

MICHAEL WHITEHOUSE, TRADING AS INTERNATIONAL TABLEWARE COMPANY

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

Docket 2719. Complaint, Feb. 12, 1936—Decision, Apr. 17, 1936

Where an individual engaged in the offer and sale of promotional sales plans, tableware, and dishes, and in sale and distribution, incident thereto, to small retail merchants chiefly, of certificates, coupons, and so-called trade cards purporting to be redeemable by said individual in tableware and dishes; in soliciting through agents, local merchants, and retailers to purchase said certificates, etc., at \$4.50 a thousand, to be distributed by them as a business stimulant, among their customers according to merchandise sold, for redemption by said individual without charge to customer, for tableware or chinaware—

- (a) Represented that he had adopted such plan to advertise his tableware and dishes and that it was his practice, according to the contracts entered into between him and such merchants and retailers, to redeem such trade cards when returned to him either directly by the merchants' customers, by mailing the same to his office, or when returned to him by the retailer or merchant who received same from his customers, facts being he followed practice of failing and neglecting to redeem such cards, however sent him;
- (b) Represented that in consideration of cooperation and advertising by merchant or retailer he would refund the \$4.50 per 1,000 cards paid, or any part thereof, when cards had been forwarded either by customer or retailer as hereinbefore set forth, and undertook in his said contracts to furnish a dining-ware display set or set of dishes to every dealer who contracted with him, for exhibition by merchant or retailer for their mutual benefit and to become sole property of such contracting merchant or retailer, facts being he made no such refunds and failed to supply such display sets of tableware and dishes to contracting merchants and dealers;
- (c) Offered to merchants and retailers his so-called Sample Unit Plan which he represented as adopted by it to increase his volume of business and under which he offered and sold to merchants or retailers premiums comprised of individual sets of tableware, i. e., knife, fork, and two spoons, to be distributed free among customers according to amount of merchandise sold, and under which, according to contract, dealer undertook to pay 20 cents for each individual set or so-called Gift Boxes, for such free distribution when dealer forwarded a list of names and addresses of customers who had obtained same, and represented that it would furnish a "beautiful 20-piece dining-ware display set" to such dealers as purchased a hundred units or more of such Gift Boxes, to be put on display and to be dealer's sole property, facts being that gift boxes delivered by it contained a spoon only and he followed practice of failing and neglecting to furnish or supply merchants or retailers who had purchased same with sample or display sets of tableware consisting of number of pieces promised as

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inducement to purchase, and failed to refund original price of tableware or gift boxes distributed by them among their customers, many of whom had ordered directly from respondent "Matched Design Tableware" consisting of table spoon, knife, and fork, but consistently ignored requests for refunds by merchants and retailers who reported such purchases to him and requested refund of amount paid for gift boxes according to provisions of contract entered into with them;

- (d) Undertook by his said contracts to circularize the public with advertising material, and, upon request, to furnish skilled salesmen to display silverware or chinaware in place of business of merchant or retailer, facts being he failed and neglected to circularize customers of such merchants and dealers and, although often requested to do so, followed practice of failing and neglecting to furnish skilled salesmen to display silverware, tableware, and chinaware in their places of business;

With result that merchants and retailers were deceived and misled into belief that each and all of foregoing statements and representations were true and induced to purchase said sales promotional plans and tableware from said individual in reliance upon such erroneous belief, and with capacity and tendency to divert trade to said individual from competitors offering and selling silverware, tableware, chinaware, and dishes directly, or offering or selling certificates, coupons, or trade cards redeemable or purporting to be redeemable in such products, truthfully described and represented, and to divert trade unfairly from competitors truthfully representing and selling their products and with effect of so doing, to the substantial injury of substantial competition:

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

Mr. George Foulkes for the Commission.

Mr. Benjamin J. Safr, of Detroit, Mich., for respondent.

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 reasons to believe that Michael Whitehouse, trading as International Tableware Co., 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 the 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. Respondent, Michael Whitehouse, has been for several years last past an individual doing business under the trade name and style of International Tableware Co., with his principal office and place of business at 800 Washington Boulevard Building, in the city of Detroit, State of Michigan. Respondent has been for

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several years last past engaged in the business of offering for sale and selling promotional sales plans and tableware and dishes by the use of certificates, coupons, and trade cards, which are redeemable in tableware and dishes by respondent, and sold by respondent to merchants and retail dealers throughout the various States of the United States.

PAR. 2. Said respondent, being engaged in business as aforesaid, caused said certificates, coupons, and trade cards, and tableware and dishes, when sold, to be transported from his office and principal place of business in the State of Michigan to purchasers thereof located in various points in other States of the United States, and there has been for several years last past, and is now, a constant current of trade and commerce in said certificates, coupons, and trade cards and tableware and dishes so distributed and sold by the respondent between and among the various States of the United States and in the District of Columbia.

Respondent has been in substantial competition with individuals, firms, partnerships, and corporations offering for sale and selling in interstate commerce, certificates, coupons, and trade cards, or other written or printed matter redeemable in tableware and dishes, or other merchandise; and with individuals, firms, partnerships, and corporations offering for sale and selling such tableware and dishes in such commerce.

PAR. 3. It has been the practice of respondent to offer for sale and sell certificates, coupons, and trade cards, as described in paragraph 1 hereof, through the personal solicitation of local merchants and retail dealers in and through the various States of the United States by agents thereunto duly authorized by respondent. Such certificates, coupons, or trade cards are offered for sale and sold by respondent to such local merchants and retail dealers to be distributed as a stimulation of their business among their customers, according to the amount of merchandise sold by such retail dealers. The agents of respondent are equipped with forms of contracts, circulars, advertising matter, and specimen coupon cards for use in the solicitation of such merchants and retail dealers. It has been the practice of respondent, by and through such agents, acting under respondent's supervision and direction, to induce retail dealers and merchants to sign contracts for the purchase of such certificates, coupons, or trade cards so redeemable by means of false and misleading statements and representations to the following effect:

That respondent has adopted and is using for the purpose of advertising his products, in order to increase his volume of business, the plan of selling certificates, coupons, or trade cards to merchants and retail dealers for \$4.50 for each 1,000 trade cards, for distribu-

tion among their customers, and of redeeming such trade cards by said respondent when returned to him by the customers of such merchants or retail dealers; that in consideration of the cooperation and advertising by such merchant or retail dealer the respondent would make a refund to such merchant or retail dealer of \$4.50 per 1,000 cards, or any part thereof, sent to the respondent for redemption by such customers; that respondent will furnish a dining-ware display set or a set of dishes to such merchants or retail dealers, said display set to be exhibited by said merchants or retail dealers for the mutual benefit of the respondent and the merchant or retail dealers, and to become the sole property of such merchants or retail dealers who enter into the contract and purchase the respondent's certificates, premiums, or trade cards; that the purchasing public would be circularized with advertising material by respondent; that respondent would furnish skilled salesmen who would display the silverware or chinaware in the place of business of such merchants or retail dealers.

PAR. 4. It has been the practice of respondent to offer for sale and sell to merchants and retail dealers a sales-promotional plan known in the trade as the Sample Unit Plan. Under the terms of this plan the respondent offered for sale and sold to such merchants and retail dealers premiums comprised of individual sets of tableware, each set consisting of four pieces, namely, one knife, one fork, and two spoons. Such 4-piece sets of tableware were offered for sale and sold by respondent to such local merchants and retail dealers to be distributed by them as a stimulation of business among their customers, according to the amount of merchandise sold to customers by such local merchants or retail dealers. The agents of respondent are equipped with forms of contracts, circulars, advertising matter, and sample sets of tableware for use in the solicitation of such merchants and retail dealers. It has been and is the practice of respondent, by and through such agents, acting under his supervision and direction, to induce merchants and retail dealers to sign contracts for the purchase of such 4-piece sets of tableware by means of false and misleading statements and misrepresentations to the following effect:

That respondent has adopted and is using, for the purpose of advertising its products in order to increase its volume of business, the plan of selling "Gift Boxes" containing tableware to merchants and retail dealers, for which the merchant or retail dealer agrees to pay 20 cents for each gift box of tableware and to distribute the same among his customers with a certificate enclosed therein entitling the customer to match said tableware by making additional purchases of tableware from respondent at specified special prices; that in

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consideration of the cooperation and advertising by such merchant or retail dealer the respondent would make a cash refund to each merchant or retail dealer on the 1st and 10th of each month of 20 cents per gift box for each such box distributed free to customers, if and when such merchant or retail dealer forwarded to respondent a list of names and addresses of customers having obtained gift boxes; that respondent would furnish a "beautiful 26-piece dining ware display set" to such merchants and retail dealers who would purchase 100 units or more of said gift boxes, to be put on display and to be the sole property of said merchant or retail dealer; that each such gift box upon delivery would contain four pieces of tableware.

PAR. 5. The statements and representations made by respondent with respect to the sale of certificates, coupons, and trade cards and tableware, as set forth in paragraphs 3 and 4 hereof, are grossly exaggerated, false, misleading, and untrue. In truth and in fact, respondent has followed the practice of failing and neglecting to redeem trade cards sent to him for redemption, and of failing to supply merchants and retail dealers with display sets of tableware and dishes, and of failing to refund to such merchants and retail dealers the sum of \$4.50 for each 1,000 trade cards upon redemption, or any part thereof, and of failing to refund the original purchase price of tableware to merchants and retail dealers who have distributed gift boxes to their customers and who have forwarded to respondent the names and addresses of such customers. Respondent has also failed and neglected to circularize customers of merchants and retail dealers. The gift box represented to merchants and retail dealers as containing four pieces of tableware contains upon delivery only one piece of tableware. Respondent has also followed the practice of failing and neglecting to furnish or supply merchants and retail dealers who have purchased gift boxes with sample or display sets of tableware consisting of or containing the number of pieces promised as inducement to such purchase.

PAR. 6. There has been for several years last past and now are, individuals, partnerships, and corporations offering for sale and selling in interstate commerce, tableware, silverware, chinaware, and dishes; and other individuals, partnerships, and corporations offering for sale and selling such products indirectly through the sale of certificates, coupons, or trade cards redeemable in silverware, tableware, chinaware, and dishes, who do not misrepresent their products.

PAR. 7. The acts and practices of respondent as described in paragraphs 3, 4, and 5 hereof have had and have a capacity and tendency to mislead and deceive and they have misled and deceived and

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do mislead and deceive merchants and retail dealers into the belief that each and all of the foregoing statements and representations made by the respondent have been and are true, and into the purchase of sales promotional plans and silverware and tableware from the respondent in reliance upon such erroneous belief, and have had the tendency to unfairly divert trade and do divert trade from competitors who truthfully represent and sell their products.

PAR. 8. The aforesaid acts and practices of respondent have had the capacity and tendency and have the capacity and tendency to divert trade to respondent from competitors offering for sale and selling in interstate commerce, silverware, tableware, chinaware, and dishes directly, or offering for sale and selling in such commerce, certificates, coupons, or trade cards redeemable or purporting to be redeemable in silverware, tableware, chinaware, and dishes, truthfully described and represented. As a result thereof, substantial injury has been and is now being done by respondent to substantial competition in interstate commerce.

PAR. 9. The above alleged acts and practices of respondent are each and all of them to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in interstate commerce within the intent and meaning 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."

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 February 12, 1936, issued and served its complaint in this proceeding upon the respondent, Michael Whitehouse, trading as International Tableware Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint the respondent filed a consent answer in and by which the respondent refrained from contesting the proceeding and admitted all the material allegations of the complaint to be true; and in which consent answer it was provided that the Commission may, without trial, without further evidence, and without any intervening procedure, make and enter its findings as to the facts and conclusion thereon, and issue and serve upon him an order to cease and desist from the violations of law alleged in the complaint; and the Commission having duly considered same and being fully ad-

vised 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. Michael Whitehouse, the respondent, has for several years last past been doing business under the trade name and style of International Tableware Co., with his office at 800 Washington Boulevard Building, in the city of Detroit, State of Michigan. The business which respondent has been engaged in is that of offering for sale and selling promotional sales plans, tableware, and dishes. In the sale of the promotional sales plans, tableware, and dishes the respondent, trading as International Tableware Co., sells and distributes certificates, coupons, and so-called trade cards which purport to be redeemable in tableware and dishes by the respondent. The said certificates, coupons, and trade cards, redeemable in tableware and dishes, are sold by the respondent to merchants and retail dealers throughout the various States of the United States.

PAR. 2. The respondent, in the sale of the said sales-promotional plans and the said tableware and dishes, has caused said certificates, coupons, trade cards, and tableware and dishes, when sold, to be transported from his office and principal place of business in the State of Michigan to purchasers thereof, comprised for the most part of small retail merchants located in various points in other States of the United States. There has been for several years last past a constant current of trade and commerce of said certificates, coupons, trade cards, and tableware and dishes so distributed and sold by the respondent, between and among the various States of the United States.

The respondent has been in substantial competition with individuals, firms, partnerships, and corporations offering for sale and selling in interstate commerce certificates, coupons, and trade cards, or other written and printed matter, redeemable in tableware and dishes, or other merchandise, and with individuals, firms, partnerships, and corporations offering for sale and selling such tableware and dishes in such commerce.

PAR. 3. In the conduct of his business and in order to facilitate the sale of tableware and dishes, the respondent has adopted the practice of offering for sale and selling certificates, coupons, and trade cards through the personal solicitation of local merchants and retail dealers in and through the various States of the United States by agents thereunto duly authorized by respondent. The certificates, coupons, and trade cards were offered for sale and sold by respondent-

ent and his agents to the local merchants and retail dealers to be distributed among their customers according to the amount of merchandise sold by the merchants and retail dealers to their customers. The respondent sold these certificates, coupons, and trade cards to merchants and retail dealers at \$4.50 for each 1,000 certificates, coupons, or trade cards. Thus with each small purchase to an amount specified on the certificate or trade card the customer received from the merchant or retail dealer a certificate or trade card. When a specified number of trade tickets were collected by the customer he was entitled to redeem the same, allegedly free of charge, for a piece of tableware or chinaware from the respondent's concern. The respondent represented that the adoption of this plan by merchants or retail dealers would act as a stimulant to their business. The agents of respondent were equipped with contract forms, sales circulars, advertising matter, and specimen coupons which they used in connection with their solicitation of such merchants and retail dealers. The respondent and his agents, in making contracts for the purchase of such certificates, coupons, or trade cards, which purport to be redeemable in tableware and dishes, with merchants and retail dealers, have represented:

That respondent, Michael Whitehouse, trading as International Tableware Co., has adopted and is using for the purpose of advertising its principal product, which is ordinary tableware and dishes, the plan of selling certificates, coupons, or trade cards to merchants and retail dealers for \$4.50 for each 1,000 trade cards, these trade cards, to be distributed free by the merchants or retail dealers among their customers, according to the amount of the purchase made by each customer; and the respondent has adopted the practice, and will, according to the terms of the contract entered into between respondent and merchants and retail dealers, redeem such trade cards when returned to him either directly by the customers of such merchants by mailing the same to the office in the city of Detroit, or when returned to him by the retail dealer or merchant, who will, according to the provisions of the contract, receive them from the customers to whom they have been delivered by the merchant; and that in consideration of the cooperation and advertising by the merchant or retail dealer the respondent would refund to the merchant or retail dealer the \$4.50 paid by him for the 1,000 cards, or any part thereof, when the same have been forwarded by either the customer or the retail dealer, as above set forth. The respondent also contracts to furnish a dining-ware display set or set of dishes to every merchant or retail dealer who enters into the contract and purchases the said certificates, coupons, or trade cards and that the so-called display

set is to be exhibited by the merchant or retail dealer for the mutual benefit of the respondent and the merchant or retail dealer, and to become the sole property of the merchant or retail dealer who enters into the contract; respondent also agrees by contract with the merchant or retail dealer that the public would be circularized with advertising material by respondent, and upon request respondent would furnish skilled salesmen who would display the silverware or chinaware in the place of business of such merchants or retail dealers.

PAR. 4. The respondent has also adopted and has used to a considerable extent another plan of sales promotion which the respondent calls "The Sample Unit Plan." In this plan the respondent instead of selling certificates, coupons, or trade cards, offered for sale and sold to the merchants or retail dealers premiums comprised of individual sets of tableware, each set consisting of four pieces, namely: one knife, one fork, two spoons. These 4-piece sets of tableware, when sold by respondent to local merchants and retail dealers, were to be distributed by them free among their customers, according to the amount of merchandise sold to customers by these merchants or retail dealers. This plan was also offered to merchants and retail dealers by the respondent's agents, and in the sale of such plan by these agents small merchants and retail dealers were induced to sign contracts in which certain misleading statements and representations were made by respondent to the following effect:

That the plan called the "Sample Unit Plan", as aforesaid, had been adopted by respondent for the purpose of advertising its tableware in order to increase its volume of business; that it was the respondent's plan to sell individual sets of tableware which respondent called "Gift Boxes" to merchants or retail dealers for which the merchant or retail dealer agreed to pay 20 cents for each box to be distributed free to customers if and when such merchant or retail dealer forwarded to respondent a list of names and addresses of customers having obtained "Gift Boxes." Respondent also represented that respondent would furnish a "beautiful 26-piece diningware display set" to such merchants and retail dealers who would purchase 100 units or more of said "Gift Boxes", to be put on display and to be the sole property of said merchant or retail dealer; that each such "Gift Box" upon delivery would contain four pieces of tableware.

PAR. 5. The statements and representations made by respondent with respect to the sale of certificates, coupons, trade cards, "Gift Boxes", and tableware, as set forth in paragraphs 3 and 4 hereof, are grossly exaggerated, false, misleading, and untrue. In truth and in fact respondent has followed the practice of failing and neglecting to redeem trade cards sent to him for redemption by merchants

and retail dealers and by customers who have received trade cards upon the purchase of merchandise from such merchants and retail dealers. The respondent has also failed to supply display sets of tableware and dishes to merchants and retail dealers who have entered into contracts with respondent to adopt respondent's sales-promotional plan to distribute among their customers trade cards redeemable in tableware and dishes. Respondent has not refunded to such merchants and retail dealers the sum of \$4.50 for each 1,000 trade cards sent to respondent for redemption, or part of \$4.50 for any part of 1,000 trade cards redeemed by customers of such merchants and retail dealers. The respondent has also consistently failed to refund to merchants and retail dealers the original price of the tableware or of the "Gift Boxes" which merchants and retail dealers distributed among their customers with nominal purchases by such customers, and many of such customers, upon receipt of the "Gift Boxes", have ordered directly from respondent "Matched Design Tableware" consisting of a unit of three pieces of tableware, to wit, a tablespoon, knife, and fork. Merchants and retail dealers have reported such purchases to respondent and have requested a refund of the amount paid by such merchant or retail dealer to respondent for "Gift Boxes" according to the provisions of the contract entered into by respondent with such merchants and retail dealers. Respondent has consistently ignored such requests and has neglected to make such refunds. Respondent has also failed and neglected to circularize customers of merchants and retail dealers. The "Gift Box" which respondent's agents, when soliciting orders represent to merchants and retail dealers as consisting of four pieces of tableware, namely, one knife, one fork, and two spoons, consists upon delivery to such merchants or retail dealers of only one piece of tableware, namely a spoon. Respondent has also followed the practice of failing and neglecting to furnish or supply merchants and retail dealers who have purchased "Gift Boxes" with sample or display sets of tableware consisting of the number of pieces promised as an inducement to such purchase. Respondent has followed the practice of failing and neglecting to furnish skilled salesmen to display the silverware, tableware, and chinaware in the place of business of such merchants and retail dealers, although often requested to do so by such merchants or retail dealers.

PAR. 6. There have been for several years last past, and now are, individuals, partnerships, and corporations offering for sale and selling in interstate commerce tableware, silverware, chinaware, and dishes; and other individuals, partnerships, and corporations offering for sale and selling such products indirectly through the sale of

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certificates, coupons, or trade cards redeemable in silverware, tableware, chinaware, and dishes, who do not misrepresent their product.

PAR. 7. As a result of the practices of respondent, as described in paragraphs 3, 4, and 5 hereof, merchants and retail dealers have been deceived and misled into the belief that each and all of the foregoing statements and representations made by the respondent have been and are true and have been induced to purchase sales-promotional plans and tableware from the respondent in reliance upon such erroneous belief, and such statements and representations have had the tendency to unfairly divert trade and do divert trade from competitors who truthfully represent and sell their products.

PAR. 8. The aforesaid acts and practices of respondent have had the capacity and tendency, and have the capacity and tendency, to divert trade to respondent from competitors offering for sale and selling in interstate commerce silverware, tableware, chinaware, and dishes directly, or offering for sale and selling in such commerce, certificates, coupons, or trade cards redeemable or purporting to be redeemable in silverware, tableware, chinaware, and dishes, truthfully described and represented. As a result thereof, substantial injury has been and is now being done by respondent to substantial competition in interstate commerce.

CONCLUSION

The acts and practices of the respondent under the conditions and circumstances set forth in the foregoing findings are to the prejudice of the public and respondent's competitors, and are 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

Michael Whitehouse, trading as International Tableware Co., the respondent herein, having filed its answer to the complaint in this proceeding, in and by which answer respondent stated that it desires to waive hearing on the charges set forth in the complaint and not to contest the proceeding, and admitted all the material allegations of the complaint to be true, and consented that the Commission may, without further evidence and without any intervening procedure, make and enter its findings as to the facts and conclusion thereon, and issue and serve upon it an order to cease and desist from the

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violations of law charged in the complaint, and the Commission being now fully advised in the premises:

It is ordered, That the respondent, Michael Whitehouse, trading as International Tableware Co., his agents, servants, representatives, and employees in connection with the sale or offering for sale of sales-promotional plans, tableware, and dishes, and other goods and merchandise in interstate commerce, forthwith cease and desist from representing by provisions in contracts, circulars, advertisements, bulletins, or in any other way:

(1) That respondent will redeem, free of charge, certificates, coupons, or trade cards issued by respondent with tableware and dishes, or in any other manner;

(2) That respondent will refund the amount of money paid by merchants and retail dealers for premiums which have been delivered to customers upon receipt of notice of such delivery by such merchants or retail dealers and upon purchase by such customers of additional amounts of tableware;

(3) That respondent will furnish display sets of tableware, dishes, dining-ware, or any other merchandise, free of charge to merchants or retail dealers to be used for purposes of display and advertisement and to become the sole property of such merchants and retail dealers;

(4) That the "Gift Boxes" of tableware sold by respondent contain four pieces of tableware, consisting of one knife, one fork, two spoons, or that they contain any greater number of pieces of tableware than they actually do contain;

(5) That respondent will, upon request of merchants and retail dealers, furnish skilled salesmen to display tableware;

(6) That respondent will circularize with advertising material the purchasing public in the vicinity of the merchant or retail dealer who enters into contracts with respondent; or

(7) From making any similar representation or representations of like import or effect.

It is hereby further ordered, That the respondent shall within 30 days from the date of the service upon it of this order file with this Commission its report in writing stating the manner and form in which it shall have complied with this order.

IN THE MATTER OF
ATLAS CHINA COMPANY, INC.

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

Docket 2738. Complaint, Mar. 5, 1936—Decision, Apr. 17, 1936

Where a vitreous, translucent, and glazed ware designated as china or china-ware had long been made in and exported from Limoges, France, to European countries and to America and had come to acquire a favorable reputation in the United States as porcelain or china of superior quality, utility, and beauty and to enjoy a goodwill and increasing popular demand and said products thus made and imported had come to be widely and generally known, and word "Limoges" had come to signify and mean such products there made and imported therefrom; and thereafter a corporation engaged in processing and decorating foreign and domestic made, undecorated porcelain and chinaware "blanks", and in the sale, offer, and distribution thereof among the various States—

- (a) Branded, labeled, marked, and otherwise caused word "Limoges" to appear on certain of its decorated porcelain and chinaware products sold and distributed to retailers, customers, and purchasers in the various States, notwithstanding fact that said products did not originate in and were not made in Limoges, but were obtained from countries other than France;
- (b) Branded, labeled, marked, and otherwise caused to appear on certain of its said products as aforesaid, words and description "French Decoration", notwithstanding fact that said products were not decorated with French designs and decorations peculiar to the country of France and to French artistry;
- (c) Branded, labeled, marked, and otherwise caused to appear words and description "Hand Painted" upon certain of its aforesaid products, notwithstanding fact that said products were not painted by hand but were decorated and painted by mechanical and acid processes;

With result of placing in hands of dealers selling its said products means of misleading and deceiving consuming public into purchase thereof, and of misleading and deceiving members of public and retail trade into false and erroneous belief that aforesaid representations were true and that products thus variously represented, originated in and were made in Limoges and were decorated with French designs and decorations as above set forth, and were hand painted, and of inducing purchase thereof in place of products of competitors, and of thereby diverting to itself trade from its competitors who do not misbrand and falsely and misleadingly label, mark, and misrepresent their products:

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

Mr. Jay L. Jackson for the Commission.