

Complaint

IN THE MATTER OF

JONES BROTHERS PUBLISHING COMPANY

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

Docket 2433. Complaint, June 10, 1935—Order, Aug. 8, 1935

Consent order requiring respondent corporation, its officers, etc., in connection with soliciting the sale of, selling and distributing a set of history books in interstate commerce, to cease and desist from falsely,—

- (a) Representing that said books are new and up to date or that it is staging a special introductory campaign limited as to time or to a few selected and outstanding individuals, and that the set is shortly to go on regular sale at a price several times that involved in the introductory offer; or
- (b) Representing that the subscriber or prospective purchaser is receiving absolutely free an unbound set, and that the only cost is the payment of a purported wholesale contract price for binding the same, and that it has made an arrangement with independent book binding companies to bind said work at a saving to the prospective purchaser; and

Ordered further that respondent in connection with soliciting the sale of, selling and distributing any set of books in interstate commerce cease and desist from,—

- (c) Labeling, designating, naming or describing the same set of books under more than one title.

Mr. Morton Nesmith for the Commission.

Waite, Schindel & Bayless, of Cincinnati, Ohio, for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission, having reason to believe that the Jones Brothers Publishing Company, a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. The respondent, Jones Brothers Publishing Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business at Arbor Place, Norwood, a suburb of Cincinnati, in the State of Ohio.

Respondent corporation for more than three years last past has been and is now engaged in the business of selling and distributing a set of nine volumes of history books, and owns the dies for the

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first eight volumes of said set. Said respondent causes these volumes, together with an additional volume, to be printed and causes said set to be labeled under two different and separate names. This identical set is published under the names of "History of our Country" and "Library of American History", the set under the former name being sold at wholesale only and the set under the latter name being sold at retail, exclusively by salesmen. Said respondent has offered for sale, and sold, said set of books in commerce between and among the several States of the United States. Respondent has caused, and still causes, said books when sold and distributed by it to be transported from its said place of business in Ohio into and through various other States of the United States to purchasers thereof located in various places in such other States.

Other persons, firms, associations, and corporations have been, and are, engaged in the business of printing and distributing sets of history books, offering for sale and selling same in commerce between and among the several States of the United States in substantial competition with said respondent. In the course and conduct of its business, as aforesaid, respondent corporation has been and is in competition with all such other persons, firms, associations, and corporations so engaged in the selling and offering for sale of like and competitive sets of books in commerce between and among the several States of the United States.

PAR. 2. In the course and conduct of its business of selling and distributing "Library of American History" respondent, through and by its sales agents, by way of inducement to prospective purchasers to purchase such set of books, has represented as follows:

First, that the set is new and up to date.

Second, that respondent is staging a special introductory campaign, limited as to time, and that the set is shortly to go on regular sale at a price several times that involved in the introductory offer.

Third, that the subscriber, or prospective purchaser, is receiving absolutely free an unbound set of such books, and that the only cost to the person or persons is the payment of a purported wholesale contract price for the binding thereof.

Fourth, that the so-called introductory offer is not general, but is limited to a few selected and outstanding individuals.

Fifth, that respondent has made an arrangement with independent book binding companies to bind said work at a saving to the prospective purchaser.

PAR. 3. In truth and in fact the sets of books so sold and distributed by the respondent, as aforesaid, are not new and up to date; nor is

respondent staging any special introductory campaign limited as to time, nor will the work shortly go on regular sale at a price much higher than that given in said alleged introductory offer, but, on the contrary, said respondent has employed this introductory sales offer continuously for the past ten years; nor is the subscriber, or prospective purchaser, receiving this work free and only paying for the binding therefor, but, on the contrary, respondent, out of this alleged binding cost, receives a net profit for the set, plus binding; nor is the so-called introductory offer limited to a few selected and outstanding individuals, but, on the contrary, is made to a great many and divers people; nor has respondent made any arrangements with any independent book binding companies to bind said work at a saving to the prospective purchaser, but, on the contrary, said alleged independent book binding companies are merely fictitious corporate entities, and all correspondence between these alleged fictitious corporations and purchasers and prospective purchasers is answered by respondent company, which performs said binding work and replies to such correspondence in the names of such fictitious companies.

The use by respondent of said false and misleading statements, as described in paragraph 2 hereof, has the capacity and tendency to, and has and does, mislead and deceive many among the purchasing public into the belief that such representations are true and to purchase the aforesaid designated set from respondent in such belief; thereby trade is diverted by respondent from its competitors who do not make false and misleading representations in connection with the sale by them of similar sets of books in commerce between and among the various States of the United States, and thereby substantial injury is done by respondent to substantial competition in interstate commerce.

PAR. 4. The above alleged acts and practices of respondent are all to the prejudice of the public and of respondent's competitors, 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.

ORDER TO CEASE AND DESIST

This proceeding coming on for final hearing by the Federal Trade Commission upon the record, including the complaint of the Commission and the answer of the respondent thereto that it waives hearing on the charges set forth in the complaint, refrains from con-

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testing the proceeding, and pursuant to paragraph 2 of Rule V of the Rules of Practice of the Commission as amended and revised, consents that the Commission may make, enter, and serve upon respondent, without evidence and without findings as to the facts or other intervening procedure, an order to cease and desist from the method or methods of competition alleged in the complaint; and the Commission having duly considered the matter and being fully advised in the premises—

It is now ordered, That respondent, Jones Brothers Publishing Company, a corporation, its officers, servants, agents, and employees, in connection with soliciting the sale of, selling and distributing a set of history books in interstate commerce, cease and desist from—

Directly or indirectly representing that said books are new and up to date; that respondent is staging a special introductory campaign limited as to time, and that said set of books is shortly to go on regular sale at a price several times that involved in the introductory offer; that the subscriber or prospective purchaser is receiving absolutely free an unbound set of such books, and that the only cost to the person or persons is the payment of a purported wholesale contract price for the binding thereof; that the so-called introductory offer is not general but is limited to a few selected and outstanding individuals; and that respondent has made an arrangement with independent book binding companies to bind said work at a saving to the prospective purchaser, when such are not the facts.

It is further ordered, That respondent, in connection with soliciting the sale of, selling and distributing any set of books in interstate commerce, cease and desist from:

Labeling, designating, naming or describing the same set of books under more than one title.

It is further ordered, That the said respondent within 30 days from and after the date of the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF

BIRMINGHAM AUTOMOTIVE JOBBERS ASSOCIATION
ET AL.

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

Docket 2382. Complaint, May 6, 1935—Order, Aug. 9, 1935

Consent order requiring that respondent association, and the officers, members, directors, agents, etc., thereof, in connection with the sale and offer for sale in interstate commerce of automobile parts and accessories, forthwith cease and desist from,—

- (a) Carrying out an agreement, combination, understanding and conspiracy among themselves, or between or among any two or more of them, or with others, acting directly by or through the respondent association by which they, or any of them, fix and maintain uniform prices to be exacted by them from their purchasers of automobile parts and accessories;
- (b) Using any of the methods of competition alleged in the complaint, to wit, combining and conspiring to fix and maintain uniform prices through entering into and complying with agreements to (1) use and abide by manufacturers' resale schedules for sale of such parts and accessories, (2) fix uniform prices for sale of such parts and equipment, and for jobs involving labor only, and for those involving both parts and labor, or (3) schedules of discounts to be allowed certain classes of purchasers of such parts and accessories, (4) requiring certain classes of purchasers to resell parts and accessories purchased from the members at manufacturers' list prices or association prices, and (5) that each member before making any change in price of any part, accessory or labor except closeout items is either to notify the association secretary in writing or each member before putting such change into effect; or
- (c) Doing or permitting by understanding, agreement, or combination among themselves, or between or among any two or more of them, or with others, acting directly, or by or through respondent association, the doing of such acts and practices as hereinabove set forth, and as in the order specified in detail; and

Ordered further that complaint be dismissed without prejudice as to respondent Auto Electric & Carburetor Co. for the reason that said respondent has not technically been a member of respondent association since April 1934, attempted to resign therefrom on September 15, 1934, and has had no active or apparent participation therewith since November 15, 1934, as in said order set forth.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Morton Nesmith for the Commission.

Mr. Oliver Henderson, of Birmingham, Ala., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Com-