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

Docket 1025—July 8, 1924.

SYLLABUS.

Where a corporation engaged as the Acme Staple Co. in the manufacture of a tacking machine and staples for use therein, and in the sale thereof under the trade name "Acme" through different concerns in continuously increasing quantities for many years; and thereafter a competitor in the sale of such products, doing business as the Acme Tacking Machine Co., and under other names as best suited his purpose, and dealing in a machine and staples therefor, which was inferior to the genuine Acme machine, and sold at a substantially lower price,

(*a*) Falsely represented to the trade and to customers of his competitors that the aforesaid Acme products were no longer being manufactured and sold and that his products were, because of their superior quality taking the place of the former, and that one of the competing concerns through which Acme products had theretofore been sold, had discontinued business, and been absorbed and succeeded by him;

(*b*) Falsely represented to customers of said competing concern that said concern was now doing business under the name used by him, and that as its agent, and alleged former distributor of the aforesaid Acme products which he claimed theretofore to have sold to them as one and the same concern with competitors, he was taking up the discontinued Acme products and replacing the same with those dealt in by him, and that he had been instructed so to do by said competing concern, his alleged principal:

With the result that customers of competitors were induced to deliver up their Acme products to him and to purchase instead those dealt in by him, to their injury and loss, and that of his competitors;

(*c*) Falsely represented to a customer of one of his aforesaid competitors, with whom he had formerly dealt as said competitor's representative, that such competitor had discontinued the said Acme products in favor of those dealt in by him, and would make an allowance upon the former in a transaction involving the turning in of said products and the purchase of the latter; with the result that said customer purchased the products dealt in by him in the mistaken belief that he was dealing with the old concern, to his total loss due to such products proving inefficient and of no value:

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

*Mr. Charles Melvin Neff* for the Commission.

*Mr. David Leavenworth* of New York City 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 Charles Tager, an individual trading under the name of Regat Sales Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Charles Tager, is an individual doing business and trading under the name of Regat Sales Co. with principal office and place of business at 250 West Fifty-fourth Street, New York City. He is now and at all times hereinafter mentioned has been engaged in the business of selling tacking machines and staples used for tacking labels and addresses on boxes, barrels, and other similar containers, to stores, factories, and other business establishments located throughout the several States of the United States, and causes said machines and staples, when sold by him, to be transported from his place of business in the city of New York, State of New York, to, into and through other States of the United States and in the District of Columbia to the purchasers thereof. In the sale of said products said respondent employs no salesmen but solicits orders himself either directly or through the mail. In the course and conduct of his said business said respondent is in competition with other individuals, partnerships, and corporations engaged in the manufacture and sale of tacking machines and staples including particularly the Markwell Manufacturing Co. and the Botts Marking Ink Co., both located in New York City, who sell the Acme tacking machines and staples manufactured by the Acme Staple Company, Camden, N. J., to the same class of trade throughout the several States.

PAR. 2. For a number of years said respondent was employed by said Botts Marking Ink Co. in the sale of Acme tacking machines and staples and in or about the year 1919 said respondent started in business for himself under the name of Port Arthur Tacking Machine Co., selling said Acme tacking machines and staples which he purchased from a broker representing the said Acme Staples Co. in New York City. In or about the year 1920 he changed his trade name to the Regat Sales Co. and continued to buy and sell the Acme tacking machines and staples. On or about January 1921, said respondent, as aforesaid, while continuing to buy and sell

the Acme tacking machines and staples, began the sale of tacking machines and staples manufactured for him by the Hotchkiss Sales Co., Norwalk, Conn., under the name "Regat." The staples of the Acme tacking machine could not and can not be used in the Regat tacking machine and likewise the staples of the Regat tacking machine could not and can not be used in the Acme tacking machine. Respondent has since pushed the sale of said Regat tacking machines and staples in preference to the Acme tacking machines and staples.

PAR. 3. Said respondent in the course and conduct of his said business during the two years last past has made and is making numerous false, misleading, and deceptive representations to customers and prospective customers with respect to the manufacturer and distributors of the said Acme tacking machines and staples. Among a number of said false and misleading representations are the following:

(*a*) Respondent assumed the name of, and represents himself to be, the Acme Tacking Machine Co., as manufacturer and distributor of Acme tacking machines and staples;

(*b*) Respondent represented and now represents that the Acme tacking machines and staples were and are no longer being manufactured and sold, and that the Regat tacking machine and staples were and are taking the place of the Acme because of their superior qualities;

(*c*) Respondent represented and now represents that the said Markwell Manufacturing Co., Inc., and the Botts Marking Ink Co., had gone out of business and were and are no longer selling the said Acme tacking machines and staples;

(*d*) Respondent represented and now represents himself to be the successor of the said Markwell Manufacturing Co., Inc., and other distributors of Acme tacking machines and staples;

(*e*) That respondent is a representative of the Markwell Manufacturing Co., Inc., and its products; that said Sales Company had an improved machine, to-wit, the Regat tacker, and was putting Regat tackers on the market in place of the Acme tackers, on account of their being a better machine; that most users of the Acme machine were making complaints of those machines and that the Regat Sales Company were engaged in calling in all Acme tackers and Acme staples, and exchanging same for Regat tackers and staples;

(*f*) That the Acme tackers and Acme staples were out of the market or were being taken out of the market, either or both, and that it would be impossible to purchase Acme tackers and Acme staples, either or both, in the future;

(*g*) That if buyers wanted tackers or staples it would be necessary to take the Regat tackers and staples.

Whereas the respondent had no authority from the Acme Staple Co., the manufacturer of the Acme tacker and Acme staples, to represent himself as the Acme Tacking Machine Co. That the Acme Staple Co. was at all times herein mentioned, and now is, the sole manufacturer of said Acme tacking machines and staples; that the said Acme tacking machines and said Acme staples were at all times mentioned herein and now are being manufactured and sold; that the respondent never has represented, and does not now represent, the said Markwell Manufacturing Co., Inc., in any way; that the said Markwell Manufacturing Co., Inc., and the said Botts Marking Ink Co., were, at all the times mentioned herein, and now are, doing business and engaged in the business of selling and distributing Acme tacking machines and Acme staples; that respondent at no time was, and is not now, the successor of the said Markwell Manufacturing Co., Inc., or the successor of the Botts Marking Ink Co., or other distributors of the Acme tacking machine and Acme staples; that the Regat Sales Co. at no time has taken over the Markwell Manufacturing Co., Inc., and its products; that the Acme tacker and Acme staples are not, and were not at any of the times mentioned herein, out of the market or being taken out of the market, either or both, and it is not true that it is impossible, or that it will be impossible in the future, to purchase Acme tackers and Acme staples; and it is not true, if buyers wanted Acme tackers or staples at any of the times mentioned herein, or want them in the future, that it would have been or would now be necessary to purchase Regat tackers and staples.

PAR. 4. Said respondent by resorting to false, misleading, and deceptive representations, including those set forth and described in paragraph 3 hereof, persuaded and induced customers and prospective customers who were using Acme tacking machines and staples purchased from said Markwell Manufacturing Co., Botts Marking Ink Co., and other competitors, to discontinue using said Acme tacking machines and staples and exchange the said Acme tacking machines for the said Regat tacking machines and to purchase large supplies of Regat staples which respondent was then selling, thus preventing the said Markwell Manufacturing Co., Botts Marking Ink Co., and other competitors from selling staples to their customers to whom Acme tacking machines had been sold and to whom they had been, from time to time, selling Acme staples to be used in said Acme tacking machines.

PAR. 5. The above alleged acts and things done by respondent are opposed to good morals, being characterized by deception and bad faith, and are against public policy because of their dangerous tendency unduly to hinder competition in the sale of tacking machines and staples to the users thereof throughout the United States, and said alleged acts and things therefore 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, the Federal Trade Commission issued and served a complaint upon the respondent, Charles Tager, trading under the name of Regat Sales Co. and other names, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent, Charles Tager, trading as aforesaid, having filed his answer and entered his appearance by his attorney David Leavenworth, and hearings having been had before George McCorkle, an examiner of the Commission, heretofore duly appointed, and testimony and evidence having been introduced in support of the allegations of the complaint, and testimony and evidence having been introduced by the respondent in support of his defense, and argument having been made in final hearing before the Commission sitting at Washington, District of Columbia, by Charles Melvin Neff, attorney for the Commission, in support of the complaint, and by David Leavenworth in behalf of the respondent, and the Commission having fully considered the testimony and the evidence, does now, after due deliberation, make this its findings of fact and conclusion:

### FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent herein has, ever since July 7, 1919, been trading as an individual under the names of Charles Tager, Charles I. Tager, Charles Taiger, and Charles I. Taiger, and that he has also, as an individual, been trading under the business name of REGAT SALES COMPANY ever since August 19, 1919, and under the business name of THE PORT ARTHUR COMPANY since August 21, 1919, and under the business name of ACME TACKING MACHINE COMPANY since June 19, 1922. That the respondent at no time since he

first began their use ever abandoned the use of any of the foregoing names but, on the contrary, used one or more of them to carry on his business as in his judgment the particular occasion seemed to require. That at no time has he under the above or any other names ever made Acme tacking machines or Acme staples. That the word "REGAT" in the said business name "REGAT SALES COMPANY" and in the phrases "Regat tackers" and "Regat staples" to be herein hereafter used is the respondent's surname spelled in the reverse order. That his office and principal place of business and the place from which he shipped the goods he sold under these various names was at one time No. 2010 Lexington Avenue, New York City, but that it is now and for some months before the issuance of the complaint herein was, at No. 250 West Fifty-fourth Street, New York City.

PAR. 2. That the respondent is now, and, continuously ever since he began trading under the foregoing names, has been engaged under each of them in the business of selling and distributing tacking machines and the staples for use therein, more particularly the Regat tackers and Regat staples, throughout the States and Territories of the United States and the District of Columbia, in competition with the Markwell Manufacturing Co., Inc., Alexander Botts, an individual trading under the name of the Botts Marking Ink Co., and with others engaged in selling and distributing the Acme tackers and the Acme staples. That after selling the Regat tackers and staples the respondent caused the same to be transported by freight, express or by parcels post from his place of business in New York City to his customers located in the various States and Territories of the United States and the District of Columbia.

PAR. 3. That tacking machines are used by factories, fruit houses, grocers, hardware dealers, and others to fasten cards, address slips and shipping directions upon commercial containers and by screen door and window makers. They do away with the inconvenience, the loss of time and the accidents attendant upon the use of hammers and tacks. That in both the Acme and the Regat tackers the general principle of operation is the same. Staples are slipped through the rear end of the tacker into a channel parallel to its base. They are then by a spring automatically pushed along a staple bar within the channel and forward into a throat in the front end of the tacker at right angles to the feeding channel. In this throat and immediately above the staple there is a sleeve through which a plunger, when struck by the hand, descends upon

the staple and drives it through the address card and into the commercial container.

PAR. 4. That the staples made for use in the Acme tackers are individual pieces fabricated from hard steel and until placed into the tackers are held together by a rubber band upon a core. The Regat staples, on the other hand, are stamped out of untempered metal into strips through which runs a small center rib. Each Regat staple is made by the aforesaid plunger when it descends by severing the partly formed staple from this center rib. It is necessary that the plunger cut off every staple used. It soon becomes dull, refuses to cut, the staple bends in the throat, the machines become jammed and clogged and of no further use until repaired. The Regat staples can not be used in the Acme tackers and neither can the Acme staples be used in the Regat tackers.

PAR. 5. That the Acme tacker is superior to the Regat tacker in the material from which it is made, the method of fabrication and in the manner of operation. Its every part, if broken, may be replaced by the factory. The Acme tacker is provided with an anticlogging device which prevents the plunger from returning for another staple after being struck until the one already in the throat has entered the material to be fastened. It can not clog. The Regat tacker is made from a one-piece magazine casting, the bar being fastened by a few rivets. The parts of the Regat tacker are not interchangeable and can not be replaced. It has no anticlogging device and when it becomes clogged or jammed by a staple the machine's effectiveness is destroyed.

PAR. 6. That the Acme machine is made to sell at from $3.50 to $5 and the Regat machine at $1.75. The Regat staples sold for less than Acme staples. Regat machines can be made in quantities for 10 cents each. Indeed, save in two instances, the respondent in all of the sales, made in competition with the Acme tackers, gave away the Regat machines and charged only for the staples, whereas he always charged for the Acme tackers when he sold Acme staples.

PAR. 7. That the Acme company is a New Jersey corporation organized in 1911, having its factory and principal office at 1643 Haddon Avenue, Camden, N. J. It has since its organization manufactured and sold the Acme and the Acme Sure Shot tacking machines and the staples for use therein. The products of this corporation for many years have been and are now sold throughout the United States, its possessions, and in foreign countries. The word "Acme" is the trade name of the corporation and is an asset of the Acme Staple Co. The whole product of the Acme Staple Co., wherever sold, is known through this trade name. The use of the word

"Acme" in the name of "Acme Tacking Machine Co.," one of the business names of the respondent, was never authorized by the Acme Staple Co. The Acme Staple Co. is in no way connected with the Acme Tacking Machine Co.

PAR. 8. That the Acme Staple Co., which manufactures all of the Acme tacking machines, Acme, Sure Shot, etc., and the staples for use therein, has been continually increasing its business from year to year. The increase of machines during the fiscal year 1919–1920 was 450 machines, and 81,790,600 staples over the previous year. The increase in the fiscal year 1920–1921 was 2,683 machines and 287,307,600 staples over the former year, while the increase in machines in 1921–1922 over the previous year was 1,415, while in staples it was 177,746,000 staples. Its increase in business has been such as to oblige it to acquire additional real estate in order to provide for more factories. Architects are now planning new buildings to be erected thereon.

PAR. 9. That Alexander Botts began trading in 1907 as an individual under the name of the "Botts Marking Ink Co." After a few years he organized a corporation called the "Botts Marking Ink Co., Inc." In 1920 this corporation went out of existence and the said Botts at once resumed trading as an individual under the former trade name of the Botts Marking Ink Co. His office and principal place of business has been at all times and now is at No. 68–76 Third Street, Brooklyn, Borough of Brooklyn, New York City. By means of traveling salesmen and through the mail he sold, and by freight, express and parcel post he distributed Acme tacking machines and staples throughout the United States and Canada, to shippers of all kinds and to screen door and window makers. In such sales he has been since about July 7, 1919, in direct competition with Charles Tager, the respondent, under his various individual and trade names.

PAR. 10. The Markwell Manufacturing Co., Inc., is a New York corporation organized in January, 1920, with its office and principal place of business at 176 Franklin Street, New York City. Ever since that date it has been continuously and is now engaged in selling Acme tackers and Acme staples by traveling salesmen and by the United States mail throughout the United States and the District of Columbia. The tackers and staples so sold are thereafter delivered from New York City by freight, express and by parcel post. In the sale and distribution of said tackers and staples the company is in competition with respondent Tager under his aforesaid various personal and trade names.

PAR. 11. That in competition, as aforesaid, with the said Markwell Manufacturing Co., Inc., the Botts Marking Ink Co., Inc., Alexander Botts, trading as an individual under the trade name of the Botts Marking Ink Co. and with others, the respondent herein has, ever since he began business in July, 1919, stated to the trade and to customers of his said competitors that the said Acme tacking machine and said Acme staples were and are no longer being manufactured and sold, and that the said Regat tackers and said Regat staples were, because of their superior qualities, taking the place of the said Acme tackers and staples. That these statements were at all of said times and when made and are now false and untrue and misleading. That the said Acme tackers and Acme staples were at all of said times and continuously manufactured, offered for sale and sold and are now being made and sold in ever increasing quantities. That the Regat tackers were at no time nor are they now superior to the Acme tackers and that the Regat staples were at no time nor are they now superior to the Acme staples. That on the contrary the said Acme tackers and Acme staples were at all times and are now superior to the said Regat tackers and staples in material, construction, and operation.

That because of the above false statements, and believing said statements and relying upon them as true, the following customers of the respondent's competitors were by said statements induced to give up the use of Acme tackers and staples and to buy Regat tackers and Regat staples from the respondent, all to the injury of the business and financial loss of said competitors, to the said Acme Staple Co. and to the said customers of the said competitors. That some of the aforesaid purchasers are, together with financial losses resulting therefrom, as follows:

| | Loss. |
|---|---|
| Aaron Carlson, Inc | $200.56 |
| Burns Lumber Co | 70.10 |
| Langeland Manufacturing Co | 100.70 |
| The Thomas Produce Co | 140.25 |
| The John Pritzlaff Hardware Co | 227.28 |
| Field & Start, Inc | 191.99 |
| Sheboygan Dairy Products Co | 138.18 |
| Moore & Galloway Lumber Co | 206.02 |
| Total | 1,275.05 |

PAR. 12. That in competition, as aforesaid, with the said Markwell Manufacturing Co., Inc., the Botts Marking Ink Co., Inc., Alexander Botts, trading as an individual under the trade name of the Botts Marking Ink Co., and with others, the respondent herein has from time to time ever since he began business in July, 1919, to the trade

and to customers of his said competitors stated that the said Markwell Manufacturing Co., Inc., had gone out of business, and were and are no longer selling the said Acme tackers and staples, that the Regat Sales Co. had absorbed the said Markwell Manufacturing Co., Inc., and was its successor and had taken over the products of the said Markwell Manufacturing Co., Inc., and that the Acme tackers and staples were and are no longer being made and sold, and that the Regat tackers and staples were and are taking the place of the Acme tackers and staples.

PAR. 13. That these statements were at all of the said times and when made and are now false and untrue. That the facts were at all of said times and now are that the said Markwell Manufacturing Co., Inc., was at all of said times and now is engaged in business as aforesaid in selling Acme tackers and staples, that the Regat Sales Co. had at no time absorbed or succeeded the said Markwell Manufacturing Co., Inc., nor had it at any time taken over the products of the latter company, and that at all of said times the said Acme tackers and staples were being sold and distributed by the said Markwell Manufacturing Co., Inc., the Botts Marking Ink Co., Inc., and Alexander Botts, its successor, trading as an individual under the trade name of the Botts Marking Ink Co.

PAR. 14. That because of the above false statements and believing and relying upon them as true the following customers of the above mentioned competitors of the respondent were by said statements induced to give up the use of said Acme tackers and staples and to buy Regat tackers and staples from the respondent, all to the injury of the business and financial loss to said competitors, to the said Acme Staple Co. and the said customers of the said competitors. These said customers with their respective losses are:

1. Segal Co.—Fraud discovered; no loss, goods returned.
2. H. C. Bartels—Refused to purchase; no loss.
3. Curtiss-Yale-Holland Co.—Fraud discovered; no loss, goods returned.

| | Loss. |
|---|---|
| 4. Langeland Manufacturing Co | $100.72 |
| 5. The Thomas Produce Co | 140.25 |
| 6. Sheboygan Dairy Products Co | 138.18 |
| 7. Burns Lumber Co | 70.10 |
| 8. Lake Street Sash & Door Co | 46.05 |
| 9. Aaron Carlson, Inc | 200.56 |
| 10. The Moore & Galloway Lumber Co | 206.02 |
| Total | 901.88 |

PAR. 15. That in competition, as aforesaid, with the Markwell Manufacturing Co., Inc., the respondent, in April, 1922, stated in

substance to the St. Paul Table Co., St. Paul, Minn., at that time a customer of the Markwell Manufacturing Co., Inc., that he was the agent and representative of the said Markwell company which had hitherto been selling Acme tackers and staples to the said St. Paul Table Co.; that the said Markwell company was no longer doing business under that name but was then doing business under the name of the Regat Sales Co.; that the said Markwell company was no longer making the said Acme tackers and staples and that as a representative of the Regat Sales Co. he was taking up all the Acme tackers and staples and selling Regat tackers and staples instead.

PAR. 16. That in April, 1922, the respondent called upon Brooks Brothers, Inc., of St. Paul, Minn., and stated in substance to said Brooks Brothers, then a customer of said Markwell Manufacturing Co., that the Regat Sales Co., which he was then representing was the former distributor or agent of the Acme tackers and staples and was one and the same concern with the said Markwell Manufacturing Co.; that the Regat Sales Co. had previously sold Brooks Brothers the Acme tackers and staples which they then possessed and was now replacing them with Regat tackers and staples.

PAR. 17. That believing and relying upon the said statements the said St. Paul Table Co. and the said Brooks Brothers, Inc., were induced by them to deliver up to the said Regat Sales Co. their Acme tackers and staples and to make purchases of Regat staples in their place amounting respectively to $18.75 and $323.23. That the Regat tackers and staples so purchased proved inefficient and worthless and could not be used, and that as a result thereof the said purchases were a total loss.

PAR. 18. That in March, 1922, the respondent stated to A. F. Schwahn & Co., of Eau Claire, Wis., at that time a customer of the said Markwell company, that he (Tager) was a representative of the said Markwell company, that the said company had instructed him (Tager) to take in or have returned by its customers all Acme tackers and staples and that they would be replaced by the said Markwell company by a new device called the Regat tackers and staples which were more efficient. That the said Schwahn & Co. did return the said Acme tackers but not to Tager but to the said Markwell Manufacturing Co. instead, in consequence of which no financial loss by purchaser was suffered.

PAR. 19. That none of the above statements were true and all were false. The respondent was at no time either under his own or business names an agent or representative of the said Markwell Manufacturing Co., Inc. The said Markwell Manufacturing Co., Inc.,

never at any time did business under the name of the Regat Sales Co., nor did the respondent have at any time any authority from the Markwell Manufacturing Co., Inc., to take up Acme tackers and staples and to substitute in place therefor Regat tackers and staples, neither had the Regat Sales Co. ever sold Acme tackers and staples to the said Brooks Brothers, Inc.; that these statements injured the business of the said Markwell Manufacturing Co., Inc., and caused it financial loss.

PAR. 20. That from about December 6, 1916, and until July 7, 1919, the said Tager was employed by Alexander Botts, that is, by the Botts Marking Ink Co., Inc., as one of its salesmen; that as such he traveled throughout the United States selling for it said Acme tackers and staples and so became acquainted with its customers. That on or about the 7th day of July, 1919, Tager left the employ of the said Botts Marking Ink Co., Inc., and began business for himself under his various individual and other business names in competition with the Botts Marking Ink Co., Inc., and with Alexander Botts, later doing business as an individual under the name of Botts Marking Ink Co., and with the Markwell Manufacturing Co., Inc., in the sale and distribution of tackers and staples.

PAR. 21. That after he had left the employ of the said Botts Marking Ink Co., Inc., and after the said Alexander Botts had resumed the business of selling Acme tackers and staples under the name of the Botts Marking Ink Co., and after Tager, as an individual under the said name of Regat Sales Co. and his other said names had, in competition with the said Botts Marking Ink Co., Inc., and others, began selling Regat tackers and staples, and in the fall of 1922 he called, for the purpose of making sales of said Regat tackers and staples, upon Harwood Brothers, Inc., of Richmond, Va., to whom, formerly, as a customer of said Botts Marking Ink Co., Inc., he had as its said agent and salesman sold Acme tackers and staples.

PAR. 22. That at the time said Tager called upon said Harwood Brothers, Inc., he did not disclose to them that he was no longer a salesman for the Botts Marking Ink Co., Inc., and that he was in business for himself and selling, under the name of Regat Sales Co., Regat tackers and staples in competition with his former employer. He said to a Mr. King, a buyer for Harwood Brothers, Inc., to whom as salesman for the said Botts Marking Ink Co., Inc., he had formerly sold Acme tackers and staples, "Mr. King, we are putting out a new machine (meaning the Regat tacker) to take the place of this old one (meaning the Acme tacker); send the two old machines back; or I will send you two machines for them, and send back all of your old staples and I will refund you other staples with the

understanding that you will buy a certain number of staples for this new machine we are putting out;" that neither said King nor Harwood Brothers, Inc., knew said Tager had left the employ of said Botts Marking Ink Co., Inc., and that he was then a competitor of it, but on the contrary from Tager's conversation at that time, and from previous dealings with him, still believed that he was then representing the said Botts Marking Ink Co., Inc., and intended to and thought he was contracting with the said Botts Marking Ink Co., Inc., and that had he known that Tager was no longer representing the said Botts Marking Ink Co., Inc., he would not, without further investigation, have dealt with him. In consequence of Tager's nondisclosure and under the belief that he was buying from his former vendor, King, for Harwood Brothers, Inc., made a purchase of Regat tackers and staples, for which he paid the sum of $83.12. The said tackers and staples proved to be inefficient and of no value and the sale amounted to a dead loss.

PAR. 23. That after the sale was made Tager directed Harwood Brothers, Inc., to send back the Acme tackers and staples to Tager's New York City address that by mistake the goods were sent to Markwell Manufacturing Co., Inc., with whom Harwood Brothers, Inc., had also previously dealt; that after waiting awhile for the said Acme tackers and staples and not receiving them Tager wired to Harwood Brothers, Inc., to send them, to which wire Harwood Brothers, Inc., replied that the goods had by mistake been sent to said Markwell Manufacturing Co., Inc.; that thereupon Tager sent the following wire to Harwood Brothers, Inc.:

"WIRE MARKWELL MFG. CO. TO RETURN YOUR STAPLES DON'T TELL THEM ABOUT TRANSACTION OR ABOUT NEW MACHINES LETTER FOLLOWING."

Then Tager immediately afterwards sent the following letter to Harwood Brothers, Inc.:

THE REGAT SALES COMPANY, Sole Distributors for the United States and Foreign Countries for the REGAT Automatic Tacking Machines and Staples. Foreign branches: Manchester, Eng., Leipsig, Germany.

2010 LEXINGTON AVE.,
*New York, N. Y., 10/21/22*

HARWOOD BROS., Inc.,
*Richmond, Va.*
(Att'n Mr. W. E. King.)

GENTLEMEN: We have before us your valued favor of Oct. 18th which we have just received and have wired you as follows:

"WIRE MARKWELL MFG. CO. TO RETURN YOUR STAPLES, DON'T TELL THEM ABOUT TRANSACTION OR ABOUT NEW MACHINES, LETTER FOLLOWING."

We regret that you have made the mistake by sending the old staples back to the Markwell people, and we would ask you please, to ship these

staples back to us by parcel post as soon as you receive them from the Markwell Co.

We trust that you will attend to this as soon as possible, at the same time, we wish to ask you not to explain or advise the Markwell Co. in regards to our transaction or anything about our new machines.

Thanking you for past favors, we remain,

Yours very truly,

THE REGAT SALES CO.
(Signed) CH. TAGER.

CONCLUSION.

That the aforesaid nondisclosure, false statements, practices and methods of competition by the respondent have the capacity and the tendency to deceive and in many instances have actually deceived the general public and the competitors of the said respondent to their great inconvenience and to their financial loss, and are unfair methods of competition in interstate commerce and constitute a 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."

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 respondent herein, Charles Tager, doing business under the name of the Regat Sales Co., and various other names, and the testimony and exhibits submitted, and the Commission after full consideration thereof and due deliberation having made its findings of fact, and its conclusion that the said respondent 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,"

*Now, therefore, it is ordered*, That the said respondent cease and desist from:

1. Representing that the Acme tacking machines and staples for use therein are no longer being manufactured.

2. Representing that the Regat tacking machines and staples, or machines and staples like them, have been or are now taking the place of Acme tacking machines and staples, because of alleged superior qualities.

3. Representing that the Markwell Manufacturing Co., Inc., has gone out of business and is no longer engaged in selling the said Acme tacking machines and staples.

4. Representing that the Botts Marking Ink Co. has gone out of business and is no longer selling the said Acme tacking machines and staples.

5. Representing himself to be the successor of the said Markwell Manufacturing Co., Inc., or other distributors of the said Acme tacking machines and staples.

6. From stating that he is a representative of the Markwell Manufacturing Co., Inc., or that he is a representative of the products of the said Markwell Manufacturing Co., Inc.

7. From stating that as a representative of the Markwell Manufacturing Co., Inc., and its products he has an improved tacking machine and that he is putting the same on the market in place of Acme tackers on account of any alleged superiority of said Acme tackers.

8. From representing that the Acme tackers and staples, either or both, are out of the market or are being taken out of the market, either or both.

9. From representing that it is or will be impossible to purchase Acme tackers or Acme staples, either or both.

10. From representing that if buyers want tackers or staples it will be necesary to purchase Regat tackers and Regat staples.

11. From making any other false and untrue statements concerning the products or the business of the Acme Staples Co., or the Markwell Manufacturing Co., Inc., or the Botts Marking Ink Co., either or any of said companies.

*And it is further ordered*, That the respondent file with the Federal Trade Commission within 30 days from the date of the service of this order upon him his report in writing, setting forth in detail the manner and form in which the respondent has complied with the order to cease and desist hereinbefore set forth.

FEDERAL TRADE COMMISSION

*v.*