

IN THE MATTER OF
WASHINGTON CEREAL ASSOCIATION, ITS OFFICERS
AND MEMBERS, OREGON CEREAL AND FEED ASSO-
CIATION, ITS OFFICERS AND MEMBERS, AND PRES-
TON-SHAFFER MILLING COMPANY

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

Docket 1345. Complaint, Sept. 9, 1925—Decision, Oct. 27, 1927

Where two associations composed of individuals, partnerships and corporations engaged in the milling of grain and/or the wholesaling of flour and other cereal products, and of feed and feed stuffs for cattle and poultry, in the states of Washington and Oregon, to wholesale and retail dealers, bakery and large quantity consumers in the aforesaid and other states and, together with a concern similarly engaged, manufacturing in the aggregate over 75 per cent and over 50 per cent, respectively, of the entire amount of flour produced annually in the two states, and over 60 per cent of the flour produced in Washington, Oregon, and Idaho; and the officers, members and committees thereof; in pursuance of an unlawful combination and conspiracy entered into with the intent and effect of suppressing competition in the sale of their products throughout the aforesaid and other states, and of fixing uniform prices, price levels, discounts, and terms and conditions of sale, distribution and delivery of said products in such territory, and acting within and through each association, and the membership thereof; and in conjunction and cooperation with said concern,

- (a) Agreed upon, fixed and abided by uniform prices, discounts, and terms and conditions of sale, distribution and delivery of the products involved for and in the territory served by the respective members;
- (b) Agreed to inform and informed the respective secretaries of contemplated changes in prices, discounts, terms and conditions sufficiently in advance of the taking effect thereof to enable them to advise other members of such contemplated changes by letters, bulletins, telegrams and otherwise in order that such members might put said changes into effect;
- (c) Took action through correspondence, association meetings, and their respective secretaries to eliminate the changes or rearrange the prices, discounts, terms and conditions in a manner agreeable to all;
- (d) Revised such uniform prices, discounts, etc., from time to time through association meetings and otherwise, but so that they remained uniform;
- (e) Supplied the respective members with lists compiled by the respective secretaries, of such uniform prices, etc.;
- (f) Supplied the respective memberships through exchanges by the respective secretaries, with copies of the lists of prices, etc. of the other association;
- (g) Agreed to and did abide by and observe prices, etc. of the other association in force and applying in its territory when doing business therein; and

- (h) Reported to their respective secretaries and to one another departures from and infractions of the aforesaid uniform prices, etc., and through action by the respective secretaries, meetings of the respective associations, and otherwise sought to and did prevail upon the offending members to cease from such departures and infractions and thereafter to adhere to such uniform prices, etc.; and

Where the aforesaid associations and their members, all cooperating together and acting in concert, and with the corporation above set forth, and in pursuance of the aforesaid conspiracy,

- (i) Held joint meetings to agree upon and fix and did agree upon and fix uniform prices, price levels, discounts and terms and conditions of sale, distribution and delivery for their products throughout the territory served in the aggregate by the members of both associations and abided by the same;
- (j) Made and issued to each member of each association lists of the aforesaid uniform prices, etc., through the joint action of the respective secretaries and joint committees of the associations, for the use of all members in carrying out their aforesaid joint price agreement;
- (k) Kept one another advised of changes in or revisions of the prices, etc., of each association, through exchange of association price lists, and correspondence between the respective associations and members, in order that each association might revise its prices, etc. to correspond to the aforesaid changes, etc.;
- (l) Reported to and kept all the members advised of departures from and infractions of the aforesaid joint price agreement, and thereupon brought pressure to bear upon the offending members through the joint and several action of the two associations and their members, to refrain from such departures and infractions and adhere to and abide by the joint price agreement in the future; and
- (m) Revised said joint price agreement from time to time through joint meetings of the associations and otherwise, but in such manner that the same remained uniform in its provisions;

With the result of suppressing competition in the sale and distribution of flour and other cereals and feeds and feed stuffs for cattle and poultry in the states of Oregon, Washington, Idaho and elsewhere, hindering and obstructing the free flow of said products in the channels of interstate trade, and denying to dealers and consumers therein those advantages in price and otherwise which they would obtain under conditions of normal and unobstructed competition in the absence of such acts and practices:

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

Mr. G. Ed. Rowland for the Commission.

Palmer, Davis & Scott, of Washington D. C., and *Battle, Hulbert & Helsell*, of Seattle, Wash., for Washington Cereal Association and officers and members thereof.

Mr. H. Stanley Hinrichs, of Washington, D. C., for Globe Grain & Milling Co.

Mr. J. C. Allen, of Seattle, Wash., for The Chas. H. Lilly Co.

Complaint

11 F. T. C.

Mr. Robert R. Rankin, of Portland, Oreg., for Oregon Cereal & Feed Association and for Preston-Shaffer Milling Co. and association officers and members (together with *Palmer, Davis & Scott*, of Washington, D. C.)

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent Washington Cereal Association, respondent Oregon Cereal & Feed Association, officers of said associations, the members thereof, and the Preston-Shaffer Milling Co., a Washington corporation with principal office and a plant in Waitsburg, Wash., and also with a plant and place of business in Athena, Oreg., with engaging in an unlawful combination and conspiracy affecting distribution in commerce of flour, cereal products, feed and feed stuffs, between and among the aforesaid and other States, with the intent and effect of suppressing competition in the sale of such products in said States and of fixing uniform prices, price levels, discounts and terms and conditions of sale, distribution, and delivery of said products in such territory.¹

The conspiracy charged, in which it is alleged that respondent Preston-Shaffer Milling Co. cooperated in carrying out and making the same effective, relates both to intra-association activities and inter-association activities, as well as to activities of members of each association between themselves, and activities, such as interchange of price information, etc., taking place between various members of one association and those of the other association.

Methods charged by the complaint, as used by the associations and their members, included the following:

Agreeing upon, fixing and abiding by uniform prices, discounts, terms and conditions of sale, distribution and delivery for the products concerned in the territory served by the members;

Informing the secretary of each association, in advance, of contemplated changes in prices, discounts, etc., in order that the membership may be advised by him thereof and put the same into effect, and taking action through correspondence between themselves, association meetings, and the secretary "to eliminate such changes or

¹ According to the complaint respondent members of the aforesaid associations manufacture, together with the aforesaid Preston-Shaffer Milling Co., "in the case of the first-named association, over 75 per cent of the flour produced annually in Washington, in the case of the second, over 50 per cent of the entire amount produced annually in Oregon, and, together, over 80 per cent of the entire amount produced in the States of Washington, Oregon, and Idaho."

rearrange such prices, discounts, terms and conditions in a manner agreeable to all ”;

Revising the uniform prices, discounts, etc., so that they remain uniform, from time to time, through association meetings and otherwise;

Supplying the membership of each association with price lists showing the prices, discounts, etc., and supplying the secretary of each association with the price lists of the other association;

Agreeing to abide and abiding by prices, etc., in force in the territory of each association, when a respondent concern, a non-member of the particular association, does business in the territory thereof;

Reporting to the secretaries and to each other departures from and infractions of the uniform prices, etc., and thereupon seeking through the respective secretaries, through association meetings, and otherwise, to induce and inducing, the offending members to desist from such infractions and thereafter adhere to the uniform prices, etc.;

Holding joint meetings of the two associations for the purpose of agreeing upon and fixing uniform prices, etc., “throughout the territory served in the aggregate by the members of both respondent associations” and thereafter abiding and adhering to the uniform prices, price levels, etc., so fixed;

Keeping the membership of the two associations advised through price lists, of the uniform prices, etc., so agreed upon and also, through exchange of association price lists, through correspondence between the association secretaries, and between members of the two associations, of changes in prices, discounts, etc., “in order that each association may revise its prices, discounts, terms and conditions to correspond to such departures, changes and revisions; and through the same means and methods”;

Reporting to and keeping the members advised of the departures from and infractions of the joint price agreements and bringing pressure to bear upon the offending members, through the joint and several actions of the two associations and their members to refrain from further offending in the matter; and

Revising such joint price agreements, “but in such manner that same remained uniform in its provision” from time to time through joint meetings of the association and otherwise;

“The effect and result of said combination and conspiracy and the acts and things done by respondents to carry out and effectuate the same, all as hereinabove set out, has been and now is to sup-

press competition in the sale and distribution of flour and other cereals, and feeds and feed stuffs for cattle and poultry in the States of Oregon, Washington, Idaho, and elsewhere; to hinder and obstruct the free flow of said products in the channels of interstate trade, and to deny to dealers in and consumers of said products in aforesaid States those advantages in price and otherwise which they would obtain under conditions of normal and unobstructed competition and in the absence of above alleged acts and practices of respondents. Wherefore, said acts and practices of respondents are all to the prejudice of the public, 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."

Upon the foregoing complaint the Commission made the following

• 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 upon the respondents above named² a complaint, charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said act, together with notice that answer should be filed within 30 days after service of the complaint unless extended by the Commission, and with a copy of the Rules of Practice of the Commission as to Answers. (Rule III.)

The respondent, Globe Grain & Milling Co., entered its appearance herein and filed an answer setting up, among other things, that it had, on November 1, 1923, sold its mill located at Seattle, Wash., and had not since said date been engaged in the business of manufacturing flour in the States of Washington, Oregon, or Idaho.

Respondent, W. F. Jahn & Co., a corporation organized under the laws of the State of Washington, has not filed an answer to the complaint within the time required by the rules (which has not been extended), or at all.

Preston-Shaffer Milling Co., a corporation organized under the laws of the State of Washington, has not filed an answer to the complaint within the time required by the rules (which has not been extended), or at all.

Respondents F. B. Burke; Paul Knudson; Albers Bros. Milling Co.; Centennial Mill Co.; Coast Trading Co.; Crown Mills; Fisher Flouring Mills Co.; Galbraith & Co.; S. E. Hill and J. C. Hill;

² The various respondents are set forth in paragraph 1 of the "Findings."

Kenworthy Grain & Milling Co.; M. J. Lehman; Magnolia Milling Co.; Novelty Mills Co.; Sperry Flour Co.; John B. Stevens & Co.; W. A. Farr; The Charles H. Lilly Co.; F. L. Shaw; A. V. Hemming; Columbia Milling Co.; Kerr, Gifford & Co., Inc.; Mason Ehrman & Co.; Northern Flour Mills Co.; Portland Flour Mills Co.; Rose City Flour Mills; and Wasco Warehouse Milling Co., appeared herein and filed an answer, stating that they were unwilling to contest the charges set out against them in the complaint, and that they had definitely and finally elected to refrain from contesting said charges. No other answer or return has since been filed by said respondents.

Thereupon this proceeding came on for decision, and the Federal Trade Commission having duly considered the record, and being now fully advised in the premises, and pursuant to Rule of Practice III, subdivisions 2 and 3, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Washington Cereal Association is a voluntary unincorporated association of individuals, partnerships, and corporations engaged in the milling of grain and/or the wholesaling of flour and other cereal products and of feed and feed stuffs for cattle and poultry. Said members are banded together in said Association to promote and protect their common interests and business affairs. Respondents F. B. Burke and Paul V. Knudsen are, respectively, president and secretary of said association, in charge of administering and conducting its activities and affairs. The members of said association are as follows:

Respondent Albers Brothers Milling Co., a corporation organized under the laws of the State of Oregon, with its principal office and a grain-milling plant in the city of Portland, in said State, and with a branch office and a grain-milling plant at Seattle, Wash. This respondent is also a member of respondent Oregon Cereal & Feed Association, as hereinbelow appears.

Respondent Centennial Mill Co., a corporation organized under the laws of the State of Washington, with its principal office in the city of Seattle, in said State, and with a branch office and grain-milling plant in the city of Spokane, in said State. This respondent owns and controls the following grain-milling enterprises: Tacoma Grain Co., with a grain-milling plant at Tacoma, State of Washington; Seattle Flour Mills Co., with a grain-milling plant in the city of Seattle, in said State; Wenatchee Milling Co., with a grain-milling plant at Wenatchee, in said State; Ritzville Flouring Mills, with a grain-milling plant at Ritzville, in said State; Washington Grain &

Findings

11 F. T. C.

Milling Co., with a grain-milling plant at Reardan, in said State; Sprague Roller Mills, with a grain-milling plant in the city of Sprague, in said State; and the Columbia Milling Co., with a grain-milling plant in the city of Portland, State of Oregon.

Respondent Coast Trading Co., a corporation organized under the laws of the State of Washington, with its place of business in the city of Tacoma, in said State.

Respondent Crown Mills, a corporation organized under the laws of the State of Oregon, with its principal office and a grain-milling plant in the city of Portland, in said State, with a branch office in the city of Seattle, State of Washington, and with a grain and feed mill-ing plant in the city of Tacoma, State of Washington. This respondent is also a member of respondent Oregon Cereal and Food Association, as hereinbelow appears.

Respondent Fisher Flouring Mills Co., a corporation organized under the laws of the State of Washington, with its principal office and a grain-milling plant in the city of Seattle, in said State, and with a branch office and warehouse, from which it distributes its products, in the city of Portland, State of Oregon. This respondent is also a member of the Oregon Cereal & Feed Association, as hereinbelow appears.

Respondent Galbraith & Co., a corporation organized under the laws of the State of Washington, with its place of business in the city of Seattle, in said State.

Respondents S. E. Hill and J. C. Hill, partners, doing business under the trade name and style, Hill Cereal Co., with their place of business in the city of Tacoma, State of Washington.

Respondent Kenworthy Grain & Milling Co., a corporation organized under the laws of the State of Washington, with its place of business in the city of Tacoma, in said State.

Respondent M. J. Lehman, doing business under the trade name and style, Lehman Bros., with his place of business in the city of Seattle, Wash.

Respondent Magnolia Milling Co., a corporation organized under the laws of the State of Washington, with its place of business in the city of Seattle, in said State.

Respondent Novelty Mill Co., a corporation organized under the laws of the State of Washington, with its principal place of business in the city of Seattle, in said State.

Respondent Sperry Flour Co., a corporation organized under the laws of the State of California, with its principal office in the city of San Francisco, in said State, and with branch places of business and grain-milling plants in the cities of Tacoma and Spokane, State of Washington, and in the city of Portland, State of Oregon.

Respondent John B. Stevens & Co., a corporation organized under the laws of the State of Washington, with its place of business in the city of Tacoma, in said State.

Respondent W. A. Farr, doing business under the trade name and style, Tacoma Feed Co., with his place of business in the city of Tacoma, in said State.

Respondent The Charles H. Lilly Co., a corporation organized under the laws of the State of Delaware, with its place of business in the city of Seattle, State of Washington.

Each of said members sell aforesaid commodities to wholesale and retail dealers, bakers and other large quantity consumers located at points in the States of Oregon, Washington, Idaho, and other States of the United States, and causes said products, when so sold, to be transported from their respective places of business into and through other States of the United States to such purchasers located in States other than the States from which such shipments are made.

PAR. 2. Respondent Oregon Cereal & Feed Association is a voluntary unincorporated association of individuals, partnerships, and corporations engaged in the milling of grain and/or the wholesaling of flour and other cereal products, and of feed and feed stuffs for cattle and poultry. Said members are banded together in said association to promote and protect their common interests and business affairs. Respondents F. L. Shaw and A. V. Hemming are, respectively, president and secretary of said association, in charge of administering and conducting its activities and affairs. This respondent association was formed in the month of November, 1922, to consolidate into a single association and take over the activities and affairs of three preexisting associations, to wit: The Oregon Feed Dealers & Manufacturers' Association, the Oregon Cereal Manufacturers' Association, and the Flour Millers' Association. The members of said preexisting associations in the aggregate became, and now are, the members of respondent Oregon Cereal & Feed Association. Said members are as follows:

Respondent Albers Brothers Milling Co., a corporation organized under the laws of the State of Oregon, with its principal office and grain-milling plant in the city of Portland, in said State, and with grain-milling plants and branch places of business in the cities of Seattle, Tacoma, and Bellingham, State of Washington. This respondent is also a member of respondent Washington Cereal Association, as hereinabove appears.

Respondent Columbia Milling Co., a corporation organized under the laws of the State of Oregon, with its principal office and a grain-milling plant in the city of Portland, in said State. This respondent

Findings

11 F. T. C.

is owned and controlled by respondent Centennial Mill Co., a member of respondent Washington Cereal Association, as hereinabove appears.

Respondent Crown Mills, a corporation organized under the laws of the State of Oregon, with its principal office and grain-milling plant in the city of Portland, in said State, with a grain-milling plant in the city of Tacoma, State of Washington, and a branch office in the city of Seattle, State of Washington. This respondent is also a member of respondent Washington Cereal Association, as hereinabove appears.

Respondent Fisher Flouring Mills Co., a corporation organized under the laws of the State of Washington, with its principal office and a grain-milling plant in the city of Seattle, in said State, and with a branch office and warehouse from which it distributes its products in the city of Portland, State of Oregon. This respondent is also a member of the respondent Washington Cereal Association, as hereinabove appears.

Respondent Kerr Gifford & Co., Inc., a corporation organized under the laws of the State of Oregon, with its principal office in the city of Portland, in said State; with a number of grain-milling plants located at various points in the State of Oregon, and with branch offices in the State of Idaho.

Respondent Mason Ehrman & Co., a corporation organized under the laws of the State of Oregon, with its place of business in the city of Portland, in said State.

Respondent Northern Flour Mills Co., a corporation organized under the laws of the State of Oregon, with its principal office in the city of Portland, in said State, and with grain-milling plants in the cities of Vancouver and Walla Walla, in the State of Washington, and in the city of American Falls, in the State of Idaho.

Respondent Portland Flour Mills Co., a corporation organized under the laws of the State of Oregon, with its principal office and a grain-milling plant in the city of Portland, in said State, and with a number of milling plants at other points in the States of Oregon and Washington. This respondent is owned and controlled by respondent Sperry Flour Co., a member of respondent Washington Cereal Association, as hereinabove appears.

Respondent Rose City Flour Mills, a corporation organized under the laws of the State of Washington, with its principal office in the city of Portland, State of Oregon.

Respondent Wasco Warehouse Milling Co., a corporation organized under the laws of the State of Oregon, with its principal office and grain-milling plant in the city of The Dalles, in said State.

Each of said members is engaged in the sale of aforesaid commodities to wholesale and retail dealers, bakers and other large quantity consumers located at points in the States of Oregon, Washington, Idaho, and other States of the United States, and causes said products, when so sold, to be transported from their respective places of business into and through other States of the United States to such purchasers located in States other than the State from which such shipments are made.

PAR. 3. Respondent Preston-Shaffer Milling Co. is a corporation organized under the laws of the State of Washington, with its principal office and a grain-milling plant in the city of Waitsburg, in said State, and with a grain-milling plant and place of business in the city of Athena, State of Oregon. It is engaged in the milling of grain and the sale of cereal products so produced to wholesale and retail dealers, bakers and other large quantity consumers located at points in the States of Oregon, Washington, Idaho, and other States of the United States. It causes said products, when so sold, to be transported from its said places of business into and through other States of the United States to many aforesaid purchasers located in States other than the State from which such shipments are made.

PAR. 4. Those members of the Washington Cereal Association engaged in the milling of grain, together with respondent Preston-Shaffer Milling Co., manufacture in the aggregate over 75 per cent of the entire amount of flour produced annually in the State of Washington. Those members of respondent Oregon Cereal & Feed Association engaged in the grain-milling business, together with respondent Preston-Shaffer Milling Co., manufacture in the aggregate over 50 per cent of the entire amount of flour produced annually in the State of Oregon. Those members of respondents Washington Cereal Association and Oregon Cereal & Feed Association engaged in the milling of grain, together with respondent Preston-Shaffer Milling Co., manufacture in the aggregate over 60 per cent of the entire amount of flour produced annually in the States of Washington, Oregon and Idaho.

PAR. 5. For a period of about four years last past, respondent associations, their officers, members, and various committees, both among themselves within their respective organizations and all cooperating together, have been and still are engaged in an unlawful combination and conspiracy affecting the distribution in commerce between and among the States of Washington, Oregon, Idaho, and other States, of aforesaid products which they manufacture and/or sell—entered into with the purpose, intention and effect of suppressing competi-

Findings

11 F. T. C.

tion in the sale of said products throughout the States of Oregon, Washington, Idaho, and other States, and of fixing uniform prices, price levels, discounts and terms and conditions of sale, distribution and delivery of said products in such territory. In order to carry out and effectuate said combination and conspiracy and its said purposes, respondents have done and still do the following acts and things:

I

Each respondent association and its respondent members acting within the association, at meetings of the association and otherwise.

(a) Agree upon and fix uniform prices, discounts and terms and conditions of sale, distribution and delivery of aforesaid products for and in the territory served by such members, and adhere to and abide by said prices, discounts, terms and conditions.

(b) The members agree to and do inform the secretary of the association of contemplated changes, in said prices, discounts, terms and conditions, at a time sufficiently in advance of the time said contemplated changes shall go into effect, to enable the secretary to, and he does, by letters, bulletins, telegrams and other means, advise the other members of said contemplated changes, in order that said other members may, and they do, put such changes into effect; and

(c) Take action through correspondence among themselves, through association meetings and through the secretary of the association, to eliminate such changes or to rearrange said prices, discounts, terms and conditions, in a manner agreeable to all.

(d) From time to time, through meetings of the association and otherwise, revise said uniform prices, discounts, terms and conditions, but in such manner that they remain uniform.

(e) The secretary compiles lists of such uniform prices, discounts, terms and conditions, and supplies a copy thereof to each member of the association.

(f) The secretary of each association supplies to the secretary of the other association copies of said lists of said prices, discounts, terms and conditions, in order that the secretary of the recipient association may, and he does, supply copies of such lists to each member of the recipient association.

(g) The members of each association agree to and do, when selling aforesaid products in the territory normally and habitually supplied by the members of the other association, abide by and observe the prices, discounts, terms and conditions of such other association in force and applying to such territory.

(h) The members of each association report to their secretary and to each other departures from and infractions of such uniform prices, discounts, terms and/or conditions, and thereupon, through

action by their respective secretary, by meetings of the respective associations and otherwise, seek to and do prevail upon the members so offending to cease from such departures and infractions, and in future to adhere to such uniform prices, discounts, terms, and/or conditions.

II

Respondent associations and their members, all cooperating together and acting in concert:

(i) Hold joint meetings of the associations for the purpose of agreeing upon and fixing, and at such meetings do agree upon and fix uniform prices, price levels, discounts and terms and conditions of sale, distribution and delivery, hereinafter denominated joint price agreement, of said products throughout the territory served in the aggregate by the members of both respondent associations, and abide by and adhere to said uniform prices, price levels, discounts, terms and conditions.

(j) Through the joint action of the secretaries of respondent associations and joint committees thereof, make and issue to each member of each association lists of such uniform prices, price levels and discounts, terms and conditions, which all said members make use of by carrying out, abiding by and adhering to said joint price agreement.

(k) Through the exchange of association price lists referred to in specifications (f) hereof; through correspondence between the secretaries of respondent association and through correspondence between members of each association with members of the other, respondents keep each other advised of changes in, departures from, or revisions of the prices, discounts, terms and conditions of each association referred to in specification (f) hereof, in order that each association may revise its prices, discounts, terms and conditions to correspond to such departures, changes and revisions; and through the same means and methods,

(l) Report to and keep all the members advised of departures from and infractions of said joint price agreement, and thereupon, through the joint and several action of respondent associations and their members, bring pressure upon the members so offending to refrain from such departures and infractions and to adhere to and abide by said joint price agreement in the future.

(m) From time to time, through joint meetings of said associations and otherwise, revise said joint price agreement, but in such manner that same remains uniform in its provisions.

6. Respondent Preston Shaffer Milling Co. was a party to and engaged in all of the acts and practices set out in paragraph 5 hereof,

Order

11 F. T. C.

and cooperated with and aided and abetted respondent associations and respondent members of said associations, in carrying out and making effective the aforesaid conspiracy and combination, and still is a party to and engages in, cooperates with, aids and abets said other respondents in said conspiracy and combination.

7. The effect and result of said combination and conspiracy and the act and things done by respondents to carry out and effectuate the same, all as hereinabove set out, has been and now is to suppress competition in the sale and distribution of flour and other cereals and feeds and feedstuffs for cattle and poultry in the States of Oregon, Washington, Idaho, and elsewhere; to hinder and obstruct the free flow of said products in the channels of interstate trade, and to deny to dealers in and consumers of said products in the aforesaid States those advantages in price and otherwise which they would obtain under conditions of normal and unobstructed competition and in the absence of the above alleged acts and practices of respondents.

CONCLUSION

The practices of the said respondents, under the conditions and circumstances described in the foregoing findings, are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition, 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 and considered by the Federal Trade Commission upon the complaint of the Commission and the record, and the Commission having made its findings as to the facts and its conclusion that respondents, with the exception of Globe Grain & Milling Co. have violated the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes",

It is now ordered, That respondents, Washington Cereal Association, its officers and members, F. B. Burke, individually and as president of said association, Paul V. Knudson, individually and as secretary of said association, Albers Bros. Milling Co., Centennial Mill Co., Coast Trading Co., Crown Mills, Fisher Flouring Mills Co., Galbraith & Co., S. E. Hill and J. C. Hill, partners, doing business under the trade name and style, Hill Cereal Co., W. F. Jahn & Co., Kenworthy Grain & Milling Co., M. J. Lehman, doing business

396

Order

under the trade name and style, Lehman Bros., Magnolia Milling Co., Novelty Mills Co., Sperry Flour Co., John B. Stevens & Co., W. A. Farr, doing business under the trade name and style, Tacoma Feed Co., and The Charles H. Lilly Co., members of said association; and respondents, Oregon Cereal & Feed Association, its officers and members, F. L. Shaw, individually and as president of said association, A. V. Hemming, individually and as secretary of said association, Albers Bros. Milling Co., Columbia Milling Co., Kerr, Gifford & Co., Inc., Mason, Ehrman & Co., Northern Flour Mills Co., Portland Flour Mills Co., Rose City Flour Mills, Wasco Warehouse Milling Co., members of said association; and respondent Preston-Shaffer Milling Co.; their officers, directors, representatives and agents, acting either independently or as members of the Washington Cereal Association, Oregon Cereal & Feed Association, or any other association, in the sale and distribution of the products which they sell and distribute in interstate commerce, cease and desist from:

(1) Combining, agreeing or cooperating among themselves or with or among any of them, or others, either through correspondence, association meetings, the secretaries of the said associations, meetings of one or more of them, or otherwise, to fix, maintain or control uniform prices, discounts, terms and conditions of sale, distribution and delivery.

(2) Exchanging information among themselves or with others regarding contemplated changes in prices, discounts, terms and conditions of sale, distribution and delivery.

(3) Preparing and distributing among themselves or others of lists containing uniform prices, discounts, terms and conditions of sale, distribution and delivery which have been agreed upon.

(4) Agreeing to abide and be governed by the uniform prices, discounts, terms and conditions of sale, distribution, and delivery agreed upon by either association when selling in the territory of that association.

It is further ordered, That this proceeding as to respondent Globe Grain & Milling Co. be, and the same is hereby, dismissed.

It is further ordered, That said respondents shall, within 60 days after service upon them of a copy of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set out.

Complaint

11 F. T. C.

IN THE MATTER OF
CARLTON SOAP COMPANY, INC.

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 1360. Complaint, Jan. 12, 1926—Decision, Nov. 14, 1927

Where toilet and bath soaps manufactured in Great Britain had long enjoyed widespread popularity, good will and demand among the consuming public throughout the United States, and were purchased by many thereof in preference to the domestic product; and thereafter a corporation engaged in the sale and distribution of toilet and bath soaps named and described a soap made for it by an American manufacturer, "British Bath," and sold the same to wholesale and retail dealers with said words conspicuously impressed upon each cake thereof and in containers resembling in general appearance those in which many British-made soaps are offered and sold throughout the United States, and bearing in large and conspicuous letters the phrase and slogan "BRITISH BATH, the bath and toilet soap de luxe," for display and sale by them to the consuming public, thus named, branded, and packed; with the capacity and tendency to mislead and deceive many of the consuming public into purchasing said soap as and for an imported British-made product, and to cause many dealers so to offer and sell the same, and with the effect of thereby placing in the hands of customer dealers the means, with or without further representations, of misleading the consuming public into purchasing said soap as and for a British product, and of diverting business from and otherwise injuring the business of competitors dealing in genuine imported British soaps and rightfully and truthfully so representing the same, and competitors dealing in domestic soaps and in no wise representing the same as imported from Great Britain or any other foreign country:

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

Mr. Charles Melvin Neff and Mr. Henry Miller for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in the sale of toilet and bath soaps to retail dealers in various States, and with principal office and place of business in New York City, with misbranding or mislabeling in violation of the provisions of section 5 of the Federal Trade Commission Act, prohibiting the use of unfair methods of competition, in interstate commerce in that respondent for about five years preceding the complaint stamped in large and conspicuous let-