

Syllabus

IN THE MATTER OF
N. SHURE 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 1431. Complaint, Nov. 22, 1926—Decision, Mar. 27, 1928

Where a corporation engaged in the purchase of various merchandise from the manufacturers, and in the sale thereof through catalogues to retail dealers; in said catalogues, and in many instances, through designations and descriptions stamped upon the articles, or labels, containers or wrappers thereof,

- (a) Represented certain watches as containing a "21 jewel Swiss movement" or as being 21 jewel watches, which did not contain such a number serving as frictional bearings, with the effect of misleading the trade and consuming public and of inducing them to purchase said watches as and for those containing 21 jewels performing a mechanical function;
- (b) Represented knife and fork sets, toilet sets and photograph frames as composed in whole or in part of "Black ivory", "White ivory", "French ivory" and "Ivory-grained", and manicure sets as composed in whole or in part of "Amber", "Pearl", and "Shell", the fact being that said articles were not composed in whole or in part of the aforesaid substances, but of pyroxylin or celluloid in such a way as to simulate the appearance thereof;
- (c) Falsely represented certain boxes and containers and the coverings of certain field glasses, made of a material resembling leather in color and finish, as respectively composed in whole or in part of "Leather" or of "Morocco", and neckties, handkerchiefs, scarfs, hosiery and bedspreads not composed entirely of silk, as "Silk", "Fibre silk", "Art silk" and "Rayon silk";
- (d) Represented scarf pins and rings as ornamented and set with opals, rubies, sapphires, and diamonds, and necklaces as "Genuine pearls", "LaVega pearls", "Deltah pearls" and "Richelleu pearls", the fact being that such articles were neither ornamented, nor set with, nor composed of the genuine stones, but only of an imitation thereof; and
- (e) Represented watches as "Gold-plated" and "Gold-filled", which were not so manufactured as to contain three one thousandths of an inch in thickness of gold on the outside and one one thousandth of an inch on the inside, the specified standards recognized by the trade;

With the capacity and tendency to mislead and deceive the consuming public in respect of the composition of the aforesaid articles, and to cause them to purchase the same in the erroneous beliefs thereby induced;

- (f) Represented field and marine glasses not manufactured for the United States Government in accordance with Government specifications or requirements, and not a part of surplus stock disposed of by the Government, as "U. S. Signal Service" glasses;
- (g) Represented as "Sheffield silver plate" and "Sheffield plate on copper base", castor sets, sugar and cream sets, and bowls neither made by the silversmiths of Sheffield, England nor by their process, nor products known to the trade and purchasing public as "Sheffield silverware" or "Sheffield plate", and in many instances stamped such designations and descriptions

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upon the articles themselves, and upon their containers or wrappers, and upon the labels affixed thereto by the manufacturers or dealers from whom it purchased the same;

With the capacity and tendency to mislead and deceive the trade and consuming public in respect of the source, and nature, or conditions of manufacture of such articles, and to cause them to purchase the same in such erroneous beliefs; and

(h) Advertised, offered and sold necklaces, and boxes of stationery, bearing upon the containers thereof bands and labels affixed by the manufacturers or dealers from whom it had purchased the same, with purported pretended retail prices greatly in excess of those at which said articles were commonly sold, or expected to be sold, by the retailers, with the capacity and tendency to mislead and deceive the consuming public into believing such prices to be those usual and customary for such articles, and to cause them to purchase the same in such belief;

With the effect of diverting trade from and otherwise prejudicing competitors dealing in merchandise similar to that above described and properly and truthfully represented by them as to quality, composition, and value, and from competitors who band and label their products with the usual and customary prices at which they are ordinarily sold to the consuming public;

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

Mr. William A. Sweet for the Commission.

Mr. Joseph W. Cox, of Washington, D. C., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, an Illinois corporation engaged in the sale of merchandise of various kinds at wholesale, to retailers and others located at points in various States, and with principal office and place of business in Chicago, with advertising falsely or misleadingly, misbranding or mislabeling and misrepresenting prices in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, in the catalogues in which it depicts and describes the articles dealt in by it and which it sends to customers and prospective customers to be used by them in ordering and purchasing its merchandise, "causes to be set forth many false and misleading statements and representations concerning the origin, nature, character, value and prices" of articles therein depicted and described, said statements and representations including, among numerous others of a similar character, the following:

(a) Watches as having a certain number of jewels in their movements, with, in fact, a smaller number performing a mechanical func-

tion, the trade and general public commonly understanding that the assertion that a movement contains a specified number of jewels means jewels performing a mechanical function in the movement;

(b) Articles of merchandise including clocks, manicure sets, and toilet sets, made in whole or in part of other materials than those named, and of smaller value, though imitating and simulating the same in general appearance, as composed in whole or in part of ivory, amber, pearl, and shell, respectively;

(c) Articles including cases and containers for imitation pearls, manicure sets and other things, field and marine glasses, traveling bags and other articles, made in whole or in part of materials other than leather or of less value, though imitating and resembling the same in general appearance, as leather, through use of such words and terms as "leatherette", "leather", "moleskin", "morocco", and other like words;

(d) Articles including jewelry, watches, chains, and pocket knives, ornamented and set with stones and settings of much less value than those named, though imitating and resembling the same in general appearance, as ornamented and set with opals, rubies, sapphires, diamonds, and other precious stones;

(e) Articles including watchcases, chains, and pocket knives, as composed in whole or in part of gold, silver, and platinum, when in fact made of other materials of much less value, though imitating and resembling the same in general appearance;

(f) Articles including hosiery, neckties, handkerchiefs, and scarfs containing no silk, the product of the cocoon of the silkworm, but made in whole or in part of other materials of less value, though imitating and resembling the same in general appearance, as silk, through use of the words "silk", "fibre silk", "art silk", "rayon silk", and other like terms;

(g) Necklaces, articles of jewelry, and other articles, as composed of or ornamented and set with pearls, when in fact composed of or ornamented with beads, stones, and settings not pearls made by natural processes in the shells of mollusks, but manufactured articles, of much less value, though imitating and resembling the same in general appearance, it being understood among the jewelry trade and the general public that "the word 'pearl' when used without any qualifying word or phrase means, and is understood to refer to, pearls made by natural processes in the shells of mollusks".

(h) Field glasses and marine glasses, as formerly belonging to the United States Government and sold as surplus property or as manufactured in accordance with Government specifications and

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requirements, through use of the term, device, and letters "U. S." and "United States";¹

(i) Articles of merchandise, as silver-plated ware made by the silversmiths of Sheffield, England, or of the same kind, quality, and value as said ware, through the use of the word "Sheffield" in naming, designating, and describing said articles.*

(j) Blankets not made by North American Indians as so made, through use of the phrase "Indian blankets".

Respondent further, as charged, in many instances "causes aforesaid false and misleading representations, names, designations, devices and terms, respectively, to be stamped and imprinted upon sundry of its said articles of merchandise and upon the containers in which sundry said articles are by respondent packed, sold and shipped to aforesaid vendees, and upon labels which respondent causes to be affixed to sundry said articles and containers, and said articles so stamped, imprinted, labeled and contained are by respondent's aforesaid vendees offered for sale and sold to the consuming public."

Respondent also, as charged, causes to be affixed to many of the articles dealt in by it and to the containers thereof, "bands and labels bearing purported regular retail prices for said articles, which said prices are fictitious and exaggerated prices greatly in excess of the prices which respondent expects its said vendees to, and greatly in excess of the prices at which said vendees do, regularly and habitu-

¹ As alleged in the complaint, "said device and said term and phrase and each of them when used to name, designate, and describe articles of merchandise offered for sale in the ordinary course of trade, are understood by many of the trade and general public to mean that the articles so named, designated and described were formerly property of the United States Government. To many others among the trade and general public said device and said term and phrase and each of them are understood to mean that the articles so named, designated, and described have been made in accordance to and in conformity with the specifications and requirements of said Government for articles of the same kind and character, made for and purchased by said Government for its use, and there exists among merchants and the general public a belief that articles of merchandise made for the United States Government or in accordance to and in conformity with above said specifications and requirements of said Government are of unusually good reliable and dependable quality and value."

* As alleged in the complaint, "for many years the word 'Sheffield' used in naming, designating, and describing silver-plated ware has meant and still means to many merchants and to many of the general public in the United States that said ware is made by the silversmiths of the city of Sheffield, England, and imported into the United States. To many other merchants and many others of the general public in the United States the word 'Sheffield' when used to name, designate, or describe silver-plated ware means that said ware is of the same quality, kind, and value as the silverware manufactured by the silversmiths of Sheffield, England. For many years silver-plated ware made by the silversmiths of Sheffield, England, has been deemed and considered, and is now deemed and considered by merchants and the public generally throughout the United States, to be silver-plated ware of high quality and value, for which reason many of the general public have purchased and do now purchase silverware named, designated, and described as 'Sheffield' ware in preference to silverware not so named, designated, and described."

ally sell said articles to the consuming public. Said vendees offer said articles of merchandise for sale to the consuming public with said bands and labels bearing said fictitious prices still thereto attached and by such means lead many of the consuming public to believe that said articles are of the fair retail value of, and are regularly and habitually sold at said fictitious and exaggerated prices, and cause many of the consuming public to purchase said articles at prices much lower than said fictitious prices, in the belief that said articles are being sold and purchased at greatly reduced prices. Respondent thus places in the hands of its vendees the means of deceiving and defrauding the consuming public."

Said acts and practices, as alleged, engaged in for about five years last past, "have the capacity and tendency to and do cause many of said vendees to deal in, and resell, and many of the consuming public to purchase respondent's said articles of merchandise in the belief that respondent's false and misleading representations all in this complaint before set out, are true", and tend to and do divert business from and otherwise injure and prejudice respondent's competitors many of whom in nowise "misrepresent the origin, nature, character, value, and prices of the merchandise in which they deal"; all to the prejudice of the public and of respondent's competitors.

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

The respondent having entered its appearance and filed its answer herein, and having made, executed and filed an agreed statement of facts in which it is stipulated and agreed by the respondent that the Federal Trade Commission may take such agreed statement of facts as the facts in this case, and in lieu of testimony before the Commission in support of the charges stated in the complaint or in opposition thereto and that the Commission may proceed further upon said agreed statement of facts to make its report in this proceeding, stating its findings as to the facts and its conclusions, and entering its order disposing of the proceeding; thereupon this proceeding came on for decision and the Commission having duly considered the record and being fully advised in the premises makes this its findings as to the facts and its conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, N. Shure Co., is a corporation organized under the laws of the State of Illinois, with its principal office and place of business in the city of Chicago, in said State. It is now and for many years has been engaged in the business of purchasing merchandise of sundry sorts and kinds from the manufacturers thereof and reselling same to retail dealers located at points in several different States of the United States. It causes its said merchandise when so sold to be transported from its said principal place of business in Chicago, Ill., by means of the United States mails, into and through other States of the United States, to its said customers at their various places of location. In the course and conduct of its said business respondent is now and for many years has been in competition with individuals, partnerships, and corporations engaged in the sale and transportation of like articles of merchandise in commerce between and among various States of the United States.

PAR. 2. In the regular course of its business, as described in paragraph 1 hereof, respondent obtains orders for and makes sales of its said merchandise through and by means of catalogues which it issues from time to time and distributes to its said customers and to prospective customers. The said catalogues contain pictorial representations of the merchandise offered for sale by respondent, written descriptions of same, together with prices and terms of sale. The prices so quoted are the prices charged by respondent to customers, except those fixed upon certain kinds of watches which are the list prices and which are quoted as subject to a trade discount. The said catalogues are customarily used by the said retail dealers in preparing orders for, and making sales of respondent's said merchandise.

PAR. 3. In its catalogues issued and distributed as set out in paragraph 2 hereof, numbered respectively 106, 107, and 110, and issued in the years 1925 and 1926, respondent caused to be set out certain statements concerning the quality, composition, and value of articles offered for sale by it, as follows:

(a) That certain watches contain a "21-jewel Swiss movement" or were "21-jewel watches," when in truth and in fact said watches did not contain 21 jewels, each and every one of which jewels served a mechanical purpose as frictional bearings.

The representation that a watch movement contains a specified number of jewels is commonly understood by the trade and by the consuming public to mean that each jewel of the specified number performs a mechanical function in said movement and the value of watches is determined in part by the number of jewels they contain.

The said representations made by respondent had the tendency and capacity to mislead and deceive the trade and the consuming public into believing that the watches so described contained 21 jewels, each of which performed a mechanical function in the movement of the said watches, and to cause them to purchase said watches in that belief.

(b) That certain knife and fork sets, toilet sets, and photo frames are composed wholly or in part of "Black ivory," "White ivory," "French ivory," and are "Ivory-grained," respectively, when in truth and in fact said articles are not manufactured from the tusks of mammals but are manufactured from material known as pyroxylin or celluloid so as to simulate ivory in appearance or finish.

The term "Ivory" is understood by the trade and by the consuming public to mean the product obtained from the tusks of mammals and which has been sold for many years under the name of "Ivory."

The said use by respondent of the terms "Ivory" and "Ivory" has the capacity and tendency to mislead and deceive the trade and consuming public into the belief that said articles so described are composed in whole or in part of genuine ivory and to cause them to purchase said articles in that belief.

(c) That certain manicure sets are composed in whole or in part of "Amber", "Pearl", and "Shell", when in truth and in fact said articles are not composed in whole or in part of amber, pearl, or shell, but are composed of pyroxylin or celluloid colored to resemble amber, pearl or shell, respectively.

The term "Amber" is understood by the trade and consuming public to mean a yellowish translucent rosin resembling copal found fossil in alluvial soils with beds of lignite and on seashores. The terms "Pearl" and "Shell" when used as above are understood by the trade and consuming public to mean the hard pearly interior layer of certain shells such as oyster and abalone shells and known as mother of pearl.

The said use by respondent of said terms has the capacity and tendency to mislead and deceive the trade and consuming public into the belief that said articles so described are composed in whole or in part of genuine amber or mother of pearl, respectively.

(d) That certain boxes and containers are composed in whole or in part of "Leather" and that the coverings of certain field glasses are composed of "Morocco," when in truth and in fact they are not so composed of leather but of a material made to resemble leather in color and finish.

The terms "Leather" and "Morocco" are understood by the trade and consuming public to mean a product prepared from the skins or hides of animals.

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The use by respondent of said terms has the capacity and tendency to mislead and deceive the trade and consuming public into the belief that said boxes and containers and the coverings of said field glasses are composed in whole or in part of genuine leather and to cause them to purchase the same in that belief.

(e) That certain scarfpins and rings are ornamented and set with opals, rubies, sapphires, and diamonds, respectively, when in truth and in fact said articles are not ornamented and set with genuine opals, rubies, sapphires or diamonds, respectively.

The terms "Opals", "Rubies", "Sapphires", and "Diamonds" are understood by the trade and consuming public to indicate the semiprecious and precious stones which have long been designated and known by the said terms and which are of great value.

The use by respondent of these terms has the capacity and tendency to mislead and deceive the trade and consuming public into the belief that said articles are ornamented and set with genuine semiprecious and precious stones known as opals, rubies, sapphires, and diamonds, respectively, and to cause them to purchase same in that belief.

(f) That certain watchcases are "Gold-plated" and "Gold-filled", when in truth and in fact said watchcases are not manufactured so as to contain three one-thousandths of an inch in thickness of gold on the outside and one one-thousandth of an inch in thickness on the inside.

The said three one-thousandths of an inch in thickness of gold on the outside and one one-thousandth of an inch in thickness of gold on the inside are the proportions recognized by the trade as the specified standard of thickness of gold for the manufacture of watchcases sold to the trade and by the trade to the purchasing public as "Gold-plated" or "Gold-filled".

The use by respondent of the terms "Gold-filled" and "Gold-plated" have the capacity and tendency to mislead and deceive the trade and consuming public into the belief that said watchcases and other articles contain the recognized quantity and thickness of gold and to cause them to purchase the same in that belief.

(g) That certain neckties, handkerchiefs, scarfs, hosiery, and bedspreads are composed of "Silk", "Fibre Silk", "Art Silk", and "Rayon Silk", when in truth and in fact the said articles so represented are not made entirely of silk, the product of the cocoon of the silkworm but are composed of fabrics or materials other than silk.

The term "Silk" is understood by the trade and consuming public to indicate a fabric made from the product of the cocoon of the silkworm.

The use of the term "Silk" by respondent, as foresaid, has the capacity and tendency to mislead and deceive the trade and consum-

ing public into the belief that said articles so described are composed of a fabric, the product of the cocoon of the silkworm and to cause them to purchase said articles in that belief.

(h) That certain necklaces described as "Genuine pearls", "La-Vega pearls", "Deltah pearls", and "Richelieu pearls" are composed of pearls, when in truth and in fact they are not so composed of the product formed within the shells of mollusks but are composed of a material made to imitate said product.

The term "Pearls" when used in connection with necklaces and other articles of jewelry is understood by the trade and consuming public to mean the product formed by natural process in the shells of mollusks.

The said use of the term "Pearls" by respondent has the capacity and tendency to mislead and deceive the trade and consuming public into the belief that the articles so described are composed of or ornamented with genuine pearls and to cause them to purchase said articles in that belief.

(i) That certain field and marine glasses are "U. S. Signal Service" glasses, when in truth and in fact said glasses are not products manufactured for the United States Government in accordance with United States Government specifications or requirements and are not a part of surplus stock disposed of by the said United States Government.

The term "U. S. Signal Service" when used to describe said articles is understood by the trade and a substantial part of the consuming public to mean that said articles so described are manufactured for or in accordance with specifications of the United States Government or are part of surplus property formerly owned by the United States Government.

The said use by respondent of the terms "U. S." or "U. S. Signal Service" has the capacity and tendency to mislead and deceive the trade and a substantial part of the consuming public into the belief that the articles so described were made for or in accordance with specifications of the United States Government or were a part of surplus property formerly owned by the United States Government and to cause them to purchase the same in that belief.

(j) That certain castor sets, sugar and cream sets and bowls are "Sheffield silver plate", or "Sheffield silver plate on copper base", respectively, when in truth and in fact the said articles so described were not made by the silversmiths of Sheffield, England, nor by the process used by them, and are not the products known to the trade and purchasing public as "Sheffield silverware" or "Sheffield plate",

For many years the word "Sheffield" used to designate and describe silver-plated ware has meant and still means to many of the trade and the purchasing public in the United States that the ware so designated is made by the silversmiths of the city of Sheffield, England, or by the process used by them and is of the same quality as the silverware made in Sheffield, England. The silver-plated ware made by the silversmiths of Sheffield, England, has been and still is deemed and considered by the trade and the purchasing public throughout the United States to be of a particular process of manufacture and of high quality and value.

The said use by respondent of the term "Sheffield" or "Sheffield silver-plated" has the capacity and tendency to mislead and deceive the trade and consuming public into the belief that the articles so described were made by the silversmiths of Sheffield, England, or by the process of manufacture employed by them and to cause them to purchase the same in that belief.

In many instances the foregoing designations and descriptions were stamped upon the articles themselves and upon the containers or wrappers and the labels affixed to said articles by the manufacturers or dealers from whom they were purchased by respondent, and the said articles so marked and labeled were offered for sale and sold by respondent to retail dealers who in turn sold the same so marked and labeled to the consuming public.

PAR. 4. In the regular course of its business as described in paragraph 1 hereof respondent described and advertised in the catalogues referred to in paragraph 3 hereof and offered for sale and sold to its said retail dealer customers certain necklaces and boxes of stationery, upon the containers of which bands and labels with purported resale prices had been affixed by the manufacturers or dealers from whom said articles were purchased by respondent. The prices indicated in said bands and labels were not the prices at which said articles were commonly sold or intended to be sold by said dealers to the consuming public but were greatly in excess thereof. The said retail dealers offered for sale and sold the said articles so labeled, to the consuming public.

The said use by respondent of the bands and labels so marked has the capacity and tendency to mislead and deceive the consuming public into the belief that the prices marked on said bands and labels are the usual and customary prices at which said articles are sold to the consuming public and to cause them to purchase said articles in that belief.

PAR. 5. There are among the competitors of respondent mentioned in paragraph 1 hereof many who offer for sale and sell in interstate

commerce merchandise similar in character to the merchandise sold by respondent and who properly and truthfully represent the quality, composition, and value of such merchandise. There are others among the said competitors who place upon their merchandise bands and labels marked with the usual and customary prices at which the said merchandise is customarily sold to the consuming public. The acts and practices of respondent as set out in paragraphs 3 and 4 hereof had the capacity and tendency to and did divert trade from and otherwise prejudice said competitors.

CONCLUSION

The methods of competition set forth in the foregoing findings, under the conditions and circumstances therein set forth, are unfair methods of competition in interstate commerce and constitute a violation 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."

At the final argument of this matter before the Commission, and otherwise, the respondent, by its attorneys, expressed a willingness to abide by and not contest any order which the Commission might make in this case.

ORDER TO CEASE AND DESIST

This proceeding having been heard upon the complaint of the Commission, the answer of respondent and an agreed statement of facts, in lieu of testimony before the Commission in support of the charges stated in the complaint or in opposition thereto, and the briefs and arguments of counsel, and the Commission having made its findings as to the facts, with its conclusion that respondent has been, and is, using unfair methods of competition in commerce in 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",

It is ordered, That respondent, N. Shure Co., its officers, agents, employees, and successors, cease and desist from:

(a) Using the figures and word "21 jewel", or any other like figures or words to represent, describe or advertise watches or watch movements which do not contain the stated number of jewels, each of which jewels serves a mechanical purpose as a frictional bearing.

(b) Using the word "Ivory", or the word "Ivoroy", to represent, describe or advertise articles, unless such articles are in fact made or composed of ivory.

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(c) Using the word "Amber", or the word "Pearl", or the word "Shell", except in an adjective sense denoting color, to represent, describe or advertise articles which are not made from or composed of amber, or of mother of pearl or shell, as the case may be.

(d) Using the word "Leather", or the word "Morocco", to represent, describe, or advertise a product which is not made from or composed of the skins or hides of animals.

(e) Using the word "Opal", or the word "Ruby", or the word "Sapphire", or the word "Diamond", respectively, to represent, describe or advertise articles which are not in fact the semiprecious or precious stones known as Opals, Rubies, Sapphires, and Diamonds, respectively.

(f) Using the words "Gold-plated", or "Gold-filled", to represent, describe, or advertise watchcases, which watchcases are not manufactured so as to contain three one-thousandths of an inch in thickness of gold on the outside, and one one-thousandth of an inch in thickness of gold on the inside.

(g) Using the words "Fibre silk", "Art silk" or "Rayon silk" or the word "Silk" alone or in combination with any other word or words to represent, describe or advertise a fabric which is not composed wholly of silk made from the cocoon of the silkworm.

(h) Using the word "Pearls" in connection with the words "Genuine", "La Vega", "Deltah", "Richelieu", or any other word or words to represent or describe necklaces which are not composed of pearls, the product formed by natural processes in the shells of mollusks.

(i) Using the letters "U. S.", or the letters and words "U. S. Signal Service", to describe, designate, or advertise field and marine glasses which are not manufactured by or for or in accordance with specifications of the United States Government.

(j) Using the word "Sheffield" alone or in combination with any other word or words to designate, describe or advertise silver-plated ware which has not been made in Sheffield, England.

(k) Offering for sale or selling in interstate commerce, articles of merchandise bearing upon them any band, label, or other mark indicating a false or fictitious price in excess of the price at which such articles are ordinarily and customarily sold to the purchasing public.

(l) Making any other untrue advertisement or description of any article offered for sale by it.

It is further ordered, That the respondent, N. Shure Co., shall within 60 days after the service upon it of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

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IN THE MATTER OF

WATERBURY CLOCK COMPANY, INGERSOLL WATCH
COMPANY, INC., INGERSOLL WATCH COMPANY,
GEORGE H. EBERHARD 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 1460. Complaint, May 10, 1927—Decision, Apr. 3, 1928

Where a corporation long engaged in the manufacture of watches, and in the sale thereof under the trade name "Ingersoll Watches," through three corporations, its sole distributors for the United States; and said distributors; with the intent and effect of (1) securing agreements and understandings from wholesale and resale dealers that they would maintain the resale prices (a) specified and established by it and its distributors, individually and in cooperation with one another, and (b) widely advertised by them in newspapers and magazines, circulars and other trade literature distributed among their customers and the wholesale and retail trade generally, and (2) suppressing competition between said dealers and preventing the exercise by them of their own discretion in the sale of said watches, and not acting in good faith, but well knowing that price cutting afforded no basis for a proceeding for damages of any kind;

(a) Adopted the practice of placing on the cartons of their said watches and also on all their billheads, order blanks, and other stationery, a statement (1) giving notice that the advertisement or sale of said Ingersoll watches at prices different from those advertised by them damaged the trade-mark and good will represented by the name Ingersoll; (2) setting forth that the buyer admitted "the foregoing facts and conclusions"; (3) declaring their intention "to prevent such damage and to protect the Ingersoll trade-mark and good will by prosecuting the property rights therein to the fullest extent of the law"; and (4) offering to relieve any dealer having on hand a stock of their watches, which he desired to dispose of at other than their fixed prices, of said stock; and

(b) Sent to price cutting or alleged price cutting wholesale and retail dealers a form letter directing their attention to and emphasizing the aforesaid notice;

With the result of controlling prices and suppressing competition in the sale by dealers of said watches, constraining them to sell the same at the established prices, and preventing them from selling said watches at such lower prices as they might desire, and depriving the ultimate purchasers thereof of those advantages in price which they would obtain from the natural and unobstructed flow of commerce in said watches under conditions of free competition:

Held, That such a scheme of resale price maintenance, under the circumstances set forth, constituted an unfair method of competition.

Mr. Alfred M. Craven for the Commission.

Mr. Edward S. Rogers and *Mr. Arthur E. Walradt*, of New York City, for respondents.