respondents answered, but all were in default and none appeared or offered any testimony. Thereafter, testimony and other evidence in support of the allegations of said amended complaint were introduced by William T. Chantland, attorney for the Commission, before John L. Hornor, an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence in support of the allegations of the amended complaint were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said amended complaint, testimony and evidence, and brief in support of the amended complaint, but without oral argument; and none of the respondents having filed brief nor requested oral argument, though given opportunity so to do, and the Commission having duly considered the record and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents, James L. Reamey, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges,

David Gordon, Elmer Brown, Dora Zucker, Luigi Genovese, A. W. McPherson, Albert Fleming, and Charles B. Killinger, are members of I. S. U. Rank and File Group, I. S. U. Rank and File Members, Rank and File Committee of the I. S. U., and Rank and File International Seamen's Union, and together with respondent, Uptown Cooperative Press, Inc., are and for more than two years last past have been associated within such groups for the purpose of causing the publication and distribution of a newspaper called "I. S. U. Pilot." Respondent, Uptown Cooperative Press, Inc., has printed said paper for the other respondents.

PAR. 2. In the course and conduct of the business of publishing the "I. S. U. Pilot," hereinbefore mentioned, the respondent individuals, acting personally and through and by the aforesaid groups, sold and solicited the sale of the aforesaid magazine between and among the various States of the United States and in the District of Columbia, and caused copies of the aforesaid magazine when sold, to be transported from the place of publication in New York City to the purchasers of such copies, some located in the State of New York and others located in various other States of the United States, and there was for two years last past a constant current of trade and commerce by the respondent individuals in such paper between and among the various States of the United States.

In the course and conduct of their business the respondents have been in substantial competition with others engaged in the sale of papers between and among the various States of the United States. Among such competitors is the International Seamen's Union, hereinafter described, which now and since about 1895 has regularly published and circulated an official paper known as the "Seamen's Journal."

PAR. 3. The International Seamen's Union has been in existence since 1892 and for more than a quarter of a century has been habitually known and generally accepted as the "I. S. U." It has a membership of 60,000 scattered along the Atlantic, Pacific, and Gulf Coasts and the Great Lakes. Its purpose is to improve the conditions of the men who follow the sea for their livelihood.

The initials "I. S. U.," through their use by the International Seamen's Union and by its local branches, are now and for many years last past have been known and understood by the International Seamen's Union and other labor unions, and by the general public, as initials for the aforesaid International Seamen's Union, and as a designation of the aforesaid organization.

PAR. 4. Respondent groups were not committees of the International Seamen's Union nor was the aforesaid "I. S. U. Pilot" a publi-

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cation of the International Seamen's Union. The use by the respondents of the name "I. S. U. Pilot" was without the authority or permission of the International Seamen's Union.

PAR. 5. The use by the respondent groups and respondent individuals of the name "I. S. U. Pilot" has had the capacity and tendency to mislead and deceive members of the International Seamen's Union, and members of other labor unions, and the purchasing public into the beliefs that the said publication was a publication of the International Seamen's Union, and to purchase the aforesaid "I. S. U. Pilot" in such erroneous beliefs; thereby trade has been diverted by respondents from their competitors who do not mislead and deceive and who have not misled and deceived the purchasing public by such misuse of names for their publications. Thereby substantial injury has been done by respondents to substantial competition in interstate commerce.

CONCLUSION

The aforesaid acts and practices of the respondents, James L. Reamey, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges, David Gordon, Elmer Brown, Dora Zucker, Luigi Genovese, A. W. McPherson, Albert Fleming, Charles B. Killinger, and the Uptown Cooperative Press, Inc., are to the prejudice of the public and of respondents' competitors, 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, the testimony and other evidence taken before John L. Hornor, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the amended complaint (the served respondents not answering, but all being in default), and brief filed herein, and the Commission having made its findings as to the facts and its conclusion that the respondents, James L. Reamey, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges, David Gordon, Elmer Brown, Dora Zucker, Luigi Genovese, A. W. McPherson, Albert Fleming, Charles B. Killinger, and the Uptown Cooperative Press, Inc., have violated the provisions of an Act of

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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 hereby ordered, That the respondent individuals, James L. Reamey, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges, David Gordon, Elmer Brown, Dora Zucker, Luigi Genovese, A. W. McPherson, Albert Fleming, and Charles B. Killinger, and the Uptown Cooperative Press, Inc., and their respective agents, servants and employees, in connection with the sale and offering for sale of newspapers in interstate commerce or in the District of Columbia, do forthwith cease and desist from the use of the name "I. S. U. Pilot" and of any other name for its newspapers or other publications indicating or suggesting that the said respondents or any of their groups constitute an authorized committee of the International Seamen's Union, or that any publication by them or by any of them so sold and offered for sale is a publication of the International Seamen's Union, or authorized by it.

And it is hereby further ordered, That the aforesaid respondents, James L. Reamey, Joseph Curran, Louis Weinstock, Abraham Baskoff, Richard M. Kroon, John Anderson, William Allen, Elmer Johnson, Robert Brown, Harry Bridges, David Gordon, Elmer Brown, Dora Zucker, Luigi Genovese, A. W. McPherson, Albert Fleming, Charles B. Killinger, and the Uptown Cooperative Press, Inc., shall, within 60 days after service upon them of this order, file with this Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
SCHWABACHER BROTHERS & COMPANY, INC.
COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914
Docket 2861. Complaint, June 30, 1936—Decision, June 29, 1937

Where a corporation engaged in manufacture, sale, and distribution, to retail dealers in State of Washington and Territory of Alaska, of assortments of candy so packed and assembled as to involve use of a lottery scheme when sold and distributed to consumers thereof, and consisting of a number of boxes of assorted chocolates, additional article of merchandise, and a punchboard, for sale under a plan, and in accordance with said card's explanatory legend, pursuant to which purchaser received, for five cents paid, one of said boxes, value of which exceeded said amount, or nothing other than privilege of making a punch, depending upon number thus secured by chance, and under which purchaser of last punch on board received said article of merchandise, and last five punches in each sections into which board was divided were without cost to person making same—

Sold, to retailers for display and resale to purchasing public, in accordance with aforesaid plan, such assortments, and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of its said products in accordance with such plan, contrary to public policy long recognized by the common law and criminal statutes and to an established public policy of the United States Government, and in competition with many who, unwilling to offer and sell candy so packed and assembled, or otherwise arranged and packed for sale to purchasing public, as to involve a game of chance, refrain therefrom, and with many who are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win by chance, or other method contrary to public policy;

With result that many dealers in and ultimate purchasers of candy were attracted by said method and manner of packing the same and by element of chance involved in sale thereof as above set forth, and thereby induced to purchase such candy, so packed and sold by it, in preference to that offered and sold by said competitors who do not use same or equivalent methods, and with tendency and capacity, because of said game of chance, to divert to it trade and custom from its said competitors who do not use such or equivalent practice or method, exclude from candy trade all competitors who are unwilling to and do not use such or equivalent method as unlawful, lessen competition in said trade and tend to create a monopoly thereof in it and such other distributors as used same or equivalent practice or method, and deprive purchasing public of benefit of free competition therein, and eliminate from said trade all actual, and exclude therefrom all potential, competitors who do not adopt and use such or equivalent methods:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Henry C. Lank and Mr. P. C. Kolinski for the Commission.