

Syllabus

IN THE MATTER OF

EDES MANUFACTURING COMPANY ET AL.

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

Docket 2660. Complaint, Dec. 18, 1935—Decision, Mar. 31, 1936

Where 11 corporations engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes and in the sale thereof to photoengraving houses and large newspaper chains located in other States, and together making and selling more than 90 percent of the total volume of such products used for such purpose and sold in commerce—

(a) Entered into an understanding or agreement among themselves, and with their association formed pursuant to such undertaking, to fix and maintain uniform prices, terms, and discounts for the sale of such products and to cooperate with each other in the enforcement and maintenance of such prices, etc., by exchanging information through said association as to the prices, etc., at which they were selling and offering to sell such products as aforesaid; and

Where said association, organized as aforesaid—

(b) Acted as a clearing house for the exchange of information submitted by said members, including reports as to sales of zinc and copper plates together with prices, discounts, and terms at which said zinc and copper plates were sold or offered, and held regular meetings at which its said members attended and at which they discussed trade and competitive conditions in said industry, and agreed upon and established trade policies to be followed and prices to be charged in the sale and distribution of their said products; and

Where four individuals, officers of such association and as such in full and complete charge of its activities—

(c) Conducted the meetings of its members and collected statistical information therefrom and compiled and disseminated the same thereto, all in pursuance and furtherance of the object and aims of the association as hereinabove set forth;

With the result of unduly tending to substantially lessen, restrict, and suppress competition in the sale of zinc and copper engravers plate throughout the several States and particularly in prices quoted and discounts allowed, and to enhance prices thereof above those which had theretofore prevailed and which would prevail under normal, natural, and open competition between said members, and to tend to a monopoly in said corporations in the manufacture and sale of such plates in commerce:

Held, That such acts and practices were to the prejudice of the buying public generally and customers of said members in particular, and constituted unfair methods of competition.

Mr. Everett F. Haycraft and Mr. Reuben J. Martin for the Commission.

Mr. Sol A. Rosenblatt, of New York City, for respondents.

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COMPLAINT

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, having reason to believe that Edes Manufacturing Co., The American Steel & Copper Plate Co., New York Steel & Copper Plate Co., Rolled Plate Metal Co., National Steel & Copper Plate Co., Harold M. Pitman Co., Pacific Steel & Copper Plate Co., American Zinc Products Co., American Nickeloid Co., C. G. Hussey & Co., and Bridgeport Engravers Supply Co., hereinafter referred to as corporate respondents and the Photo Engravers Copper & Zinc Grinders Association, hereinafter referred to as the respondent association, and Oliver L. Edes, Harold M. Pitman, Walter Pitman, and J. Peter Lally, individually, hereinafter referred to as individual respondents, have been and are 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 thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Said corporate respondent, Edes Manufacturing Co., is a corporation organized under the laws of the State of Massachusetts in 1850, with its principal office located in the town of Plymouth within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Massachusetts, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Massachusetts to the purchasers thereof located in States other than the State of Massachusetts. Said corporate respondent is the leading manufacturer of zinc and copper plates for use by photoengravers and, as such, occupies a dominant position in said industry.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 2. Said corporate respondent, The American Steel & Copper Plate Co., is a corporation organized under the laws of the State of New Jersey in 1905, with its principal office located at 101 Fairmount Avenue in Jersey City, within said State. Said corporate respondent, since the date of its organization, has been and now is

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engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of New Jersey, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of New Jersey, to the purchasers thereof located in States other than the State of New Jersey.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 3. Said corporate respondent, New York Steel & Copper Plate Co., is a corporation organized under the laws of the State of New York in 1889, with its principal office located at 61 Clymer Street in the city of Brooklyn within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of New York, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of New York to the purchasers thereof located in States other than the State of New York.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 4. Said corporate respondent, Rolled Plate Metal Co., is a corporation organized under the laws of the State of New York in 1904, with its principal office located at 196-210 Van Brunt Street, in the city of Brooklyn within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of New York, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of New York to the purchasers thereof located in States other than the State of New York.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 5. Said corporate respondent, National Steel & Copper Plate Co., is a corporation organized under the laws of the State of Illinois in 1903, with its principal office located at 720 South Dearborn Street in the city of Chicago within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Illinois, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Illinois to the purchasers thereof located in States other than the State of Illinois.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 6. Said corporate respondent, Harold M. Pitman Co., is a corporation organized under the laws of the State of Illinois, with its principal office located at South 51st Street and 133d Street in the city of Cicero within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Illinois, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Illinois to the purchasers thereof located in States other than the State of Illinois.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 7. Said corporate respondent, Pacific Steel & Copper Plate Co., is a corporation organized under the laws of the State of California in 1917, with its principal office located at 416 Jackson Street in the city of San Francisco within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of California, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of California to the purchasers thereof located in States other than the State of California.

Said corporate respondent is now and has been since August 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association.

PAR. 8. Said corporate respondent, American Zinc Products Co., is a corporation organized under the laws of the State of Indiana in 1925, with its principal office located in the city of Greencastle, within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Indiana, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Indiana to the purchasers thereof located in States other than the State of Indiana.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 9. Said corporate respondent, American Nickeloid Co., is a corporation organized under the laws of the State of Illinois, with its principal office located at 1501 Second Street in the city of Peru within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Illinois, causing said zinc plates when sold to be transported from the place of manufacture within said State of Illinois to the purchasers thereof located in States other than the State of Illinois.

Said corporate respondent is now and has been for more than 1 year last past a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association.

PAR. 10. Said corporate respondent, C. G. Hussey & Co., is a corporation organized under the laws of the State of Pennsylvania in 1931, with its principal office located at 2850 Second Avenue in the city of Pittsburgh within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Pennsylvania, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Pennsylvania to the purchasers thereof located in States other than the State of Pennsylvania.

Said corporate respondent is now and has been since July 1933 a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 11. Said corporate respondent, Bridgeport Engravers Supply Co., is a corporation organized under the laws of the State of Connecticut on February 27, 1935, with its principal office located at 774 East Main Street in the city of Bridgeport within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Connecticut, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Connecticut to the purchasers thereof located in States other than the State of Connecticut.

Said corporate respondent is now and has been since its organization a member of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and has been represented at the meetings of said association.

PAR. 12. Said corporate respondents, acting in cooperation with each other and through and in cooperation with said respondent association and said individual respondents, for more than 1 year last past, and particularly since July 1933, have entered into an understanding, agreement, combination, or conspiracy among themselves and with and through said respondent association and said individual respondents, to restrict, restrain, and suppress competition in the sale and distribution of zinc plates and copper plates to photoengraving customers and to newspaper customers located throughout the several States of the United States, as aforesaid, by agreeing to fix and maintain uniform prices, terms, and discounts at which said zinc plates and said copper plates are to be sold, and to cooperate with each other in the enforcement and maintenance of said fixed prices, terms, and discounts by exchanging information through said respondent association as to the prices, terms, and discounts at which said corporate respondents have sold and are offering to sell said zinc plates and said copper plates to said photoengraving customers and to said newspaper customers.

PAR. 13. Said corporate respondents, in furtherance of their aforesaid understanding, agreement, combination, or conspiracy, in July 1933, organized said respondent association, Photo Engravers Copper & Zinc Grinders Association. Said respondent association, the aforesaid Photo Engravers Copper & Zinc Grinders Association, is a voluntary, unincorporated trade association, composed of

manufacturers of zinc and copper engravers' plate, located throughout the several States of the United States, and has as its principal members said corporate respondents herein named, which said corporate respondents manufacture and sell more than 90 percent of the total volume of zinc and copper plates used for engraving purposes and sold in interstate commerce in the United States. Said respondent association was organized in the city of Pittsburgh within the State of Pennsylvania, and since its organization has acted as a clearing house for the exchange of information submitted by said corporate respondents, including reports as to the sales of zinc and copper plates, together with prices, discounts, and terms at which said zinc and copper plates are sold or offered to be sold. Headquarters of said respondent association since its organization have been and now are maintained at 101 Fairmount Ave. in Jersey City within the State of New Jersey, and regular meetings of the members of said respondent association have been and are held from time to time at convenient locations within the United States, at which said meetings said corporate respondents discuss trade and competitive conditions in said zinc and copper plate industry, and agree upon and establish trade policies to be followed and prices to be charged by said corporate respondents in the interstate sale and distribution of their zinc and copper plates and carry out and perform the acts and things hereinbefore alleged in paragraph 12.

PAR. 14. Said individual respondents, Oliver L. Edes, Harold M. Pitman, Walter Pitman, and J. Peter Lally, are now and have been since organization the officers of said respondent association, and as such officers have had and now have full and complete charge of the activities of said respondent association, conducting the meetings of said members of said respondent association and collecting said statistical information from the members of said respondent association and compiling and disseminating the same to the said members afore-said, all in pursuance and furtherance of the objects and aims of said respondent association as hereinbefore set forth in paragraph 13.

PAR. 15. The result of the acts and conduct of the said corporate respondents and the said respondent association and said individual respondents, as set out hereinbefore in paragraphs 12, 13, and 14, has been and now is to unduly tend to substantially lessen, restrict, and suppress competition in the interstate sale of zinc and copper engravers plate throughout the several States of the United States, particularly in the prices quoted and discounts allowed by said corporate respondents, and to enhance the prices of said zinc and copper engravers plates above the prices which had theretofore prevailed, and which would prevail under normal, natural, and open competition between said corporate respondents, and also to tend to create a monopoly

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in the said corporate respondents in the manufacture and sale of zinc and copper engravers plates in interstate commerce.

PAR. 16. The foregoing alleged acts and practices of the said corporate association and individual respondents have been and still are to the prejudice of the buying public generally, and customers of said corporate respondents in particular, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, and entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

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 on December 18, 1935, issued and served its complaint in this proceeding upon the respondents Edes Manufacturing Co., The American Steel & Copper Plate Co., New York Steel & Copper Plate Co., Rolled Plate Metal Co., National Steel & Copper Plate Co., Harold M. Pitman Co., Pacific Steel & Copper Plate Co., American Zinc Products Co., American Nickeloid Co., C. G. Hussey & Co., Bridgeport Engravers Supply Co., Photo Engravers Copper & Zinc Grinders Association, and Oliver L. Edes, Harold M. Pitman, Walter Pitman, and J. Peter Lally, individually and as officers of the Photo Engravers Copper & Zinc Grinders Association, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint said respondents filed their answers thereto, admitting for the purpose of this proceeding all the material allegations of the complaint to be true, and the Commission having duly considered the same and being fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Said corporate respondent, Edes Manufacturing Co., is a corporation organized under the laws of the State of Massachusetts in 1850, with its principal office located in the town of Plymouth within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large news-

paper chains located in States other than the State of Massachusetts, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Massachusetts to the purchasers thereof located in States other than the State of Massachusetts. Said corporate respondent is the leading manufacturer of zinc and copper plates for use by photoengravers, and as such occupies a dominant position in said industry.

PAR. 2. Said corporate respondent, The American Steel & Copper Plate Co., is a corporation organized under the laws of the State of New Jersey in 1905, with its principal office located at 101 Fairmount Ave. in Jersey City, within said State. Said corporate respondent since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of New Jersey, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of New Jersey, to the purchasers thereof located in States other than the State of New Jersey.

PAR. 3. Said corporate respondent, New York Steel & Copper Plate Co., is a corporation organized under the laws of the State of New York in 1889, with its principal office at 61 Clymer Street in the city of Brooklyn within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of New York, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of New York to the purchasers thereof located in States other than the State of New York.

PAR. 4. Said corporate respondent, Rolled Plate Metal Co., is a corporation organized under the laws of the State of New York in 1904, with its principal office located at 196-210 Van Brunt Street, in the city of Brooklyn within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of New York, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of New York to the purchasers thereof located in States other than the State of New York.

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PAR. 5. Said corporate respondent, National Steel & Copper Plate Co., is a corporation organized under the laws of the State of Illinois in 1903, with its principal office located at 720 South Dearborn Street in the city of Chicago within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Illinois, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Illinois to the purchasers thereof located in States other than the State of Illinois.

PAR. 6. Said corporate respondent, Harold M. Pitman Co., is a corporation organized under the laws of the State of Illinois, with its principal office located at South 51st Street and 133d Street in the city of Cicero within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Illinois, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Illinois to the purchasers thereof located in States other than the State of Illinois.

PAR. 7. Said corporate respondent, Pacific Steel & Copper Plate Co., is a corporation organized under the laws of the State of California in 1917, with its principal office located at 416 Jackson Street in the city of San Francisco within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of California, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of California to the purchasers thereof located in States other than the State of California.

PAR. 8. Said corporate respondent, American Zinc Products Co., is a corporation organized under the laws of the State of Indiana in 1925, with its principal office located in the city of Greencastle, within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Indiana, causing said zinc plates and said

copper plates when sold to be transported from the place of manufacture within said State of Indiana to the purchasers thereof located in States other than the State of Indiana.

PAR. 7. Said corporate respondent, Ameriran Nickeloid Co., is a corporation organized under the laws of the State of Illinois, with its principal office located at 1501 Second Street in the city of Peru within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Illinois, causing said zinc plates when sold to be transported from the place of manufacture within said State of Illinois to the purchasers thereof located in States other than the State of Illinois.

PAR. 10. Said corporate respondent, C. G. Hussey & Co., is a corporation organized under the laws of the State of Pennsylvania in 1931, with its principal office located at 2850 Second Ave. in the city of Pittsburgh within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Pennsylvania, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Pennsylvania to the purchasers thereof located in States other than the State of Pennsylvania.

PAR. 11. Said corporate respondent, Bridgeport Engravers Supply Co., is a corporation organized under the laws of the State of Connecticut on February 27, 1935, with its principal office located at 774 East Main Street in the city of Bridgeport within said State. Said corporate respondent, since the date of its organization, has been and now is engaged in the manufacture of zinc and copper plates suitable for photoengraving purposes, which it sells to photoengraving houses and large newspaper chains located in States other than the State of Connecticut, causing said zinc plates and said copper plates when sold to be transported from the place of manufacture within said State of Connecticut to the purchasers thereof located in States other than the State of Connecticut.

PAR. 12. Said corporate respondents are now, and have been since July 1933, members of said respondent association, Photo Engravers Copper & Zinc Grinders Association, and have been represented at the meetings of said association, except said respondent, American Nickeloid Co., which is now and has been for more than 1 year last

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past a member of said respondent association but which has not been represented at the meetings of said association.

PAR. 13. Said corporate respondents, acting in cooperation with each other and through and in cooperation with said respondent association and said individual respondents, on or about July 1933, entered into an understanding or agreement among themselves and said respondent association and said individual respondents to fix and maintain uniform prices, terms, and discounts at which said zinc plates and copper plates, suitable for photoengraving purposes, are to be sold, and to cooperate with each other in the enforcement and maintenance of said fixed prices, terms, and discounts by exchanging information through said respondent association as to the prices, terms, and discounts at which said corporate respondents have sold and are offering to sell said zinc plates and said copper plates to said photoengraving customers and to said newspaper customers.

PAR. 14. Said corporate respondents, in furtherance of their aforesaid understanding and agreement in July 1933, organized said respondent association, Photo Engravers Copper & Zinc Grinders Association, which is a voluntary, unincorporated trade association, composed of manufacturers of zinc and copper engravers plate, located throughout the several States of the United States, and has as its principal members said corporate respondents herein named, which said corporate respondents manufacture and sell more than 90 percent of the total volume of zinc and copper plates used for engraving purposes and sold in interstate commerce in the United States. Said respondent association was organized in the city of Pittsburgh within the State of Pennsylvania, and since its organization has acted as a clearing house for the exchange of information submitted by said corporate respondents, including reports as to the sales of zinc and copper plates, together with prices, discounts, and terms at which said zinc and copper plates are sold or offered to be sold. Headquarters of said respondent association since its organization have been and now are maintained at 101 Fairmont Ave. in Jersey City within the State of New Jersey, and regular meetings of the members of said respondent association have been and are held from time to time at convenient locations within the United States, at which said meetings said corporate respondents discussed trade and competitive conditions in said zinc and copper plate industry, and agreed upon and established trade policies to be followed and prices to be charged by said corporate respondents in the interstate sale and distribution of their zinc and copper plates.

PAR. 15. Said individual respondents, Oliver L. Edes, Harold M. Pitman, Walter Pitman, and J. Peter Lally, are now and have been since organization the officers of said respondent association.

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and as such officers have had and now have full and complete charge of the activities of said respondent association, conducting the meetings of said members of said respondent association and collecting said statistical information from the members of said respondent association and compiling and disseminating the same to the said members aforesaid, all in pursuance and furtherance of the object and aims of said respondent association as hereinbefore set forth in paragraph 14.

PAR. 16. The result of the acts and conduct of the said corporate respondents and the said respondent association and said individual respondents, as set out hereinbefore in paragraphs 13, 14, and 15, has been and now is to unduly tend to substantially lessen, restrict, and suppress competition in the interstate sale of zinc and copper engravers plate throughout the several States of the United States, particularly in the prices quoted and discounts allowed by said corporate respondents, and to enhance the prices of said zinc and copper engravers plates above the prices which had theretofore prevailed, and which would prevail under normal, natural, and open competition between said corporate respondents, and also to tend to create a monopoly in the said corporate respondents in the manufacture and sale of zinc and copper engravers plates in interstate commerce.

CONCLUSION

The foregoing acts and practices of the said corporate association and individual respondents have been and still are to the prejudice of the buying public generally, and customers of said corporate respondents in particular, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress approved September 26, 1914, and 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 come before the Federal Trade Commission upon the complaint of the Commission, the answers of respondents admitting all the material allegations of the complaint to be true, and the Commission having made its findings as to the facts and its conclusion that said respondents 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 ordered, That said corporate respondents, their subsidiaries, officers, agents, and employees and each of them, cease and desist from acting in cooperation with each other and through and in

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cooperation with said respondent association and said individual respondents by entering into agreements to fix and maintain uniform prices, terms, and discounts at which zinc plates and copper plates are to be sold to photoengraving customers and to newspaper customers located throughout the several States of the United States, in interstate commerce; and to enforce and maintain said fixed prices, terms, and discounts by exchanging information through said respondent association as to the prices, terms, and discounts at which said corporate respondents have sold and are offering to sell said zinc plates and said copper plates to said photoengraving customers and to said newspaper customers located throughout the several States of the United States, in interstate commerce.

It is further ordered, That the said respondent association, its officers, agents, and employees cease and desist from cooperating with said corporate and individual respondents by holding meetings of the members of said respondent association, at which said meetings said corporate respondents enter into agreements to fix prices, discounts, and terms at which said zinc and copper plates are sold or offered to be sold by said corporate respondents to said photoengraving customers and to said newspaper customers, located throughout the several States of the United States, in interstate commerce; and by acting as a clearing house for the exchange of information submitted by said corporate respondents, including reports as to the sales of zinc and copper plates together with prices, discounts, and terms at which said zinc and copper plates are sold or offered to be sold in interstate commerce, as aforesaid, in the enforcement and maintenance of said agreements.

It is further ordered, That said individual respondents cease and desist as officers of said respondent association, or otherwise, in the enforcement and maintenance of said agreements, from conducting meetings of said members of said respondent association, at which said meetings said corporate respondents enter into agreements to fix prices, discounts, and terms at which said zinc and copper plates are sold or offered to be sold by said corporate respondents to said photoengraving customers and to said newspaper customers located throughout the several States of the United States, in interstate commerce, and for such purposes from collecting statistical information from the said members of said respondent association, including reports as to the sales of zinc and copper plates, together with prices, discounts, and terms at which said zinc and copper plates are sold or offered to be sold, in interstate commerce, as aforesaid; and for such purposes from compiling and disseminating said statistical information to the said members of said respondent association, aforesaid.

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It is further ordered, That the respondents shall within 30 days after the service upon them 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 hereinabove set forth.

IN THE MATTER OF
EDWIN CIGAR COMPANY, INC., AND JAMES B. HALL, JR.,
INC.

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

Docket 2363. Complaint, Apr. 12, 1935—Decision, Apr. 6, 1936

Where two corporations engaged in the manufacture of cigars and leaf tobacco, and in the sale and distribution thereof direct to the consuming public by mail order in the case of one, and at wholesale to jobbers and retailers in the case of the other, and controlled and directed, in the case of both, by the same individual, of long experience and expert in the business, and president of each, and with the same general officers, of whom two were members of said president's immediate family—

- (a) Designated and labeled as "Factory Seconds", "Odd Lots", "Factory Throw Outs" and "Throw Outs" several types of cigars which they sold and distributed at prices ranging from 1 to 4½ cents, but, generally, at 3 cents, and represented in newspaper and periodical advertising of general interstate circulation that said cigars were in fact "Factory Seconds", etc., as above set forth, facts being they were not, as thereby understood by trade and purchasing public, products of high grade tobacco and high quality which could not be sold at the regular, intended price, because of slight color variations or imperfections which do not affect the enjoyment thereof, but were made from cheap, damaged, old, or inferior tobacco, and composed about 60 percent of their annual production of 14,000,000 cigars;

With capacity and tendency to deceive dealers and purchasing public and create impression that such cigars were made of a grade of tobacco superior to that actually used and to mislead and deceive them into belief that in buying such cigars at prices charged they were obtaining a product of high quality that could not be sold for price intended on account of imperfections, and with effect of diverting trade unfairly to said corporations from individuals and concerns engaged in sale and distribution of genuine "Factory Seconds", etc., thus truthfully represented by them, and from competitors engaged in sale and distribution of comparable, cheap, and inferior cigars, truthfully designated and advertised by them as to character and quality;

- (b) Designated certain types of their cigars as "Finest Havana Filler" and thus represented same in newspaper and periodical advertising of general circulation and as guaranteed of 15-cent quality and priced at 3 to 4½ cents each on account of slight color variations and imperfections, and represented other types of their cigars as made from or filled with Havana or Cuban tobacco through use of such words as "Havana", "Havana Long Filler" or "Havana Filler", and so advertised and represented certain types of their said products, composed of a brand of Havana and other types of tobacco filler as to convey to dealers and purchasers impression that filled portion thereof was made entirely of Havana tobacco, facts being that in manufacture of their said "Havana", "Havana Filler" or "Havana Filled" cigars they ignored recognized standards of the industry in the