

Complaint

IN THE MATTER OF

WILLIAM H. JOHNSEN, INDIVIDUALLY AND TRADING
AS TECHNICAL CHEMICAL COMPANYCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1978. Complaint, Oct. 14, 1931—Decision, Nov. 14, 1932*

Where an individual engaged in manufacture of a red fluid for mixing with straight gasoline, and in sale thereof under name "Ester" or "Ester Compound" to filling station owners or operators throughout the country in competition with the expensively and extensively advertised Ethyl and the different gasolines blended therewith, "Esso" and other well-known, extensively advertised, and premium-priced antiknock products, and the different straight gasolines,

Represented in circulars distributed to vendees or prospective vendees of his said compound that the same mixed with gasoline reduced "detonation" and "fuel knocks" and produced an antiknock, premium-priced motor fuel of merit, minimizing carbon, neutralizing action of gum, lubricating the combustion cycle and in various ways and in general correcting defects in gasoline and improving engine performance, and supplied vendees with pump globes displaying words, "*Ester* with *Ester* compound *Gasoline*" facts being product in question was of no value to purchasers of gasoline with which it had been mixed;

With result of deceiving its aforesaid vendees and the consuming public with respect to nature and value of product in question, and of furnishing filling station owners and operators throughout the United States with means of deceiving and misleading the consuming public into believing that straight motor fuel mixed with said product was improved thereby, and of thus increasing sales of retailers of the gasoline concerned at the expense of competitors honestly designating their product as straight gasoline or as high test, high compression, or antiknock gasoline, as the case might be, and with tendency so to deceive, to the injury of interstate distributors honestly designating and describing their products:

Held, That such practices, under the condition and circumstances set forth, were to the injury and prejudice of the public and competitors and constituted unfair methods of competition.

Mr. Henry C. Lank 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 individual, engaged under his own name and also as Technical Chemical Co. in the sale of a fluid, under the designation "Ester" and "Ester Compound", for mixing with gasoline for

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automotive use, and with principal place of business in Dallas, with misrepresenting nature and results of products, and advertising falsely or misleadingly in said respects, 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, engaged as aforesaid, falsely represents that his said product mixed with gasoline for automotive use "(a) reduces detonation, (b) minimizes carbon and neutralizes the action of gum, (c) lubricates the combustion cycle, and (d) corrects other defects in gasoline", that, mixed with gasoline at the rate of one part compound to one thousand parts gasoline, "it decreases the heat in the explosion chamber and at the same time increases the expansive force of the explosion" and that "it also tends to eliminate carbon formation" and that "this reduces fuel knocks", and, further, that when used as a motor fuel, as aforesaid, it "acts as a powerful and oxidizing agent and attacks the carbon that has adhered to the various parts of the combustion chamber"; the facts being it has no such effect.

Respondent further, as charged, represents that "another distinctive feature of 'Ester' compound is the bond of lubrication that it imparts in the combustion cycle. This is an intensive heat resisting property that gives lubrication to the utmost point in the fire zone, assuring maximum compression, and keeps the valves from sticking", and that, in contrast with many gasolines, which have an unbalanced combustion, causing sluggishness, poor starting, etc., "Ester" compound "is compounded to correct these defects and imparts to the gasoline a smoother, better balanced and flexible performance. The motor will function on less r.p.m. in traffic and accelerate quicker"; facts being product in question has no such effects or qualities as above claimed.

Respondent further, as charged, "has had printed advertisements containing all of the above false and fraudulent representations and statements, and has caused said printed advertisements to be distributed to purchasers and prospective purchasers of his said product located in various States of the United States. And the above and foregoing representations or statements of respondent by means of which he has offered for sale and sold or is selling his product, as set forth in this complaint, have had and have the capacity and tendency to mislead and deceive and have misled and deceived the purchasing public into the belief that the said representations are true and have the tendency to induce and have induced the purchase of respondent's product in reliance upon such erroneous belief and

have tended to divert trade from and have diverted trade from and otherwise injured competitors of respondent."

Use by respondent, as alleged, of such "false and fraudulent representations, statements, and assertions, as hereinabove set forth, constitutes practices or methods of competition which tend to and do (a) prejudice and injure the public, (b) unfairly divert trade from and otherwise prejudice and injure respondent's competitors, and (c) operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in the motor fuel industry"; and constitutes unfair methods of competition in violation of the provisions of section 5.

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, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission issued and served a complaint upon the respondent, William H. Johnsen, individually and trading as the Technical Chemical Co., charging him with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act.

The said respondent filed his answer to the complaint herein and entered his appearance in proper person. Hearings were thereafter had and evidence was thereupon introduced before an examiner of the Federal Trade Commission duly appointed.

Thereupon this proceeding came on for final hearing on the brief of counsel for the Commission, the respondent having failed to file a brief in his own behalf, 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 conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPHS 1. The respondent, William H. Johnsen, is an individual doing business under his own name and also doing business and trading as Technical Chemical Co., with his principal place of business in Dallas, Tex. He is engaged in the manufacture and sale of a fluid which is used for the sole purpose of being mixed with straight, ordinary, or regular gasoline for use as a motor fuel. The respondent describes and designates his product as "Ester" or "Ester Compound" and since on or about January 29, 1930, has sold and distributed said "Ester" or "Ester Compound" to persons,

firms, or corporations located in the Middle West and Southern States of the United States, particularly, West Virginia, Indiana, North Carolina, South Carolina, Tennessee, Arkansas, Louisiana, Mississippi, and in California, Utah, and other States of the United States. Upon making sales as described just above, the respondent has caused the said fluid to be transported from his said principal place of business to the said purchasers at their respective points of location.

PAR. 2. The product put out by the Ethyl Gasoline Corporation is commonly known and styled "Ethyl", and since the year 1925 has been very extensively advertised throughout the United States in magazines having national circulation such as Saturday Evening Post, Collier's, Liberty, Literary Digest, Harper's Magazine, Current History and many others, and also in newspapers having a wide regional circulation in various sections of the United States. There has been expended by the Ethyl Gasoline Corporation in advertising Ethyl gasoline approximately \$8,000,000 from 1925 to 1932, and there has been expended by the various vendees of the Ethyl Gasoline Corporation in advertising the high test, antiknock motor fuel made by mixing the product of the Ethyl Gasoline Corporation with their respective gasolines, the sum of approximately \$10,000,000.

The American Oil Co. produces and sells a gasoline under the name "Amoco", which is a benzol blend. Sherwood Bros. also produce and sell a benzol blend gasoline under the name "Betholene". Benzol is a substance with very little tendency to knock, so that if a sufficient quantity of benzol be blended with gasoline the gasoline will have antiknock value. Such blended fuels usually command a premium of from 3 to 5 cents per gallon above the so-called regular gasolines. Approximately \$1,000,000 a year has been spent in advertising Amoco, and substantial sums have been expended in advertising Betholene.

Other oil companies have produced and sold motor fuels which had antiknock value at a premium. Such companies include Cities Service Co. with its "Kool Motor" gasoline; the Sinclair Oil Co. with its "Sinclair H. C."; the Gulf Refining Co. with its "Gulf No-Nox"; the Standard Oil Co. of New Jersey with its "Esso". Substantial sums have been spent by each of the above-named companies in advertising their particular anti-knock gasoline.

PAR. 3. The respondent sells his "Ester Compound" to owners or operators of filling stations throughout the country, and ships his compound usually in 5-gallon containers. The "Ester Compound" is mixed at the filling stations with the straight, ordinary or regular gasoline handled at said stations. In order to promote

the sale of his "Ester Compound" the respondent makes use of circulars or pamphlets which he distributes to vendees or prospective vendees of the "Ester Compound" and in such circulars or pamphlets makes the following representations:

"ESTER"

A GASOLINE TONIC WITH "IT"

Greater independence and profits are assured the gasoline distributor by using "Ester" compound blended with his own brand of gasoline. It produces a merited premium priced motor fuel, correctly colored red for identification.

"IT"	{	REDUCES DETONATION
		MINIMIZES CARBON AND NEUTRALIZES THE ACTION OF GUM
		LUBRICATES THE COMBUSTION CYCLE
		CORRECTS OTHER DEFECTS IN GASOLINE
		CONTAINS NO POISONOUS METAL COMPOUNDS

"Ester" compound is an organic compound. It decreases the heat in the explosion chamber, and at the same time increases the expansive force of the explosion. It also tends to eliminate carbon formation. This reduces fuel knocks.

"Ester" compound acts as a powerful oxidizing agent and attacks the carbon that has adhered to the various parts of the combustion chamber.

Another distinctive feature of "Ester" compound is the bond of lubrication that it imparts in the combustion cycle. This is an intensive heat resisting property that gives lubrication to the utmost point in the fire zone, assuring maximum compression, and keeps the valves from sticking.

Many gasolines on the market have an unbalanced composition, causing sluggishness, poor starting and uneven acceleration of the motor. "Ester" compound is compounded to correct these defects and imparts to the gasoline a smoother, better balanced and flexible performance. The motor will function on less r.p.m. in traffic and accelerate quicker.

The respondent also furnished to his vendees a globe or globes intended for installation upon the pump from which the gasoline treated with the respondent's fluid was sold to the consuming public. On said globes appeared the words:

Ester with
Ester Compound
Gasoline

PAR. 4. The use by the respondent in advertising and describing his product of the words "it reduces detonation" and "reduces fuel knocks" has the capacity and tendency to and does mislead and deceive gasoline dealers and automobile service station employees into believing that said product when mixed with gasoline produces what is commonly known as an antiknock motor fuel.

Dr. Graham Edgar, chemist, whose work has been almost entirely with motor fuels with particular reference to antiknock action, and

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who has come in contact with practically all types of gasolines employed for motor fuels and who is acquainted with the result of tests of 30,000 samples of gasoline a year, testified regarding the meaning of the term antiknock (Tr. 164):

Of all the properties which a fuel must have to be of use for an internal combustion engine, its tendency to detonate or knock is by far the most important, because the tendency of a fuel to knock limits the efficiency with which the heat of combustion of the fuel may be converted into power by the engine. It limits what we call the thermal efficiency, and for this reason this tendency is the most important property that a fuel can have. The term "antiknock" value is not a very satisfactory term, being rather vague unless we measure it by some sort of a scale. The scale which is at present employed in this country for the purpose of measuring the tendency of a fuel to knock is known as the octane number scale. The octane number scale is a scale based upon a comparison of gasoline with a pure chemical substance, known as octane, which has practically no tendency to knock, and with a second substance known as heptane, which has a greater tendency to knock than any commercial gasoline. It is possible therefore to express the tendency of a gasoline to knock, or what is commonly called its antiknock value, in terms of different proportions of these two substances, heptane and octane. If a gasoline is equal in antiknock value to a blend of 50 percent heptane and 50 percent octane, we say it has an octane number of 50. If it is 75 percent octane and 25 percent heptane, we say that it has an octane number of 75, so that instead of saying antiknock value in a loose sense, it is best to refer to the antiknock value of gasoline by reference to the scale for expressing such antiknock value, namely, this octane number scale.

This witness also testified (Tr. 167):

The full power obtainable in a given engine from fuel, can be obtained only when the fuel is not knocking. Whenever the fuel knocks in a car, a part of the heat of combustion which would normally be converted into power is lost, as heat, more heat goes to the cooling water, more heat goes to the exhaust, and less heat is converted into power, whenever the fuel knocks in an engine.

* * * It is impossible to get the full power out of any fuel in an engine if that fuel is knocking in the engine. It is not because the combustion is incomplete, but it is because the combustion is different. What actually happens in a nonknocking engine, if you may try to visualize it, we ignite the combustible charge with a spark, and the flame starts at the spark and moves across the cylinder at a rather rapid but quite steady rate in a nonknocking engine, and the expansion of the hot gases press on the piston, move it down and give the power. Now, in a knocking gasoline we ignite the charge in exactly the same way and the flame starts to move across the cylinder in the same way it does in a nonknocking fuel, but before it gets across the cylinder it suddenly changes into a practically instantaneous explosion which fills the rest of the cylinder, the remaining part of the charge burns instantly, instead of at a moderate rate, and very high local temperatures are produced, so that heat is radiated out to the jackets of the cylinder and is thus lost for being converted into power.

* * * It also gives rise to a sound, a high-pitched metallic sound, which is known to the average automobile driver in this country as a knock, or in England as a "pink". This is a high-pitched metallic sound, quite different from the normal sound of the explosion in the engine.

PAR. 5. After receipt of respondent's "Ester", the same is mixed by the filling station operator in the proportions of 1 gallon of "Ester" to 1,000 gallons of gasoline, and the resulting mixture is sold at a premium over the price of the straight, ordinary or regular gasoline, the premium charged for the "Ester" mixture varying from 1 cent to 3 cents per gallon, depending on the locality. One filling station operator at Little Rock testified that gasoline with "Ester" was sold as a better gasoline than plain gas, and that it was sold at 1 cent higher than plain gas. Other filling station employees in Little Rock testified that they sold the gasoline mixed with "Ester" at 17 cents while plain gas was sold by them for 15 cents. Still others testified that gasoline mixed with "Ester" was sold at 15 cents while plain gasoline was sold for 12 cents. At Pine Bluff, Ark., the premium for gasoline containing "Ester" appeared to be 3 cents; at Nashville, Tenn., 3 cents; at Memphis, Tenn., 3 cents; and at Baton Rouge, La., it was 2 cents at some stations and 3 cents at other stations.

PAR. 6. Gasoline dealers and automobile service station employees who buy "Ester Compound" from the respondent, and who sell the resulting mixture to the consuming public, consider that it is similar to "Ethyl" and "Esso" and so represent to their customers. The resulting mixture is variously represented by the dealers and service station employees to be an antiknock or high compression gas. The several witnesses from service stations testified to the following effect:

Have been selling it as antiknock reducing carbon, high test.

Sell the "Ester" as red gas, did not represent it to be antiknock but sign on pump said antiknock.

The globe over the pump where the red gas is sold has the words antiknock on it.

"Ester" is an antiknock, high compression gas.

I don't tell customers it is high test. I call it red gas and if they stop at the red gas pump, I ask them if they want red gas or plain and when they tell me red gas I wait on them.

I sold the red gas and if anybody wanted a high gravity gasoline, I would tell them yes sir, and I referred them to the red gas.

We sell it as red gas, antiknock or if the customer wants to know what it is, wants to know if it is Ethyl, we tell them that it is not, that it is "Ester Compound" mixed with antiknock white gasoline.

We sell this red gas as high test, antiknock.

We sell the red gas as a premium, antiknock gasoline and in talking to customers tell them that the red antiknock gas is better than the white antiknock gas.

I mix it with "Ester" fluid and sell it as a red antiknock premium gas.

Use "Ester" fluid for the red antiknock gasoline, refer to the red gas as an antiknock gas because their literature tells me that it makes an antiknock gas when added to gasoline.

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PAR. 7. The term "Ethyl" has become well known to gasoline dealers and the consuming public as describing a product which when added to gasoline produces a motor fuel with antiknock value. The term "Esso" has become well known to gasoline dealers and the consuming public as describing a motor fuel having antiknock quality. Gasoline dealers and automobile service station employees who buy "Ester" from the respondent and who sell the resulting mixture to the consuming public believe that it is similar to "Ethyl" and "Esso" and so represent to their customers. This belief and passing on to their customers is facilitated by the similarity of the word "Ester" to the words "Ethyl" and "Esso."

PAR. 8. The gasolines to which is added the product of the Ethyl Gasoline Corporation, Tetra-Ethyl lead, and the gasolines blended with benzol are sold throughout the United States at a premium varying from 2 to 5 cents over the price received at the same filling station for straight, ordinary or regular gasolines, and are known to the public as premium, high test, high compression, antiknock gasolines.

PAR. 9. The Ethyl Gasoline Corporation sells its product Ethyl to over a hundred manufacturers, refiners, and vendors of gasoline and these vendees of the Ethyl Gasoline Corporation mix the product called "Ethyl" with their gasoline and sell in interstate commerce to owners or operators of gasoline filling stations throughout the United States. The respondent's product is in competition with the product of the Ethyl Gasoline Corporation and is in competition with the gasolines of the various manufacturers, refiners, and vendors who sell their gasolines after mixing Ethyl therewith. The respondent's product is in competition with other high test, antiknock or premium gasolines such as Amoco, Betholene, Kool Motor, Sinclair H. C., and Gulf No-Nox. Respondent's product after mixing with gasoline is also in competition with straight, ordinary or regular gasolines which are sold without a premium.

PAR. 10. Samples of the respondent's product "Ester" were obtained from the respondent and in open market and forwarded to the Bureau of Standards, Washington, D.C., where the same were subjected to chemical analyses and to engine tests to determine the effect of "Ester Compound" when mixed with the fuel of a gasoline engine, on the operation of the engine.

Two reports were submitted by the Bureau of Standards and are in evidence. The one bearing date June 13, 1931 (Com. Ex. 25), concludes that the use of Ester Compound made no visible or audible difference in the operation of either of the engines in which it was tried, that the use of Ester Compound in the proportion described

by the distributor makes no measurable difference in the operation of an engine.

The report dated May 20, 1932 (Com. Ex. 24), concludes that the result of all tests agree that Ester Compound is without measurable effect as a detonation suppressor, that Ester Compound has no measurable effect on power, economy, or any other phase of engine performance, that the evidence is therefore highly conclusive that the operator of a gasoline engine would derive no tangible advantage from the use of Ester Compound. The report concludes with the following language:

The result of this test, which has been made with apparatus and materials suited to the purpose, indicate that Ester Compound used in the manner recommended by its maker is without detectable effect on the power, economy or general performance of a gasoline engine or on the knocking propensity of its fuel. (Com. Ex. 24, p. 8.)

The testimony of Richard S. Dill of the Bureau of Standards, under whose direction the engine tests of the fuel mixture containing Ester Compound were made, sustains and corroborates the reports from the Bureau of Standards referred to above, this witness testifying that the Ester Compound did not change the knocking propensity of the fuel, did not reduce the detonation and would not correct other defects in gasoline; that Ester mixed with gasoline was found to have no effect on power or economy of a gasoline engine when used in the manner specified in respondent's literature, that the addition of Ester Compound to ordinary gasoline did not change the octane number of the base fuel, that a gasoline containing Ester would be of no more value than gasoline not containing it, that as far as they were able to determine in their tests the Ester Compound did nothing to the gasoline. No advantage to be gained by lubricating the walls of the combustion chamber.

Dr. Graham Edgar, chemist, previously referred to in these findings, testified:

If a compound, Ester for example, was mixed with a gasoline which gasoline before blending showed an octane count of 63, and after the blending showed still an octane count of 63, the antiknock value of the gasoline is in no way changed and the material could in no way be classed as an antiknock. The octane number of a gasoline is the measure of its tendency to detonate, therefore if the octane number is not changed, there can be no change in tendency to knock or detonate.

PAR. 11. Respondent testified that he sold approximately 1,000 gallons of Ester Compound in 1930, and between 500 and 600 gallons in 1931. This for two years would give approximately 1,500,000 gallons of gasoline for sale in the United States, and he testified he

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practically covered the entire United States. Other testimony indicates that the respondent was understating the amount of business done by him, for it is shown by the testimony of users of the Ester Compound that at the time of the hearings in March, 1932, the sales in Little Rock, Pine Bluff, Nashville, Memphis, Baton Rouge, and Lake Charles, only six cities in three States, had been and were at the rate of approximately 705,700 gallons of gasoline mixed with Ester Compound per annum. And in addition to the witnesses called in the above-mentioned cities the respondent testified as to the names of thirteen other customers in the States of Arkansas, Tennessee, Indiana, Texas, Nebraska, North Carolina, South Carolina, California, and Mississippi, and further testified that these were not nearly all of his customers and that he also had distributing agencies in West Virginia and Utah.

PAR. 12. The respondent sells his product "Ester" to owners and operators of gasoline filling stations throughout the United States, who mix the said product with the straight gasoline which they carry and sell same to the public. The Commission finds that the statements of the respondent of and concerning his product are false and misleading, that the said statements of respondent have a tendency to deceive and have deceived his vendees, and that as a result of said false and misleading statements his said vendees have in turn passed the deception on to the consuming public.

The Commission finds that the respondent has furnished to owners and operators of gasoline filling stations throughout the United States the means whereby said owners and operators are enabled to deceive and mislead the consuming public into believing that the motor fuel resulting from the mixture of respondent's product with straight gasoline improves said gasoline all to the injury of the public and prejudice of respondent's competitors.

The Commission finds respondent's product to be of no value to the purchasers of the gasoline mixed therewith.

The Commission finds that as a result of the false and misleading statements, representations, and advertisements of the respondent the retailers handling respondent's product have increased their sales of gasoline at the expense of competing retailers of gasoline who honestly designate and describe the same as either straight gasoline or as high test, high compression or antiknock gasoline.

The interstate distributors of gasolines who honestly designate and describe the same have been injured as a result of the false and misleading statements, representations, and advertisements of the respondent.

CONCLUSION

By reason of the aforesaid acts and practices of the respondent as hereinbefore set out, it is concluded by the Commission that the acts and practices of respondent are clearly unfair methods of competition in interstate commerce, and that such practices have the effect of unfairly diverting trade from respondent's competitors, and that the acts and things hereinabove set out are to the prejudice and injury of the public, and that such acts and practices constitute unfair methods of competition in 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".

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, and the testimony taken and the brief filed herein, and the Commission having made its findings as to the facts and conclusion that the respondent has violated the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties and for other purposes",

It is now ordered, That respondent William H. Johnsen, individually or trading as Technical Chemical Co., his agents, servants, and employees, in connection with the advertising, offering for sale or sale in interstate commerce of his product heretofore described and designated by respondent as "Ester" and "Ester Compound", for use in treating motor fuel and gasoline, cease and desist from using the following statements or representations, or any of them, or any statement or representation of like effect:

- (a) A Gasoline Tonic with "It",
- (b) That said product, when mixed with gasoline and used as a motor fuel,
 - (1) Produces a merited premium priced motor fuel,
 - (2) Reduces detonation,
 - (3) Minimizes carbon and neutralizes the action of gum,
 - (4) Lubricates the combustion cycle,
 - (5) Corrects other defects in gasoline,
 - (6) Decreases the heat in the explosion chamber,
 - (7) Increases the expansive force of the explosion,
 - (8) Tends to eliminate carbon formation,
 - (9) Reduces fuel knocks,
 - (10) Imparts to said gasoline or motor fuel a smoother, better balanced and flexible performance,
 - (11) Causes the motor to function on less revolutions per minute in traffic and accelerate quicker;

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(c) Acts as an oxidizing agent and attacks the carbon that has adhered to the various parts of the combustion chamber;

(d) That a feature of said product is the bond of lubrication that it imparts in the combustion cycle;

(e) Has heat resisting properties which give lubrication to the utmost point in the fire zone, assuring maximum compression, and keeps the valves from sticking;

(f) That the said product, when mixed with gasoline and used as a motor fuel, improves the said gasoline, or that it increases the antiknock properties of said gasoline in any respect.

It is further ordered, That the respondent William H. Johnsen, individually and trading as Technical Chemical Co., shall, within 60 days after the service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF
THE WEISS & KLAU COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2060. Complaint, July 11, 1932—Order, Dec. 6, 1932*

Consent order requiring respondent, its agents, etc., to cease and desist, in connection with sale and distribution of window shades in interstate commerce, from representing, designating, describing or labeling, as "Mill Run", window shades not in fact made from cloth which is the entire run of the mill, or which are known to the trade or purchasing public as seconds", or from using any other words aforesaid so as to import that such shades are made from cloth which is the entire and true run of the mill.

Mr. Richard P. Whiteley for the Commission.

Mr. Daniel R. Forbes, of Washington, D.C., 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 The Weiss & Klau Co., a corporation, hereinafter referred to as respondent, has been and now is using unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of the said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, The Weiss & Klau Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal place of business located in the City of New York in said State. Respondent is now and, for more than one year last past, has been engaged in the sale and distribution of window shades in commerce between and among the various States of the United States, and has caused said products when sold, to be shipped from its place of business in the City and State of New York to purchasers thereof located in a State or States of the United States other than the State of New York. In the course and conduct of its business, the respondent, The Weiss & Klau Co., was at all times herein referred to in competition with other corporations, partnerships, firms, and individuals likewise engaged in the sale and distribution in interstate commerce of window shades.

PAR. 2. In the course and conduct of its business, as described in paragraph 1 hereof, The Weiss & Klau Co., in soliciting the sale of and selling and distributing window shades in interstate commerce between and among various States of the United States, for more than one year last past has represented, designated, described, and