

IN THE MATTER OF
CAP ASSOCIATION OF THE UNITED STATES, INC., 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 2530. Complaint, Aug. 29, 1935—Decision, June 10, 1937

Where two trade associations, composed, respectively, of some 100 cap manufacturers of all types, and of 27 uniform cap manufacturers; the officers of said associations; the aforesaid uniform cap manufacturer-members engaged in manufacture and sale of all types of headwear used or worn in conjunction with a uniform, and including products used by the military, naval, postal, and coast guard service of the United States, military service of the States, police and fire departments, railway employees, etc., and, prior to the hereinafter set forth acts and practices, engaged in offer and sale of their aforesaid products at competitive and frequently varying prices; and four manufacturers of visors and trimmings used in manufacture of uniform caps, makers and sellers in interstate commerce of about 60 percent of the total volume of such items used in the uniform cap manufacturing industry in the United States, and, up to not long theretofore, sole source of supply for aforesaid indispensable items necessary to manufacture of uniform caps, and making of which items himself is not practicable for the average uniform cap manufacturer; following a series of meetings, called by and presided over by officers of said association first named, and discussions and comparison of prices at which they were offering competitive uniform caps—

- (a) Entered into an agreement to fix, and did fix and abide by, prices which were uniform as among themselves for the offer and sale of aforesaid products;
- (b) Printed, in pursuance of their aforesaid agreement, price lists indicating jobber price, retail price, and contract price to uniform tailors of such products made and sold by the members, and circulated, through use of correspondence facilities of aforesaid association, such price lists, and, in pursuance of their said understanding, uniformly changed said prices and adhered to schedule thereof as revised;
- (c) Exacted and procured agreements of cooperation from said visor and trimming manufacturers, to the effect that they would support, adhere to and enforce the program hereinabove indicated, and procured from them agreements to cooperate with the aforesaid second association or trade organization of cap manufacturers;
- (d) Supplied to aforesaid visor manufacturers, in cooperation and confederation with one another and through use of the offices, stationery and secretarial facilities of said first association, lists containing names of uniform cap manufacturers who refused to sell their products at the prices suggested, as hereinabove noted, and names of such non-member manufacturers who thus refused to sell their said products, and induced said visor manufacturers to cease dealing with and to refuse to sell visors and trimmings to uniform cap manufacturers thus reported, and made use of coercive and concerted action and threats of boycott against such visor

Complaint

manufacturers to induce and require them to support the program herein set forth and to refrain from selling their visors and trimmings to non-member uniform cap manufacturers; and

- (e) Held meetings in several large cities to devise means of exerting influence, pressure and coercion upon uniform cap manufacturers to abide by and adhere to the program hereinabove set forth, and imposed upon and collected from members selling below suggested prices, fines, and in one instance made threat of fine of \$2,000 and strike and labor troubles; and
- (f) Where aforesaid visor manufacturers, so-called "Policemen of the Industry," cooperated with the others hereinbefore set forth in carrying out the above noted program and refused to sell to those uniform cap manufacturers who failed to take membership in aforesaid first-named association or to observe uniform prices fixed in aforesaid lists, necessary visors and trimmings;

With result that prices of such caps were raised to levels higher than those prevailing before effecting of said agreement and preparation of said lists, prices for visors and trimmings used in manufacture of such uniform caps were advanced by aforesaid visor manufacturers, purchasing public was deprived of advantages in price, service and other considerations which they would receive and enjoy under conditions of normal competition in uniform cap manufacturing industry, and small business enterprises engaged in manufacture and sale of such products were oppressed and discriminated against:

Held, That such acts and practices were to the prejudice of the public and competitors and tended unduly to hinder competition and create monopoly and constituted unfair methods of competition.

Before *Mr. William C. Reeves*, trial examiner.

Mr. P. C. Kolinski for the Commission.

Mr. Elias Lieberman, of New York City, for Cap Association of the United States, Inc. and various other respondents.

Mr. Jerome L. Greenberg, of New York City, for Irving L. Lewis and Herman Buchbinder.

Sitron & Schwartz, of Chicago, Ill., for Chicago Uniform Cap Co.

Mr. John J. Mitchell, Jr., of Philadelphia, Pa., for Kuenzel Brothers.

Miller, Kamenear & Margolis, of Chicago, Ill., for Jacob Apfelbaum, Morris Greenberg and Jacob Wax.

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 each and all the parties named in the caption hereof, hereinafter referred to as respondents, have been and now are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the Commission that a pro-

Complaint

25 F. T. C.

ceeding by it in respect thereof would be in the public interest, hereby issues its complaint and states its charges in that respect as follows:

PARAGRAPH 1. That the respondent Cap Association of the United States, Inc., hereinafter referred to as the association, is a corporation incorporated and existing under the laws of the State of New York having its principal office in New York City; that prior to April 19, 1934, its corporate name was National Cap & Cloth Hat Institute, Inc.; that its membership consists of approximately 100 cap manufacturers distributed throughout the United States, whose combined output constitutes practically all caps manufactured in the United States;

That the respondent Uniform Cap Manufacturers Institute, Inc., hereinafter referred to as the institute, is a corporation incorporated and existing under the laws of the State of New York, having its principal office in New York City; that its membership consists of approximately 80 uniform cap manufacturers distributed throughout the United States, whose combined output constitutes practically all the uniform caps manufactured in the United States;

That the following named individuals, partnerships, and corporations are representative uniform cap manufacturers holding membership in both organizations, the association and the institute:

Respondent E. Mattes & Son, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at New York City.

Respondent William B. Mackey, is an individual trading as J. Mackey & Sons, with his office and principal place of business in New York City.

Respondent Pekarsky Cap Fronts, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at New York City.

Respondent American Cap Fronts Mfg. Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at New York City.

Respondent Samuel D. Basch is an individual trading as Basch Cap Co., with his office and principal place of business in Boston, Mass.

Respondent Wentworth Forman Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the

laws of the State of Massachusetts, with its principal office and place of business at Boston.

Respondent George Brunssen Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at New York City.

Respondent Nas Saw Equipment Corporation, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at New York City.

Respondent Philadelphia Uniform Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business at Conshohocken, Pa.

Respondent Kuenzel Brothers is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business at Philadelphia.

Respondent Oppor Cap Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business at Cleveland.

Respondent, Figmore Uniform Cap Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business at Detroit.

Respondent Chicago Uniform Cap Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at Chicago.

Respondent Jacob Apfelbaum is an individual trading as J. Apfelbaum, with his office and principal place of business in Chicago, Ill.

Respondent Morris Greenberg and Jacob Wax are partners trading as Eastern Uniform Cap Mfg. Co., with their office and principal place of business in Chicago, Ill.

Respondents Irving L. Lewis, Jacob Bressler, Herman Buchbinder, and Isaac Ross are respectively president, treasurer, secretary, and executive secretary of said association, in charge of and conducting its activities and affairs.

That respondents Murray H. Bader, Sidney Lesser, Herman Julick, and Walter Seifert are respectively president, vice president, treasurer, and secretary of said institute.

That respondents E. Mattes & Son, Inc., William B. Mackey, trading as J. Mackey & Sons, Pekarsky Cap Fronts, Inc., and American

Cap Fronts Mfg. Co., are manufacturers of vizors and trimmings used in the manufacture of uniform caps.

That the other respondents specifically named herein as members of the respondent association and respondent institute do not embrace the entire list or number of such members; that such members constitute a class so numerous, far-flung, and changing as to make it impracticable to specifically name each and every one of them as parties respondent herein; that those specifically named herein are fairly representative of the whole; that all members of the afore-said respondent association and respondent institute are also made parties respondent herein as a class of which those specifically named are representative; that said members of said association and said institute are hereinafter called the members.

That such respondent members manufacture and sell uniform caps, being any and all types of headwear used or worn in conjunction with a uniform. The uniform caps manufactured and sold by respondent members are used by the armed forces of the United States, the Army, Navy, Marine Corps, and Coast Guard, all United States Postal Carriers, members of National Guard organizations, police and fire departments in every city of the United States, railway employes, including railroad, street railway, rapid transit and bus employes, chauffeurs, telegraph and delivery messengers, building and theatre attendants, gasoline, laundry and other industrial uniformed organizations, and large patriotic and fraternal organizations in every city and town in the United States.

PAR. 2. That in the course and conduct of the business and activities of said association and institute respondents, their officers and members respondent, they have been and are engaged in commerce among the several States and in trade, business, and commerce relating to, and affecting interstate commerce, as hereinafter alleged; that respondent members of said association and institute purchase the vizors, cloth and trimmings used in the manufacture of uniform caps from manufacturers in various States and cause such products to be shipped to their places of business; and in the course of the sale and distribution of uniform caps said respondents caused such merchandise when sold to be shipped and transported from their places of business to their customers at points in States other than the State in which such shipments originated; that except insofar as competition has been restrained, stifled, lessened, or destroyed by the respondents as hereinafter alleged, each of the respondents have been and are engaged in the course and conduct of their businesses and activities in substantial competition with each other in price, and are otherwise in such substantial competition with other indi-

viduals, partnerships, and corporations also engaged in the manufacture of uniform caps.

PAR. 3. In July 1933, or thereabouts, respondents united in a common course of action and cooperated and confederated together to fix and establish uniform prices at which said members of respondent association and respondent institute should sell uniform caps and to prevent others from selling at less prices and by and through the aforesaid means to suppress competition and especially competition in price in the selling and distribution of said products. To carry out the aforesaid purposes the respondents have done, among others, the following acts and things:

(a) Exacted and procured pledges and other promises of agreements from each member of respondent Association and respondent Institute and from manufacturers of vizors and trimmings to the effect that such members and manufacturers would support, adhere to and enforce the foregoing program of respondents set forth in paragraph 3 hereof.

(b) Printed and circulated among members price lists indicating the price to jobbers, the retail price, and the contract price to uniform tailors, of uniform caps manufactured and sold by respondent members.

(c) Printed and circulated among members, lists (so called black lists), containing the names of members who refused to manufacture and sell uniform caps at the suggested prices, and the names of uniform cap manufacturers not members of said association and institute, who refused to manufacture and sell uniform caps at the prices suggested by respondents herein, and supplied said lists to the manufacturers of uniform cap vizors, respondents herein, and induced said vizor manufacturers to cease dealing with and to refuse to open accounts with the uniform cap manufacturers so reported.

(d) Used in concert and agreement among themselves and with others, coercive and concerted action, boycott, threats of boycott, and other united action against vizor manufacturers, to induce and require them, and to attempt so to induce and require them, to agree and conform to and to support and enforce the said program of respondents, and to refrain from selling said products to uniform cap manufacturers who were not members of said association.

(e) Held meetings of respondent association, and respondent institute, their members, officers and executive committees, to devise means of exerting influence, pressure and coercion upon uniform cap manufacturers, to abide by and adhere to said program.

PAR. 4. The combination and agreement so entered into and carried on by said respondents and the acts and things done thereunder and

pursuant thereto, as hereinabove alleged, resulted and results in the suppression and prevention of competition between and among them and in the enhancement of prices to the using public; in depriving the purchasing and consuming public of advantages in price, service and other considerations which they would receive and enjoy under conditions of normal and unobstructed, or free and fair, competition in said trade and industry; in oppression in discrimination against small business enterprises which were or are engaged in manufacturing and selling uniform caps; and are monopolistic practices and methods of competition which are unfair, and they constitute unfair methods of competition in commerce within the intent and meaning, and in violation of Section 5 of said Act 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 August 29, 1935, issued and served its complaint in this proceeding upon respondents, Cap Association of the United States, Inc., its officers and members, Irving L. Lewis, Jacob Bressler, Herman Buchbinder, Isaac Ross, individually and as president, treasurer, secretary, and executive secretary, respectively, of said association; Uniform Cap Manufacturers Institute, Inc., its officers and members, Murray H. Bader, Sidney Lesser, Herman Julick, Walter Seifert, individually and as president, vice president, treasurer, and secretary, respectively of said association; E. Mattes & Son, Inc., William B. Mackey, trading as J. Mackey & Sons, Pekarsky Cap Fronts, Inc., American Cap Fronts Mfg. Co., Inc., Samuel D. Basch, trading as Basch Cap Co., Wentworth Forman Co., Inc., George Brunssen Co., Inc., Nas Saw Equipment Corporation, Philadelphia Uniform Co., Inc., Kuenzel Brothers, Oppen Cap Co., Figmore Uniform Cap Co., Inc., Chicago Uniform Cap Co., Jacob Apfelbaum, and Morris Greenberg and Jacob Wax, partners trading as Eastern Uniform Cap Mfg. Co., 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, and the filing of respondents' answers thereto, testimony and other evidence in support of the allegations of said complaint were introduced by P. C. Kolinski, attorney for the Commission, before William C. Reeves, an examiner of the Commission, theretofore duly designated by it, and in opposition to the allegations of

the complaint by Elias Lieberman, David Miller, and D. L. Apfelbaum, attorneys for the respondents; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answers thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto, and the oral arguments of counsel aforesaid; and the Commission having duly considered the same, and being now 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. Respondent, Cap Association of the United States, Inc., is a non-profit corporation existing under the laws of the State of New York with its principal office in New York City. It is a trade association of approximately one hundred members who are manufacturers of all type of caps, and prior to April 19, 1934, its corporate name was National Cap & Cloth Hat Institute, Inc. Respondents, Irving L. Lewis, Jacob Bressler, Herman Buchbinder, and Isaac Ross are officers of this respondent association in charge of conducting its activities. Respondent Uniform Cap Manufacturers Institute, Inc., is a non-profit corporation organized in September 1934, under the laws of the State of New York with its principal office in New York City. It is a trade association of twenty-seven members who are manufacturers of uniform caps. Respondents Murray H. Bader, Sidney Lesser, Herman Julick, and Walter Seifert, are officers of this respondent association in charge of conducting its activities. These association respondents and their officers are not engaged in interstate commerce on their own accounts. Respondent E. Mattes & Son, Inc., Pekarsky Cap Fronts, Inc., and American Cap Fronts Mfg. Co., are corporations existing under the laws of the State of New York, with their principal offices and places of business in New York City, engaged in the manufacture and sale of visors and trimmings used in the manufacture of uniform caps. Respondent William B. Mackey is an individual trading as J. Mackey & Sons, with his office and place of business in New York City, engaged in the manufacture and sale of visors and trimmings used in the manufacture of uniform caps. These four respondent manufacturers of visors and trimmings are, and at all times hereinafter mentioned were engaged in interstate commerce, and in the sale of visors and trimmings make shipments of such commodities from the State of New York through and

into other States of the United States. The remaining respondents manufacture and sell uniform caps, being any and all types of head-wear used or worn in conjunction with a uniform. These commodities are used by the military, naval, postal and coast guard service of the United States, military service of the States, police and fire departments, railway employees, chauffeurs, telegraph messengers, building and theater attendants, gasoline, laundry, and industrial employees, and fraternal organizations. These respondents are Samuel D. Basch, an individual trading as Basch Cap Co., with his office and place of business in Boston, Mass.; Wentworth Forman Co., a corporation existing under the laws of the State of Massachusetts, with its principal office and place of business in Boston, Mass.; George Brunssen Co., Inc., and Nas Saw Equipment Corporation, corporations existing under the laws of the State of New York, with their principal offices and places of business in New York City; Philadelphia Uniform Co., Inc., and Kuenzel Brothers, corporations existing under the laws of the State of Pennsylvania, with their principal offices and places of business at Philadelphia, Pa.; Oppen Cap Co., a corporation existing under the laws of the State of Ohio, with its principal office and place of business in the city of Cleveland, Ohio; Figma Uniform Cap Co., a corporation existing under the laws of the State of Michigan, with its principal office and place of business in the city of Detroit, Mich.; Chicago Uniform Cap Co., a corporation existing under the laws of the State of Illinois, with its principal office and place of business in the city of Chicago, Ill.; Jacob Apfelbaum, an individual trading as J. Apfelbaum, with his office and principal place of business in the city of Chicago, Ill.; and Morris Greenberg and Jacob Wax, partners, trading as Eastern Uniform Cap Mfg. Co., with their office and principal place of business in the city of Chicago, Ill. With the exception of respondent Nas Saw Equipment Corporation, all of the respondents last named, engaged in the manufacture and sale of uniform caps, are, and at all times hereinafter mentioned were, engaged in interstate commerce, and make shipments of uniform caps from their respective places of business in the States of Massachusetts, New York, Pennsylvania, Ohio, Michigan, and Illinois, through and into other States of the United States.

PAR. 2. There are in the United States, and have been during the time referred to in paragraph one hereof, other persons, partnerships, and corporations engaged in the manufacture and sale of cloth caps, and other persons, partnerships and corporations engaged in the manufacture and sale of uniform caps. In the sale of these commodities, such other persons, partnerships, and corporations, pursuant

to such sales, ship and have shipped such commodities into and through the various States of the United States other than the States of origin of such shipments; and with such other persons, partnerships, and corporations respondent uniform cap manufacturers are and have been in active and substantial competition. These commodities are used by the military, naval, postal, and coast guard service of the United States, military service of the States, police and fire departments, railway employees, chauffeurs, telegraph messengers, building and theater attendants, gasoline, laundry and industrial employees, and fraternal organizations.

PAR. 3. There are in the United States, and have been during the time referred to in paragraph one hereof, other persons, partnerships, and corporations engaged in the manufacture and sale of visors and trimmings used in the manufacture of uniform caps. In the sale of these commodities, such other persons, partnerships, and corporations, pursuant to such sales, ship and have shipped such commodities into and through the various States of the United States other than the States of origin of such shipments; and with such persons, partnerships and corporations, respondent visor manufacturers E. Mattes & Son, Inc., Pekarsky Cap Fronts, Inc., American Cap Fronts Mfg. Co., and William B. Mackey, are and have been in active and substantial competition. These respondents are not engaged in the manufacture and sale of uniform caps. Their commodities, visors and trimmings, used in the manufacture of uniform caps, are indispensable items necessary to the manufacture of uniform caps. Until the year 1934, these respondent visor manufacturers were the only source of supply of such necessary visors and trimming for uniform caps. At all the times hereinafter mentioned they manufactured, sold, and shipped in interstate commerce approximately 60 percent of the total volume of visors and trimmings used in the uniform cap manufacturing industry in the United States. It is not practicable for the average uniform cap manufacturer to manufacture his own visors and trimmings.

PAR. 4. Prior to the year 1933 respondent uniform cap manufacturers had been offering for sale and selling competitive uniform caps at prices determined by competition among them, and these prices in many instances varied as among said respondents. In July 1933 and thereafter, all respondents herein held a series of meetings at which they discussed and compared prices at which they were offering for sale and selling competitive uniform caps, and at and by means of such meetings came to an agreement or understanding to fix the prices at which they would and did thereafter offer for sale and sell competitive uniform caps, which prices were uniform as

Findings

25 F. T. C.

among said respondents. These meetings were called by the officers of respondent Cap Association of the United States, Inc., and were presided over by such officers. Pursuant to such agreement to fix prices of uniform caps, respondents printed and circulated among members of the uniform cap manufacturing industry price lists indicating the price to jobbers, the retail price, and the contract price to uniform tailors, of uniform caps manufactured and sold by respondent members. Such price lists were circulated by means of and through the use of the correspondence facilities of the respondent Cap Association of the United States, Inc. From time to time thereafter, pursuant to such understanding, respondents uniformly changed said prices and adhered to the schedule of prices as revised.

PAR. 5. Pursuant to the agreement set forth in paragraph four hereof, respondents exacted and procured agreements of cooperation from the four respondent visor and trimming manufacturers to the effect that such visor manufacturers would support, adhere to and enforce the program of respondents set forth in paragraph four hereof. Said visor manufacturers became members of the Cap Association of the United States, Inc.

PAR. 6. In September 1934, respondents organized the respondent association Uniform Cap Manufacturers Institute, Inc., being a group of uniform cap manufacturers who were and are members of the respondent Cap Association of the United States, Inc. Respondents, Murray H. Bader, Sidney Lesser, Herman Julick, and Walter Seifert acted as officers of the Uniform Cap Manufacturers Institute, Inc. which continued in active existence until June 1935. Respondents procured from the four visor manufacturer respondents agreements to cooperate with the Uniform Cap Manufacturers Institute.

PAR. 7. Respondents cooperating and confederating together and using the offices, stationery, and secretarial facilities of respondent Cap Association of the United States, Inc., printed and circulated among members, lists containing the names of uniform cap manufacturers who refused to sell uniform caps at the suggested prices mentioned in paragraph four hereof, and containing the names of uniform cap manufacturers not members of respondent Cap Association of the United States, Inc., who refused to sell uniform caps at such suggested prices, and supplied said lists to the four respondent visor manufacturers herein, and induced said visor manufacturer respondents to cease dealing with and to refuse to sell visors and trimmings to the uniform cap manufacturers so reported. Respondents used in concert and agreement among themselves, coercive and concerted action, and threats of boycott against respondent

visor manufacturers to induce and require such visor manufacturers to support the program of respondents set forth in paragraph four herein, and to refrain from selling visors and trimmings to uniform cap manufacturers who were not members of said respondent association.

PAR. 8. Meetings were held in the cities of New York, Boston, Philadelphia, and Chicago, by respondent association, their members, and their officers, to devise means of exerting influence, pressure, and coercion upon uniform cap manufacturers to abide by and adhere to the program set forth in paragraph four hereof. At some of these meetings fines were imposed and collected from members who sold uniform caps below the suggested prices. In one instance a uniform cap manufacturer was threatened with a fine of \$2000.00 and with strike and labor troubles.

PAR. 9. The four respondent visor manufacturers did cooperate with the other respondents herein, to carry out the program set forth in paragraph four herein. Said visor manufacturers refused to sell visors and trimmings to uniform cap manufacturers who either failed to take membership in respondent Cap Association of the United States, Inc., or who failed to observe the uniform prices fixed in the lists described in paragraph four hereof. This method of refusing necessary supplies earned for respondent manufacturers the title of "Policemen of the Industry."

PAR. 10. As a result of the combination and agreement entered into and carried on by respondents, prices of uniform caps were raised to levels higher than those prevailing before the agreement was effected and uniform price lists prepared. The prices for visors and trimmings used in the manufacture of uniform caps were advanced by the visor manufacturer respondents. The acts of respondents have deprived the purchasing public of advantages in price, service and other considerations which they would receive and enjoy under conditions of normal and free competition in the uniform cap manufacturing industry, and such acts have resulted in oppression and discrimination against small business enterprises which were or are engaged in manufacturing and selling uniform caps.

CONCLUSION

The aforesaid acts and practices of the respondents Cap Association of the United States, Inc., its officers and members, Irving L. Lewis, Jacob Bressler, Herman Buchbinder, Isaac Ross, individually and as president, treasurer, secretary and executive secretary, respectively, of said association; Uniform Cap Manufacturers Institute, Inc., its officers

Order

25 F. T. C.

and members, Murray H. Bader, Sidney Lesser, Herman Julick, Walter Seifert, individually and as president, vice president, treasurer, and secretary, respectively, of said association; E. Mattes & Son, Inc., William B. Mackey, trading as J. Mackey & Sons, Pekarsky Cap Fronts, Inc., American Cap Fronts Mfg. Co., Inc., Samuel D. Basch, trading as Basch Cap Co., Wentworth Forman Co., Inc., George Brunssen Co., Inc., Nas Saw Equipment Corporation, Philadelphia Uniform Co., Inc., Kuenzel Brothers, Oppor Cap Co., Figmore Uniform Cap Co., Inc., Chicago Uniform Cap Co., Jacob Apfelbaum, and Morris Greenberg and Jacob Wax, partners trading as Eastern Uniform Cap Mfg. Co., are to the prejudice of the public and of respondent's competitors, and tend unduly to hinder competition and create a monopoly, 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, 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 answers of respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by P. C. Kolinski, counsel for the Commission, and by Elias Lieberman, counsel for the respondents, 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 the respondents, Cap Association of the United States Inc., its officers and members, Irving L. Lewis, Jacob Bressler, Herman Buchbinder, Isaac Ross, individually, and as president, treasurer, secretary, and executive secretary, respectively, of said association; Uniform Cap Manufacturers Institute, Inc., its officers and members, Murray H. Bader, Sidney Lesser, Herman Julick, Walter Seifert, individually and as president, vice president, treasurer, and secretary, respectively, of said association; E. Mattes & Son, Inc., William B. Mackey, trading as J. Mackey & Sons, Pekarsky Cap Fronts, Inc., American Cap Fronts Mfg. Co., Inc., Samuel D. Basch, trading as Basch Cap Co., Wentworth Forman Co., Inc., George Brunssen Co., Inc., Nas Saw Equipment Corporation, Philadelphia Uniform Co., Inc.,

Kuenzel Brothers, Oppen Cap Co., Figmore Uniform Cap Co., Inc., Chicago Uniform Cap Co., Jacob Apfelbaum, and Morris Greenberg and Jacob Wax, partners trading as Eastern Uniform Cap Mfg. Co., their officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of uniform caps in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Entering into any agreement or understanding among themselves, or between two or more of them, or between any one or more and others, fixing the prices at which they would offer for sale or sell uniform caps.

2. Maintaining by concerted action, coercion and persuasion a boycott against and refusal to purchase visors and trimmings from any visor manufacturer who fails to abide by respondents' program to withhold supplies from non-members of their uniform price fixing agreement.

3. Publishing lists containing the names of members of respondent associations, so as to include in said lists only so-called regular or recognized members entitled to procure visors and trimmings used in the manufacture of uniform caps.

4. Refusing supplies of visors and trimmings to uniform cap manufacturers, and restricting or suppressing competition among themselves or any of them, or with others by any other similar concert of action.

It is further ordered, That the respondents shall, within 60 days after 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 this order.

IN THE MATTER OF
MILLS SALES COMPANY OF NEW YORK, INC., 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 3070. Complaint, Mar. 8, 1937—Decision, June 10, 1937

Where a corporation and five individuals, officers thereof, engaged in sale at wholesale and retail of a variety of peddlers' and retail dealers' supplies, including toothbrushes, dental creams, razor blades, perfumes, and other drug sundries and notions, in substantial competition with others engaged in manufacture and distribution of like and similar products and sale thereof in commerce among the various States and in the District of Columbia, and including manufacturers and distributors of such products who do not fictitiously price-mark their merchandise, and also those who do not advertise or falsely represent, through their catalogs, that they are manufacturers or importers or that they have been established in business for a greater period than is the case—

- (a) Listed and described many articles and items of merchandise, in their catalogs and price lists, as possessing retail values or prices many times in excess of their actual selling price to the retailer or to the purchaser, and of the actual retail price thereof, and included among items and articles thus described a number which had stamped or printed thereon, or on the labels thereof, or on the containers in which offered and sold to the public, fictitious retail prices many times in excess of the actual selling price of said items or articles of merchandise, as sold by peddler or retailer to consuming public, and in excess of their true and actual value, and which were not intended, by either themselves or their purchasers buying for resale, to be true retail price or retail value of merchandise thus marked, but to be far in excess of price intended to be and actually charged for sale thereof to ultimate consumer purchaser in usual course of trade, and far in excess of true value of various items thus marked;

With result of placing in the hands of its peddler and retailer customers buying for resale, an instrument and means enabling them to commit a fraud upon a substantial part of consuming public through representing, offering, and selling shaving and dental creams, cosmetics, and other drug sundries involved, as genuinely superior products produced by the manufacturer with intent of sale thereof in usual course of trade to public at and for retail price stamped thereon or on containers thereof;

- (b) Designated, in catalogs and other advertising matter, certain domestic perfumes made or compounded in the United States, as "L'Odeur d'Amour" and "Perfumes of France," and set forth on the containers of one of said perfumes certain printed matter in the French language to the effect that products in question had been made by the French firm there named in their factories near Paris, etc.; and
- (c) Represented, in solicitation and sale of their said commodities, that business in question was an old established one, and that corporation had been wholesaler for some twenty years, and that they were importers and manufacturers of toilettries, drug sundries, razor blades, etc., and made such