

IN THE MATTER OF
BUILDING MATERIAL DEALERS ALLIANCE, 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 2191. Complaint, Oct. 18, 1935¹—Decision, Dec. 30, 1937

Where a trade association which included in its membership over 150 dealers in building materials and builders' supplies in the Cleveland-Pittsburgh Trade Area, and organized local or sectional associations of such dealers; and certain local or sectional organizations of such dealers, affiliated with said trade association as members or through common membership or common officers and representation on its council, and active cooperators with it in furthering their common basic object and purpose or program of controlling and confining retail distribution of building materials and builders' supplies exclusively through "recognized" dealers as established by them, and preventing direct sale of such materials to consumers, non-recognized dealers, vendors, contractors, and State Governments and other political sub-divisions, and of requiring all such purchasers to buy their materials and supplies through recognized dealer channels affording a commission or profit to recognized dealers, and with further objectives of (1) limiting distribution of such materials to carload quantities by railroad only, with participation in pool car shipments denied to other than recognized dealers, (2) preventing manufacturers of cement blocks from purchasing their raw materials direct from manufacturers and producers, (3) requiring sale and distribution of all cement requirements for all buildings and private construction, and for highway, bridge, and culvert maintenance, and for cities, counties, and other political sub-divisions, to be made through the medium of the members and recognized dealers, and at prices affording them a profit, (4) facilitating price fixing among such dealers in their respective communities, and (5) eliminating brokers in distribution of such materials and supplies; and the officers, counsellors and members of such associations and organizations: and—

Where a national federation which included 41 federated local and sectional associations of dealers in such materials and supplies in '32 States, and which was formed to succeed to, and apply on a national scale and under same leadership, principles, and programs of aforesaid trade associations; and certain local or sectional affiliated or member organizations of said national federation, acting in cooperation with one another and with it and the active officers thereof, as the case might be; and officers, etc., of said various organizations.

In concertedly pursuing their common objectives and purposes, as above indicated, and as the case might be, and representing, in the aggregate, predominant interests in the fields and sections concerned—

- (a) Prepared, published, and circulated among manufacturers and producers of building materials and builders' supplies, lists, or directories containing names of recognized dealers, with intent and effect of indicating that per-

¹ Amended and supplemental.

- sons or concerns thus specified were entitled to buy direct from such manufacturers and producers, and that others were not thus entitled;
- (b) Solicited, accepted, and acted upon reports from their various officers or members concerning the arrival, delivery, or origin of shipments made to persons or concerns not recognized by them as entitled to buy direct from manufacturers or producers, for the purpose of preventing further dealings between such buyers and former, and made use of boycott and threats thereof to persuade, induce or compel manufacturers and producers to refrain from selling materials and supplies concerned to so-called "irregular" dealers or others, or to refrain from so selling, except on unfairly discriminatory or prohibitive terms and conditions fixed by them;
 - (c) Made and circulated among manufacturers and producers reports concerning status, equipment, and business methods of dealer-competitors to induce former not to sell such competitors, and stated or intimated to former that so-called "regular" or recognized dealers would withhold or withdraw their patronage if manufacturers and producers sold them, and cooperated with other dealer organizations and manufacturers and producers to confine sale and distribution of materials and supplies involved to so-called regular channels, and prevent sale and distribution otherwise, and intimidated representatives or agents of manufacturers and producers from having or continuing business relations with buyers or prospective buyers not recognized by them as entitled to buy direct;
 - (d) Prepared, published, and circulated among the members, lists, bulletins, extracts of minutes, etc., conveying information to them concerning sales or prospective sales by manufacturers and producers to irregular or non-recognized dealers or prospective buyers, for the purpose of having such members withdraw or withhold their patronage from manufacturers and producers concerned;
 - (e) Took concerted and cooperative action to prevent manufacturers and producers of materials and supplies involved from selling freely to consumers, contractors, United States Government, State governments or political sub-divisions thereof, or other irregular dealers or retailers, and to prevent such consumers, contractors, United States Government, etc., from purchasing freely from manufacturers and producers involved;
 - (f) Fixed and established uniform prices at which members and others should sell their materials and supplies in particular communities; and
 - (g) Held meetings of their officers, directors, counselors, and members for discussion and interchange of information and adoption of plans and measures for executing and carrying out programs and policies as aforesaid indicated;

With results that—

- (a) Interstate commerce in sale and distribution of materials and supplies involved was restrained by elimination or attempted elimination therefrom of so-called irregular dealers and manufacturers and producers selling thereto, and by restriction or attempted restriction of said commerce to such manufacturers, producers and dealers as would and did abide by and support aforesaid program and plan, and there was tendency otherwise to restrain and obstruct natural flow of commerce in channels of trade;
- (b) Competition in sale and distribution of such materials and supplies was substantially lessened, hindered, and suppressed in territories served by members of organizations and associations involved;

- (c) Manufacturers and producers of materials and supplies involved in the various States, who sold and distributed their products in markets in which dealers concerned had their places of business quite generally confined such sale and distribution to recognized dealers;
- (d) Members withdrew and withheld their patronage from manufacturers and producers reported and published as selling through so-called irregular channels and not through recognized dealers;
- (e) Manufacturers and producers frequently refused to sell and discontinued selling to those not on membership lists of aforesaid organizations, etc., or reported to them, as aforesaid, as not entitled to buy direct, and members' competitors in retail sale and distribution of materials and supplies involved frequently were unable to obtain interstate shipments of their requirements because not recognized;
- (f) Manufacturers and producers were injured in their business by restriction of demand for their products and of freedom to sell same direct, by confining their sales to lists of dealers published and distributed by aforesaid organizations, etc., and would not sell to many to whom they wished to sell and considered as dealers, nor direct to consumers, contractors, vendors, Government and political sub-divisions, but limited their sales through "recognized dealer distribution";
- (g) Competition was further substantially interfered with and lessened by activities of such organizations, etc., in preventing dealer competitors from obtaining from manufacturers and producers small quantities of supplies for transportation by truck; and
- (h) Costs to consuming public were increased by issuance and observance of price lists by aforesaid associations and organizations, etc., in certain communities, and by their policy of exclusive dealer distribution, through thereby denying consuming public advantages in price which it otherwise would have obtained from natural flow of commerce under conditions of free competition:

Held, That such practices constituted combination and conspiracy to engage in and further unfair methods of competition in and affecting interstate commerce, within intent and meaning of Section 5.

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

Mr. Walter B. Wooden and *Mr. Daniel J. Murphy* for the Commission.

Mr. Lawrence I. MacQueen, of Pittsburgh, Pa., for building Material Dealers Alliance, Pittsburgh Builders Supply Club, Building Material Institute, Western Pennsylvania Builders Supply Alliance, Allied Construction Industries of Cleveland, Ohio, Inc., National Federation of Builders Supply Associations, and various officers, councillors, and members of said organizations and associations, and also as below set forth.

Mr. Webster C. Tall and *Hoen & Hughes*, of Baltimore, Md., for Lime & Cement Exchange of Baltimore City, Maryland Builders Supply Association, and various officers and members thereof, and *M. B. Segall & Sons, Inc.*

Mr. M. D. Wedner, of Pittsburgh, Pa., for *Lawrence I. MacQueen*.

Mr. Charles A. Wolfe, of Philadelphia, Pa., for Joseph M. Pusey.

Mr. John H. Kapp, of Cleveland, Ohio, with *Mr. MacQueen*, for Cleveland Builders Supply Co.

Simon & Simon, of Cleveland, Ohio, with *Mr. MacQueen*, for E. E. Elias Co.

Henninger & Ehrman, of Butler, Pa., with *Mr. MacQueen*, for F. A. W. Green and Shufflin & Green.

Catharine Pauline Reed Templeton, Executrix, Estate of C. C. Reed, of Houston, Pa., with *Mr. MacQueen*, for C. C. Reed.

Mr. Edward A. Ferrari, of Baltimore, Md., with *Mr. Webster C. Tall and Hoen & Hughes*, for Geo. Sack & Sons, Inc.

Brewster & Steiwer, of Washington, D. C., for Alabama Lumber & Building Material Ass'n, Carolina Retail Lumber & Building Supply Dealers Ass'n, Mississippi Retail Lumber Dealers Ass'n, Building Material Men's Ass'n of Westchester County, L. R. Stewart, Harris Mitchell, J. A. Hagan, Colman Lumber Co., James S. Gibson, Paul J. Haight & Co., Joseph S. Keating, J. B. Reed & Son, Van Voorhis Bros., Inc., Anthony L. Wathley, Willson & Eaton Co., Inc.; and, along with *Mr. MacQueen*, for Virginia Lumber & Building Supply Dealers Ass'n, Inc., Florida Lumber & Millwork Ass'n, Kentucky Builders Supply Ass'n, and West Virginia Lumber & Builders Supply Ass'n.

Miller, Gorham, Wescott & Adams, of Chicago, Ill., for Illinois Lumber & Material Dealers Ass'n, Inc.

Dey, Hampson & Nelson, of Portland, Ore., for Building Supply Dealers Ass'n of Oregon.

Mr. Samuel Saffron, of Passaic, N. J., for Campbell, Morrell & Co.

Snyder, Seagrave, Roudeshush & Adrion, of Cleveland, Ohio, for Turner Lumber & Supply Co.

Mr. Herman A. Harper, of Coraopolis, Pa., for George W. Blank Supply Co.

Mr. Robert M. Gilkey, of Greenville, Pa., for Greenville Coal & Ice Co.

Hanna & Morton, of Los Angeles, Calif., for A. E. Crowell.

Fitzsimmons & Keefe, of Albany, N. Y., for Albany Builders Supply Co.

Raines & Raines, of Rochester, N. Y., for Whitmore, Rauber & Vicinus.

Sturman & Rothblatt, of Liberty, N. Y., for Gerow & Francisco.

AMENDED AND SUPPLEMENTAL COMPLAINT

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

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mission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that said respondents hereinabove designated 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 amended and supplemental complaint stating its charges in that respect as follows:

PARAGRAPH 1. Said respondent Building Material Dealers Alliance, also known as Building Material Dealers Alliance of the Cleveland-Pittsburgh Trade Area, is an unincorporated trade organization or association of members, respondents herein, which membership is composed (a) of various dealers in and vendors of building materials and builders' supplies having their principal places of business within, or doing business in, an area embracing the States of Pennsylvania, West Virginia, and Ohio and the States or counties adjacent or contiguous thereto, which area is known in such trade and industry, and hereinafter referred to, as The Cleveland-Pittsburgh trade area; and (b) of organized local associations of such dealers and vendors. Said dealers and vendors, members of said Alliance and of said organized local associations are persons, partnerships, and corporations who, as such dealers and vendors, are engaged in the business of buying, selling, and distributing, to contractors, builders, dealers, consumers, and other purchasers, building materials and builders' supplies, which embrace such materials and supplies as cement, brick, tile, clay products, sewer pipe, plaster, sand, gravel, stone, lime, mortar, and products thereof, lumber, lath, roofing, and other builders' supplies and building materials used in the building and construction industry. Said respondent Alliance was organized under articles of organization in the year 1931. Its affairs are and have been managed and executed by executive officers including a chairman, a vice chairman, and a secretary-treasurer, and by an executive board or committee designated by said Alliance as its Council or Board of Councillors, also known as the Board of Trustees and hereinafter referred to as the Council. Such council, board or committee functions as or in the nature of a board of directors of said organization, meeting from time to time for the transaction of business of the Alliance. The several members of said Council are known in said respondent organization as councillors, and they are delegated or elected to membership in said Council as representatives of the members of said Alliance and of various groups or subdivisions of such members. For the more effective operation of the Alliance, the membership thereof is divided or organized into local associations,

groups, divisions, or districts, each constituting a branch or subdivision of said Alliance. The membership of each such subdivision or branch is composed principally of dealers in building materials and builders' supplies who are members of said Alliance and do business in Cleveland-Pittsburgh trade area. The principal or head offices of said Alliance are and have been maintained at the office of the chairman in the city of Youngstown, Ohio, and at the office of the secretary-treasurer in the city of Pittsburgh, Pa. Respondents E. J. Holway and Lawrence I. MacQueen are such chairman and secretary-treasurer, respectively, and are also members of said Council; and they have actively engaged in organizing said Alliance, in promoting and managing its affairs, in organizing affiliated associations or groups of building materials and builders' supplies dealers and in securing their support and active cooperation in carrying out or enforcing the purposes, policies and aims of said Alliance and its members. Certain persons who are members of said Council and as such have served as councillors of said Alliance, and the respective companies or organizations by or with which such persons are employed or connected, which companies and organizations are members of said Alliance, are as follows:

Name of Councillor	Name of Concern With Which Respective Councillor Is Connected as Officer or Employee, Such Concerns Being Members of Said Alliance
G. H. Lanz.....	Geo. H. Lanz & Sons, Pittsburgh, Pa.
E. J. Holway.....	Youngstown Ice Co., Youngstown, Ohio.
Lawrence I. MacQueen.....	Pittsburgh Builders Supply Club, Pittsburgh, Pa.
J. A. Thomas.....	W. E. Wright Co., Akron, Ohio.
Wm. R. Jones.....	Alliance Builders Supply Co., Alliance, Ohio.
M. C. Robinson.....	M. C. Robinson & Co., Ashtabula, Ohio.
I. W. Royer.....	Ohio Builders & Milling, Inc., Canton, Ohio.
Howard Tolerton.....	The Tolerton Company, Alliance, Ohio.
C. R. Boyd.....	H. C. Boyd Lumber Co., Coraopolis, Pa.
E. C. Holloway.....	The Kensington Supply Co., Kensington, Ohio.
Chas. H. McAlister.....	Allied Construction Industries of Cleveland, Ohio, Inc., Cleveland, Ohio.
D. O. Fonda.....	Collingwood Shale Brick & Supply Co., Cleveland, Ohio.
Harry Dubroy.....	Lakeshore Builders Supply Co., Cleveland, Ohio.
H. C. McCoy.....	Inter-City Coal & Supply Co., Elyria, Ohio.
Jas. N. Thayer.....	O. C. Thayer & Son, Erie, Pa.
E. B. Bye.....	Bye & Bye, Lisbon, Ohio.
H. W. Pattison.....	Penn Coal & Supply Co., New Castle, Pa.
Ralph Wright.....	D. W. Challis & Sons, Inc., Sewickley, Pa.
B. N. Hamilton.....	Hamilton & Meigs, Warren, Ohio.
Joseph Alcorn.....	Alcorn-Hahn Supply Co., Youngstown, Ohio.
E. H. Schory.....	Hursh & Schory Coal Co., Canton, Ohio.

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The above named councillors and members of said Alliance do not constitute the entire membership of said council or Alliance but are representative members thereof, respectively.

PAR. 2. Respondent Pittsburgh Builders Supply Club is an association of members organized and existing as a corporation under the laws of the State of Pennsylvania, having its headquarters or executive office in the city of Pittsburgh in said State. Said members are certain persons, partnerships, and corporations doing business in the trade area in and about Pittsburgh, Pa., and embracing the near-by sections of the States of Ohio, West Virginia, and Pennsylvania. Said corporation is organized, without shares of capital or capital stock, as an instrument for promoting the business interest of its members. The business of said members is the purchase, sale and distribution of building materials and builders' supplies including such items of building materials and builders' supplies mentioned in paragraph 1 hereof. Said respondent Pittsburgh Builders Supply Club constitutes a member and a branch or subdivision of respondent Building Material Dealers Alliance, and said Club and Alliance and their members actively cooperate with each other in carrying out the program, purposes, policies and aims of respondent organizations and associations. Respondent Lawrence I. MacQueen is the secretary and manager of said Pittsburgh Builders Supply Club; respondent George Lanz is president and respondent Elliott Keller is vice-president of said Club. Said officers are also representatives of said Club on the Council of respondent Building Material Dealers Alliance and they are and have been actively engaged in organizing said Club, managing its affairs, securing its support of, and cooperation with said Building Material Dealers Alliance and the program, policies, purposes and aims thereof. The members of said Pittsburgh Builders Supply Club are also members of said Building Material Dealers Alliance. The following persons and concerns are building material and builders' supplies dealers who are representative members of said Club and are also members of said Alliance, but do not constitute the entire membership of said Club or Alliance.

Nathan Bilder Co., Pittsburgh, Pa.

Wm. H. Brant Sons, West View, Pa.

Frank Bryan, McKees Rocks, Pa.

H. G. Dettling Co., Pittsburgh, Pa.

Duncan & Porter Co., Pittsburgh, Pa.

Heppenstall & Marquis, Pittsburgh, Pa.

Hillside Stone & Supply Co., Aspinwall, Pa.

Houston-Starr Co., Pittsburgh, Pa.

Iron City Sand & Gravel Co., Pittsburgh, Pa.

Keller Brothers, Pittsburgh, Pa.

D. J. Kennedy Co., Pittsburgh, Pa.
 Knox Strouss & Bragdon Co., Pittsburgh, Pa.
 Geo. Lanz & Sons, Pittsburgh, Pa.
 W. T. Leggett Co., Pittsburgh, Pa.
 McCrady-Rodgers Co., Pittsburgh, Pa.
 Morrison Bros., Emsworth, Pa.
 Pittsburgh Plaster & Supply Co., McKees Rocks, Pa.
 Ed. Vero Company, Millvale, Pa.

PAR. 3. Said respondent Building Material Institute formerly named Building Material Men's Welfare Association, is an unincorporated trade association or organization of certain persons, partnerships, and corporations engaged in business as dealers or vendors of building materials or builders' supplies, at, or in the trade area surrounding, Cleveland, Ohio. The headquarters or principal office of said Building Material Institute are maintained in the Builders Exchange Building in the city of Cleveland, Ohio. Respondent George W. Dennison (an officer or employee of the Ohio Clay Company, Cleveland, Ohio) is president and respondent B. E. Reid is secretary of said Institute. The said Dennison and Reid are and have been, individually and as such executive officers, actively engaged in promoting and executing the affairs and purposes of said Institute. Said Institute is affiliated with and is one of the members and subdivisions of said respondent Building Material Dealers Alliance, and is and has been actively engaged in carrying out the program, purposes, policies and aims of the said Building Material Dealers Alliance. Respondents Lawrence I. MacQueen, E. J. Holway, and Chas. H. McAlister have actively engaged in promoting the organization of said Institute and in securing its affiliation with said Building Material Dealers Alliance and its active support and cooperation in carrying out the program, purposes, policies and aims thereof. The members of said Institute are also members of said Building Material Dealers Alliance and are represented on the Council of said Alliance by one or more councillors or representatives elected or appointed by or for the members of said Institute. Respondents Don Fonda and H. A. DuBroy are and have been representing said Institute as councillors on the Council of said Building Material Dealers Alliance. The following concerns, among others, are and have been such members of said Institute and also of said Alliance:

City Material & Coal, Inc., Cleveland, Ohio.
 The Tom George Co., Cleveland, Ohio.
 St. Clair Coal & Supply Co., Cleveland, Ohio.
 Vanis Builders Supply & Lbr. Co., Cleveland, Ohio.
 Collingwood Shale B & S Co., Cleveland, Ohio.
 Geist Kemper Material Co., Cleveland, Ohio.
 Ideal Builders Supply & Fuel Co., Cleveland, Ohio.

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Lake Shore Builders Supply Company, Cleveland, Ohio.
Medal Brick & Tile, Cleveland, Ohio.
Ohio Building Material Co., Cleveland, Ohio.
Ohio Clay Co., Cleveland, Ohio.
Bagley Road Lumber Co., Berea, Ohio.
Quincy Coal & Supply Co., Cleveland, Ohio.
Geo. D. Barriball Co., Cleveland, Ohio.
Zone Coal & Supply Co., Cleveland, Ohio.
Bennett Concrete Stone Co., Cleveland, Ohio.
The Clinton Co., Cleveland, Ohio.
Pompei Coal & Supply Co., Cleveland, Ohio.
Mayfield Builders Supply Co., Cleveland, Ohio.
Cleveland Builders Supply Co., Cleveland, Ohio.
Builders Supply & Fuel Co., Cleveland, Ohio.
City Material & Coal, Inc., Cleveland, Ohio.
E. E. Elias Company, Cleveland, Ohio.
Herot Builders Supply Co., Cleveland, Ohio.
Neff Coal & Supply Co., Cleveland, Ohio.
Chas. E. Phipps Company, Cleveland, Ohio.
Quincy Cement Block & Coal Co., Cleveland, Ohio.
Scheuer Bros. Builders Supply Co., Cleveland, Ohio.
Vanis Builders Supply Co., Cleveland, Ohio.

PAR. 4. Respondent Western Pennsylvania Building Material Dealers Alliance, also named Western Pennsylvania Builders Supply Alliance of Recognized Dealers and hereinafter referred to as the Western Pennsylvania association, is an unincorporated association or organization having its headquarters or principal office in the city of Pittsburgh, State of Pennsylvania, and a membership composed of certain persons, partnerships, and corporations engaged in the business of buying, selling, and distributing building materials and builders' supplies of all kinds, as specified in paragraph 1 hereof, which members are generally known as building materials and builders' supplies dealers. The said members of such association are concerns which operate or do business in the western half of Pennsylvania and in trade area adjacent thereto which territory is part of the aforesaid Cleveland-Pittsburgh trade area. Said Western Pennsylvania association has executive officers and a Board of Councillors representative of the membership of said association and functioning as a board of directors or executive committee of such association. Such officers and board manage and execute the affairs of said association. The following persons are and have been such officers and councillors of the association.

S. D. Ritchey, Ambridge, Pa., president and councillor;
W. H. Shafer, Kittanning, Pa., vice-president and councillor;
W. R. McFarland, Greensburg, Pa., treasurer and councillor;
Lawrence I. MacQueen, Pittsburgh, Pa., executive secretary and councillor;
F. A. W. Green, Butler, Pa., councillor;

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Richard Fullington, Clearfield, Pa., councillor;
 J. V. Scowden, Meadville, Pa., councillor;
 B. W. Schafer, Erie, Pa., councillor;
 O. C. Thayer, Erie, Pa., councillor;
 O. C. Cluss, Uniontown, Pa., councillor;
 W. W. Campbell, New Wilmington, Pa., councillor;
 John T. White, Bradford, Pa., councillor;
 Albert Ball, McKeesport, Pa., councillor;
 C. H. Wilson, Grove City, Pa., councillor;
 Eli Hatfield, West Brownsville, Pa., councillor;
 R. H. Adams, Cheswick, Pa., councillor;
 Ralph Wright, Sewickley, Pa., councillor;
 Geo. H. Lanz, Pittsburgh, Pa., councillor;
 C. H. Russell, Washington, Pa., councillor;
 C. C. Reed, Houston, Pa., councillor;
 F. H. Hudson, Greensburg, Pa., councillor.

Said Western Pennsylvania association is affiliated with and is one of the members and subdivisions of respondents Building Material Dealers Alliance, and the National Federation of Builders Supply Associations, and it has been and is actively engaged in cooperating with said Alliance and Federation and in carrying out the purposes, program, policies and aims of the said Building Material Dealers Alliance, and said National Federation of Builders Supply Associations. The members of said Western Pennsylvania association are also members of respondent Building Material Dealers Alliance. Respondent Lawrence I. MacQueen, individually and as such executive secretary and councillor of the Western Pennsylvania association has actively engaged in promoting the affairs of said association and in securing the cooperation of such association and its members in actively carrying out and effecting the purposes, programs, policies and aims of said Building Material Dealers Alliance and said National Federation of Builders Supply Associations. Although not comprising the entire membership, the following concerns are members of said Western Pennsylvania association and also members of said respondent, Building Material Dealers Alliance:

Kittanning Limestone Supply Co., Kittanning, Pa.
 Shufflin & Green, Butler, Pa.
 E. M. Fullington's Sons, Clearfield, Pa.
 F. B. Scowden & Son, Meadville, Pa.
 Boyd & Schafer, Erie, Pa.
 O. C. Thayer & Son, Erie, Pa.
 O. C. Cluss Lumber Co., Uniontown, Pa.
 Campbell Co., New Wilmington, Pa.
 E. W. Bissett & Son, Bradford, Pa.
 Builders Supply Co., McKeesport, Pa.
 King Company, Grove City, Pa.
 Colbert Supply Co., West Brownsville, Pa.

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River Sand & Supply Co., Cheswick, Pa.
D. W. Challis Co., Sewickley, Pa.
Geo. Lanz & Sons, Pittsburgh, Pa.
Russell Bros., Washington, Pa.
C. L. Reed Lumber Co., Houston, Pa.
Greensburg Builders Supply Co., Greensburg, Pa.
Clinton Coal & Supply Co., Meadville, Pa.
Keystone Supply Co., Foxburg, Pa.
T. R. Bolton, Cochran, Pa.
City Coal & Supply Co., Meadville, Pa.
Peoples Coal & Builders Supply Co., Sharon, Pa.
J. A. Walker, W. Middlesex, Pa.
B. Scott McFarland, Ambridge, Pa.
Hornbake Bros., Coal Center, Pa.
Patterson Supply Co., Monongahela, Pa.
Monessen Sand & Gravel Co., Monessen, Pa.
Dunbar & Wallace Lumber Co., Washington, Pa.
State Construction Co., New Kensington, Pa.
Clarion Lumber Co., Inc., Clarion, Pa.
Woodwork Supply Co., Reynoldsville, Pa.
Taylor Supply Co., Inc., Sharon, Pa.

PAR. 5. Respondent Allied Construction Industries of Cleveland, Inc., is an association of persons, partnerships, and corporations engaged in various lines of business related to the building and construction industry and including among its members certain building materials and builders' supplies dealers in and about Cleveland, Ohio. Such association is organized as a corporation under the laws of the State of Ohio, and has its headquarters and principal office in the city of Cleveland, Ohio. The said corporation is organized without shares of capital stock to promote the business interests of its members, to enhance their volume of trade and profit and to cooperate with and carry out the purposes, program, policies, and aims of respondent Building Material Dealers Alliance, of which said corporation is a member and a subdivision or branch. Respondent Charles H. McAlister is an executive officer and the manager of said respondent Allied Construction Industries and is and has been actively engaged in directing the affairs of said Allied Construction Industries and in securing and maintaining the active cooperation of said corporation and members thereof in carrying out the purposes, program, policies and aims of the respondent Building Material Dealers Alliance and of its affiliated organizations. The said Allied Construction Industries is represented upon the Council of said Building Material Dealers Alliance by one or more councillors. Respondent McAlister is and has been one of such councillors and representatives.

PAR. 6. Respondent Lime & Cement Exchange of Baltimore City is an association of members organized and existing as a corporation under the laws of the State of Maryland, having its office and principal place of business in the city of Baltimore, in said State. Said members are certain persons, partnerships and corporations having places of business in the trade area in and about said Baltimore and towns adjacent thereto, engaged in the sale and distribution in Maryland and adjoining States of building materials and builders' supplies enumerated in paragraph 1 hereof. Said respondent Exchange constitutes a member or subdivision of respondents National Federation of Builders Supply Associations and Middle Atlantic Council Builders Supply Associations and said respondents Exchange, Federation and Council and their members actively cooperate with each other in carrying out the program, purposes, policies, and aims of respondent organizations and associations.

(a) Respondent H. C. Thompson is the executive secretary of said Lime & Cement Exchange of Baltimore City; respondent H. W. Classen is president, and respondent Clarence E. Wheeler is vice-president of the said Exchange; and they are and have been actively engaged in organizing said respondent Exchange; managing its affairs, securing its support and cooperation with said Middle Atlantic Council of Builders Supplies Associations and National Federation of Builders Supply Associations and the program, policies, and aims thereof.

(b) The following persons and concerns are building material and builders' supplies dealers who are representative members of said Exchange and are also members of respondent Maryland Builders Supply Association but do not constitute the entire membership of said Exchange:

Abbott Bros., Inc., Havre de Grace, Md.	D. Edgar Coale, Churchville, Md.
Baltimore Clay Products Co., Baltimore, Md.	Cumberland Cement & Supply Co., Cumberland, Md.
Alan E. Barton, Baltimore, Md.	Cumberland Lumber Co., Cumberland, Md.
Belair Road Supply Co., Baltimore, Md.	V. Cushman & Sons, Williamsport, Md.
Buchanan Lumber Co., Cumberland, Md.	T. C. Davis Bldg. Supply Co., Baltimore, Md.
Builders Paint & Supply Co., Cumberland, Md.	J. S. Devore & Sons, Ellerslie, Md.
Central Building Supply, Inc., Baltimore, Md.	Fred Elenbrok, Baltimore, Md.
Cessna Lumber Corporation, Cumberland, Md.	Harry Exline, Hancock, Md.
Clark Lumber Co., Havre de Grace, Md.	Frederick Brick Works, The, Frederick, Md.
	Fullerton Supply Co., Raspeburg, Md.
	John H. Gels & Co., Inc., Baltimore, Md.

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| C. C. Gnegy, Mountain Lake Park, Md. | Meredith Supply Co., Annapolis, Md. |
| Grant Lumber & Supply Co., Cumberland, Md. | Metger Bros., Inc., Cumberland, Md. |
| Green Brier Quarry Co., Cumberland, Md. | W. V. Miller, Cheltenham, Md. |
| Robert S. Green, Inc., Baltimore, Md. | Monumental Brick & Supply Co., Baltimore, Md. |
| Harrison Bros. Cont. Co., Inc., Westernport, Md. | H. J. Mueller & Sons, Essex, Md. |
| Harting Supply Co., Lansdowne, Md. | National Bldg. Supply Co., Inc., Baltimore, Md. |
| Hudson Building Supply Co., Baltimore, Md. | Northeastern Supply Co., Baltimore, Md. |
| J. Scott Hunter, Inc., Baltimore, Md. | Pen Mar Co., Inc., Baltimore, Md. |
| Ideal Concrete Stone Co., Yellow Springs, Md. | The Prichard Corp., Frostburg, Md. |
| C. S. Jeffries Lumber Co., Frostburg, Md. | The Reisterstown Lumber Co., Reisterstown, Md. |
| J. F. Johnson Lumber Co., Glen Burnie, Md. | Geo. Sack & Sons, Inc., Baltimore, Md. |
| J. F. Johnson Lumber Co., Annapolis, Md. | F. G. Sheppard & Son, Upper Falls, Md. |
| King Coal & Supply Co., Inc., Baltimore, Md. | Wm. T. Sigler Co., Inc., Luke, Md. |
| Lee Lumber & Supply Co., Inc., Sparrows Pt., Md. | Sleeman Bros., Inc., Frostburg, Md. |
| Lutherville Lumber Co., Lutherville, Md. | South Cumberland Planing Mill Co., Cumberland, Md. |
| McComas Bros., Belair, Md. | Stebbins-Anderson Co., Towson, Md. |
| Robert S. Marshall Lumber Co., Lonaconing, Md. | Steffey & Findlay, Inc., Hagerstown, Md. |
| Maryland Lime & Cement Co., Inc., Baltimore, Md. | A. J. Twiford, Marbury, Md. |
| Robert S. Mead & Bro., North Beach, Md. | F. O. Vielo & Co., Aberdeen, Md. |
| | James H. Warthen, Baltimore, Md. |
| | Wheeler Supply Co., The, Glyndon, Md. |
| | Willison Bros., Frostburg, Md. |
| | John S. Wilson Co., Catonsville, Md. |
| | United Clay & Sup. Co., Baltimore, Md. |
| | Quincy L. Morrow Co., Towson, Md. |

PAR. 7. Said respondent Middle Atlantic Council of Builders Supply Associations is an unincorporated trade association or organization of several builders' supply associations whose members are engaged in business as dealers of building materials and builders' supplies in the middle Atlantic States, including Pennsylvania, Delaware, Maryland, New Jersey, Virginia, and also in the District of Columbia.

(a) The headquarters or principal office of said respondent are maintained at Baltimore, in the State of Maryland. Respondent H. C. Thompson is secretary and treasurer, and respondent Joseph M. Pusey, who is also treasurer of respondent National Federation of Builders Supply Associations, is chairman of said respondent Council. The said Thompson and Pusey are and have been individually and as such executive officers actively engaged in promoting and executing affairs and purposes of said respondent.

(b) The respondents Lime & Cement Exchange of Baltimore City and Maryland Builders Supply Association are members of respondent Council. The members of both said Exchange and said Association actively cooperate with respondent Council and its other affiliated organizations and members thereof in the execution and promotion of the program, purposes, policies, and aims of respondent organizations and associations.

(c) Membership in respondent Council includes the following:

- Builders Supply Dealers Association of Eastern Pennsylvania, Easton, Pa.;
- Del-Mar, Virginia, Builders Supply Association, Wilmington, Del.;
- Greater Washington Builders Supply Association, Washington, D. C.;
- Maryland Builders Supply Association, Baltimore, Md.;
- Philadelphia Builders Supply Association, Philadelphia, Pa.;
- Lime and Cement Exchange of Baltimore City, Baltimore, Md.;
- New Jersey Mason Material Dealers Association, Newark, N. J., and the
- Virginia Lumber and Building Supply Dealers Association, Inc., Richmond, Va.

PAR. 8. The respondent Maryland Builders Supply Association is an unincorporated trade association or organization of certain persons, firms, partnerships, and corporations having places of business in the State of Maryland and engaged in the purchase, sale, and distribution in Maryland and adjoining States of building materials and builders' supplies.

(a) The headquarters or principal office of said Maryland Builders Supply Association are maintained in the city of Baltimore, in the State of Maryland, at the same address as the principal offices of respondents Lime & Cement Exchange of Baltimore City and Middle Atlantic Council of Builders Supply Associations.

(b) The respondent H. C. Thompson, who is also executive secretary of the respondent Lime & Cement Exchange of Baltimore City and secretary and treasurer of Middle Atlantic Council of Builders Supply Associations, is also secretary and treasurer of said respondent Maryland Builders' Supply Association; that said Thompson is and has been individually and as such executive officer actively engaged in promoting and executing the affairs and purposes of said Association. Said Association is affiliated with and is one of the members or subdivisions of said respondent Middle Atlantic Council of Builders Supply Associations and is and has been actively engaged in carrying out the program, purposes, policies and aims of said Middle Atlantic Council of Builders Supply Associations.

(c) The concerns, among others who are or have been members of said Association are as enumerated in paragraph 6 hereof as members of the Lime & Cement Exchange of Baltimore City.

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PAR. 9. Respondent National Federation of Builders Supply Associations is a corporation under the laws of the State of New Jersey, having its headquarters or executive office in the city of Pittsburgh, in the State of Pennsylvania. The members of said Federation are certain associations of dealers engaged in the several States of the United States in the sale and distribution of building materials and builders' supplies and federated together for the purpose of promoting the business interests of the members. The affairs of said Federation are and have been managed and executed by executive officers including a president, vice-presidents, treasurer, secretary and an executive committee. Said executive committee functions as or in the nature of a board of directors meeting from time to time for the transaction of business of the Federation.

(a) Respondent John M. Stoner is the president and L. I. MacQueen, who is also executive secretary of the respondent Building Material Dealers' Alliance, is the secretary of said respondent Federation, and they have actively engaged in organizing said Federation and promoting and managing its affairs, in organizing affiliated associations of building materials and builders' supply dealers and in securing their support and active cooperation in carrying out or enforcing the purposes, aims and policies of said Federation and its members. The following persons are other such officers and members of the executive committee of said Federation:

Vice-Presidents:

Harry B. Finnegan

W. N. Hagerman

L. F. LeHane

E. S. Spencer

Charles Thompson

Treasurer: Joseph M. Pusey

Executive Committee:

E. H. Norblom

Thomas G. Bradshaw

C. Claude Cooke

Lawrence F. Kramer

John M. Stoner

(b) Although not comprising the entire membership the following associations are members of said Federation:

Alabama Lumber & Building Material Association, Birmingham, Ala.

Builders Supplies Dealers Association of Northern California, Hayward, Calif.

Building Material Dealers Association of San Diego, San Diego, Calif.

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Los Angeles County Building Material Dealers Association, Los Angeles, Calif.
 Carolina Retail Lumber & Building Supply Dealers Association, Charlotte, N. C.
 Colorado Association of Builders Supply Dealers, Denver, Colo.
 Mason Material Dealers Association of New Castle County, Del., Wilmington, Del.
 Greater Washington Builders Supply Association, Washington, D. C.
 Florida Lumber & Millwork Association, Orlando, Fla.
 Georgia Retail Lumber & Building Supply Association, Inc., Atlanta, Ga.
 Building Material Merchants of Chicago District, Chicago, Ill.
 Illinois Lumber & Material Dealers Association, Inc., Springfield, Ill.
 Indiana Builders Supply Association, Indianapolis, Ind.
 Iowa State Builders Supply Association, Cedar Rapids, Iowa.
 Kentucky Builders Supply Association, Lexington, Ky.
 Southern Builders Supply Association, New Orleans, La.
 Lime & Cement Exchange of Baltimore City, Inc., Baltimore, Md.
 New England Builders' Supply Association, Boston, Mass.
 Michigan Builders Supply Association, Ypsilanti, Mich.
 Tri-County Division of Michigan Builders Supply Dealers Assn., Detroit, Mich.
 Minnesota Building Supply Dealers Association, Minneapolis, Minn.
 Mississippi Retail Lumber Dealers Association, Jackson, Miss.
 Missouri Valley Builders Supply Association, Kansas City, Kans.
 Building Material Dealers Assn. of Greater St. Louis, St. Louis, Mo.
 New Jersey Mason Material Dealers Association, Newark, N. J.
 Building Material Men's Assn. of Westchester County, Scarsdale, N. Y.
 New York State Builders Supply Association, Utica, N. Y.
 New York Builders Supply Trade Area Association, Inc., New York, N. Y.
 Building Material Institute, Cleveland, Ohio.
 Ohio Builders Supply Association, Columbus, Ohio.
 Building Material Credit Association, Inc., Cincinnati, Ohio.
 Building Supply Dealers Association of Oregon, Portland, Oreg.
 Builders Supply Dealers Association of Eastern Pennsylvania, Easton, Pa.
 Philadelphia Builders Supply Association, Philadelphia, Pa.
 Western Pennsylvania Builders Supply Alliance, Pittsburgh, Pa.
 Mason Material Dealers Association, Inc., Memphis, Tenn.
 Texas Builders Supply Dealers Association, Houston, Tex.
 Virginia Lumber & Building Supply Dealers Association, Richmond, Va.
 Building Material Dealers Assn. of Western Washington, Seattle, Wash.
 West Virginia Lumber & Builders Supply Association, Fairmont, W. Va.
 Builders Supply Dealers Association of Wisconsin, Milwaukee, Wis.

PAR. 10. Those hereinabove specifically named as members, officers, or councillors of respondent associations and organizations do not embrace the entire list or number of such members, officers, or councillors. The building materials and builders' supplies dealers and the affiliated associations or organizations which are members of the associations and organizations hereinabove specifically named parties respondent, and the officers and councillors thereof, number several

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thousand persons, partnerships, corporations, and associations. Such memberships constitute a class so numerous and changing as to make it impracticable to specifically name them all as parties respondent herein. Those specifically named herein are fairly representative of the whole. All members of aforesaid respondent associations and organizations and all their officers and councillors are also made parties respondent herein as a class of which those specifically named are representative of the whole.

PAR. 11. Said building materials and builders' supplies dealers, members of said associations and organizations and respondents herein, purchase their materials and supplies in the course and conduct of their business from manufacturers, producers, and distributors in various States and cause such materials and supplies to be shipped and transported to the warehouses, places of business and to customers of such purchasing respondents from points in States other than the States in which such respective points of destination are located. In the course of the sale and distribution of their merchandise said respondent members of said organizations and associations cause materials and supplies when sold to be shipped and transported pursuant to purchase orders from their warehouses, places of business or direct from their suppliers to their customers at points in States other than the State in which such respective shipments originate. In the course and conduct of the business of respondents as hereinabove described, all respondents are and have been engaged in commerce among the several States and in trade, business, and commerce having a direct effect upon interstate commerce in building materials and builders' supplies. Except insofar as competition has been restrained, stifled, lessened, suppressed, eliminated, or destroyed by the respondents as hereinafter alleged, each of the said dealers in building materials and builders' supplies, members of respondent associations and organizations, is and has been engaged in the course of such business in actual and potential competition with other respondent members and "recognized" dealers and with non-members and other dealers and vendors who market or desire to market building materials and builders' supplies.

PAR. 12. The respective members of the respondent associations and organizations hereinabove described constitute a large and important part of the dealers in building materials and builders' supplies in the several States of the United States in which the members of respondent organizations and associations are engaged in business; and such members constitute a group so large and influential in the trade as to be able to control and influence the flow of trade and commerce in building materials and builders' supplies

within, to and from the several trade areas. Said members as allied and banded together in said associations and organizations are enabled thereby to more effectively exercise control and influence over such trade and commerce for the promotion and enhancement of their own volume of trade and profits. The volume of consumption of building materials and builders' supplies in the several trade areas and the volume of trade and commerce in such materials and supplies in, to and from said areas constitute a large and important part of the trade and commerce of the United States in the building and construction materials and supplies industry. Said trade areas are large and important outlets and markets for the sale of building materials and builders' supplies by manufacturers, producers, and distributors within said several trade areas in the several States of the United States.

PAR. 13. Respondents are banded and allied together in aforesaid associations and organizations to carry into effect the program and practices hereinbelow described and to enhance and promote the volume of trade, business and profits of said respondent members and "recognized" dealers. And the respondents, namely said associations and organizations, their members, officers and councillors, parties respondent herein, during and in the period of more than three years last past have agreed, conspired, combined, and confederated together and with others, and have united in and pursued a common and concerted course of action and undertaking among themselves and with others, to adopt, follow, carry out, enforce and maintain, in the said several trade areas, a program, to wit:

1. To establish the respondent members and building materials and builders' supplies dealers approved by respondent associations and organizations as a class of "recognized" building materials and builders' supplies dealers in such trade and industry in the said several trade areas; and to confine and require the sale and distribution of such materials and supplies by manufacturers and producers thereof to or through the medium of such respondent members and "recognized" dealers exclusively.

2. To induce, require or compel manufacturers and producers of building materials and builders' supplies to refrain and to cease or desist from selling or distributing such materials or supplies to non-recognized competitors of respondent members or to dealers, vendors, contractors, consumers, or other purchasers who are not members of respondent associations and organizations and are not such "recognized" dealers; to prevent such non-recognized or non-member competitors, dealers, contractors, vendors, consumers, and other purchasers from purchasing or securing such materials and supplies di-

rect from manufacturers or producers, and to compel them to purchase their requirements of such materials and supplies from or through the medium of respondent members and such "recognized" dealers exclusively and upon terms or conditions of sale which afford a commission, profit, or allowance to such "recognized" dealers and respondent members.

3. To induce, require or compel manufacturers and producers of building materials and builders' supplies to refrain and desist from soliciting trade or business from, or quoting prices to, non-recognized competitors or respondent members or to dealers, vendors, contractors, and other purchasers who are not such "recognized" dealers, except upon terms and conditions of sale which include or afford an allowance, commission or profit to a respondent member and "recognized" dealer; and to induce, require, or compel such manufacturers and producers to solicit their direct trade or business from, and to quote manufacturer's or producer's prices to, such "recognized" dealers exclusively.

4. To prevent competing dealers, vendors, contractors and other purchasers of building materials and builders' supplies from participating with said respondent members and "recognized" dealers in pool car shipments of such materials and supplies; to induce, require or compel manufacturers and producers of building materials and builders' supplies to confine and limit their distribution thereof to carload quantities and to shipments by railroad only; and to induce, require, or compel such manufacturers and producers to refrain from and to refuse to permit such distribution of their materials and supplies to be made by motortruck or motor vehicle; and to eliminate, prevent, or lessen and restrain the use of motortrucks or motor vehicles for such transportation as well as the actual and potential competition afforded respondent members and such "recognized" dealers by contractors, dealers, vendors, consumers, and other purchasers who because of economy of operation, lack of railroad, storage, or other facilities, or for other good and sufficient reasons on the part of the seller or purchaser, desire to have their requirements of building materials and builders' supplies distributed and delivered by motor-truck or motor vehicle from the plants, warehouses, or distributing points of the manufacturers or producers.

5. To interfere with the business and trade in building materials and builders' supplies of dealers, vendors, and other sellers who are not members of respondent organizations or associations who are not such "recognized" dealers, for the purpose of enabling or assisting said respondent members and "recognized" dealers to appropriate and

acquire the patronage or trade and obstruct the competition of such non-member or non-recognized dealers, vendors and other sellers.

6. To prevent manufacturers of cement blocks and building materials of similar type from purchasing or continuing to purchase their raw materials and supplies direct from manufacturers and producers of such raw materials and supplies, and to require such manufacturers of cement blocks and building materials of similar type to purchase their raw materials and other supplies exclusively from said respondent members and "recognized" dealers and at prices which include or afford such dealers and members an allowance, commission or profit upon such purchases.

7. To require and compel the sale and distribution of all cement requirements for all buildings and other private construction as well as for highway, bridge, and culvert construction and maintenance, and the cement requirements for cities, counties, and all other political subdivisions, to be made through the medium of said respondent members and "recognized" dealers and at prices or conditions of sale which include or afford such members and "recognized" dealers an allowance, commission, or profit on such cement purchases; and to induce, require or compel manufacturers and producers of cement to cease or desist from making any sales of cement for such purposes direct to the contractors, States, counties, political subdivisions, and non-recognized dealers or purchasers, and to cease and desist from making sales in any way which does not afford such "recognized" dealers or respondent members a commission, allowance, or profit on the purchase of such cement.

8. To exclusively warehouse, promote, advertise, and advance the sale and use of the brands of building materials and builders' supplies of the respective manufacturers and producers who (a) confine and limit the marketing and distribution of their products to or through the medium of respondent members and said "recognized" dealers, and (b) who refrain or desist from selling or distributing their products direct to competitors of respondents or to contractors, dealers, vendors, consumers, and other purchasers which are not included among such "recognized" dealers or members of respondent organizations and associations; to urge contractors, builders, consumers, and other purchasers to buy or use the brands or products of such manufacturers and producers to the exclusion of the brands and products of manufacturers or producers who do not so confine or limit the sale and distribution of their products to or through the medium of said respondent members and "recognized" dealers or who do not otherwise conform to the foregoing program of respondents;

and to refuse to warehouse or deal in, or to promote, advertise, advance, or urge the sale and use of, the products and brands of building materials and builders' supplies of those manufacturers or producers who fail or refuse to so confine the marketing and distribution of their products to or through the medium of said respondent members and "recognized" dealers or who make any sales of their products direct to competitors of respondents or to non-recognized dealers, vendors, contractors, builders, consumers, or other purchasers.

9. To prevent dealers, vendors, distributors, and other sellers of building materials and builders' supplies who are not such "recognized" dealers from selling any building materials or building supplies for new construction or new work to contractors, builders, consumers, or other purchasers; to monopolize such trade and business in respondent members and such "recognized" dealers, and to destroy all such business enjoyed by non-recognized dealers, vendors, contractors, or other sellers.

10. To eliminate, lessen, and destroy the business and competition of those engaged or desiring to engage in said building materials and builders' supplies trade and industry as jobbers or brokers.

11. To prohibit, prevent, and restrain the sale or distribution of building materials and builders' supplies by manufacturers or producers to ultimate purchasers or users through the medium of jobbers or brokers, and to thereby secure for such "recognized" dealers and respondent members the trade and business ordinarily enjoyed or conducted by such jobbers and brokers.

12. To accord and limit said "recognition" to concerns who are or become members in good standing of respondent associations and organizations.

13. To eliminate, lessen, restrain, and control actual and potential competition among or with such respondent members and "recognized" dealers (a) by denying such "recognition" and membership in respondent organizations and associations to persons, partnerships, and corporations who are engaged, or desire to engage, in the business of dealing in, selling or vending building materials and builders' supplies in competition with such members or "recognized" dealers, or who desire to do business in communities served by such members or "recognized" dealers; and (b) by hindering, obstructing, and hampering such persons, partnerships, and corporations in the conduct of their business; and (c) by driving or attempting to drive such concerns out of business; and (d) by denying membership in respondent organizations and associations and such "recognition" to any dealer, vendor, or other seller of building materials and builders' supplies who fails or refuses to support, agree to, and abide

by the said program, conspiracy, and undertaking of respondents as herein described, and (e) by other united, cooperative, or concerted action on the part of respondents.

14. To acquire and maintain a monopoly in such respondent members and "recognized" dealers of the trade and business of dealing in or distributing building materials and builders' supplies.

15. To fix and establish, by agreement, schedules of uniform prices for the sale of building materials, and builders' supplies. The prices thus established were enhanced beyond the price which would prevail under natural and normal competition, in the absence of said price agreements and the other agreements herein alleged.

16. To require all members of respondent organizations and associations and all "recognized" dealers to carry out, and to agree and pledge themselves to support and carry out, the foregoing program; and to enhance and increase the volume of business and profits of said respondent members and "recognized" dealers by effecting and maintaining the foregoing program and by other united and concerted action.

PAR. 14. The parties respondent herein have agreed, combined, confederated and conspired together for the purpose and with the intent of carrying out the aforesaid program; and they have been and are now engaged in carrying into effect and maintaining said program and the said agreement, combination, confederation, conspiracy and undertaking as set forth in paragraph 13 hereof. Pursuant to and for the purpose of effecting and carrying out the said program and said agreement, combination, confederation, conspiracy, and undertaking, the respondents have, among other things done the following:

(a) Exacted and procured written pledges and other promises and agreements from each such "recognized" dealer, from each member of respondent associations and organizations, and from manufacturers and producers of building materials and builders' supplies to the effect that such dealers, members, manufacturers, and producers will support, adhere to and enforce the foregoing program of respondents set forth in paragraph 13 hereof.

(b) Used and continued to use, in concert and agreement among themselves and with others, coercive and concerted action, boycott, threats of boycott, and other united action against manufacturers, dealers, and others 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.

(c) Held meetings of respondent associations and organizations, their members, officers, and councillors, to devise means of exerting

influence, pressure, coercion, or other means of inducing, coercing, and requiring manufacturers, producers, distributors, and others engaged in said building materials and builders' supplies trade and industry to abide by and adhere to said program.

(d) For the purpose and with the effect of inducing or compelling manufacturers and producers to conform to said program, informed and advised such manufacturers and producers of the names of said "recognized" dealers in the several trade areas and of respondent's purpose and determination to insist upon and require such manufacturers and producers to distribute their products through the medium of said "recognized" dealers exclusively, and in conformity with aforesaid program of respondents; and also advised such manufacturers and producers that their sale and distribution of building materials or builders' supplies direct to certain non-recognized dealers and purchasers, or their failure to conform to aforesaid program in the distribution of their materials and supplies, would be considered by respondents and such "recognized" dealers as "unfriendly" acts against respondents and such "recognized" dealers.

(e) Denied and revoked membership in respondent associations and organizations and such "recognition" of dealers who failed to support, abide by or carry out said program of respondents, and otherwise disciplined such members and dealers.

(f) Used and engaged in other acts, cooperative, and concerted action and coercive methods and practices in promoting, establishing and carrying out the foregoing program and agreement, combinations, conspiracy, confederation, and undertaking set forth in paragraph 13 hereof.

PAR. 15. The capacity, tendency, and effect of said agreement, combination, conspiracy, confederation, and undertaking, and the said acts and practices of respondents, set forth in paragraphs 13 and 14 hereof, are and have been in various trade areas and other related or connected territory, frequently comprising more than one State or portions of more than one State.

(a) To monopolize, in said respondent members and "recognized" dealers, the business of dealing in and distributing building materials and builders' supplies.

(b) To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in said building materials and builders' supplies trade and industry, and to deprive the purchasing and consuming public of advantages in price, service, and other consideration which they would receive and enjoy under conditions of normal and unobstructed, or free and fair, competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to

the freedom of fair and legitimate competition in such trade and industry.

(c) To substantially increase the cost to purchasers of such building materials and builders' supplies and consequently to increase the cost of construction, repair, maintenance, and remodeling of homes, dwellings, buildings, highways, and all kinds of construction and building works.

(d) To oppress, eliminate, and discriminate against small business enterprises which are or have been engaged in selling, distributing, manufacturing, or using building materials and builders' supplies.

(e) To restrain or restrict employment in the construction and building industry and trade and to reduce the purchasing power or capacity of purchasers and users of such building materials and builders' supplies.

(f) To restrain, restrict, hamper, and lessen employment in, and the business of, the manufacture, sale, and use of motortrucks and motor vehicles for the distribution of building materials and builders' supplies.

(g) To obstruct, hamper, and interfere with the normal and natural flow of trade and commerce in building materials and builders' supplies in, to and from various trade areas; and to injure respondent's competitors in unfairly diverting business and trade from them, depriving them thereof, and otherwise oppressing or driving them out of business.

(h) To prejudice and injure the public and manufacturers, producers, dealers, distributors, and others who do not conform to respondent's program or who do not desire, but are compelled, to conform to said program.

PAR. 16. The above alleged acts and things done by respondent as set forth in paragraphs 13, 14, and 15 hereof are monopolistic practices and are 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 October 18, 1935, issued and served its amended and supplemental complaint in this proceeding upon

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respondents Building Material Dealers Alliance, et al., 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 Daniel J. Murphy, attorney for the Commission, before William C. Reeves, an examiner of the Commission theretofore duly designated by it, and respondents did not introduce any testimony in opposition to the allegations of the complaint; 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 oral arguments of counsel for the Commission and for the respondents; 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. The respondent Building Material Dealers Alliance, hereinafter referred to as the Alliance, was organized in 1931 as a voluntary unincorporated trade association. Its membership consisted of (a) over 150 dealers in building materials and builders' supplies, having their principal places of business within, and doing business in, an area known in the trade as The Cleveland-Pittsburgh Trade Area; and (b) organized local associations or units of such dealers. Said dealer members of said Alliance and of said organized local units are persons, partnerships, and corporations engaged in the business of buying, selling, and distributing building materials and builders' supplies, which embrace such materials and supplies as cement, brick, tile, clay products, sewer pipe, plaster, sand, gravel, stone, lime, mortar, and products thereof, lumber, lath, roofing, and other builders' supplies and building materials used in the building and construction industry. The Cleveland-Pittsburgh Trade Area consists of all that portion of the States of Ohio and Pennsylvania included in a line from Cleveland to Massillon to Pittsburgh to Erie, and is one of the largest markets in the country for the sale of building materials and builders' supplies; and the business of the dealer members of said Alliance represents the preponderance of business in said materials and supplies in said market. The affairs of said Alliance were managed and conducted by executive officers, in-

cluding a chairman, a vice-chairman, and a secretary-treasurer, and by an Executive Board of Councillors, hereinafter referred to as the Council. The said Council met at frequent intervals for the transaction of business of the Alliance. The members of said Council are known in said respondent organization as councillors, and they are delegated or elected to membership in said Council as representatives of the members of said Alliance and of various groups or subdivisions of such members. For the more effective operation of the Alliance, the membership thereof was divided or organized into local associations, or districts, each constituting a branch or sub-division of said Alliance. The principal offices of said Alliance were maintained at the office of the chairman in the city of Youngstown, Ohio, and at the office of the secretary-treasurer in the city of Pittsburgh, Pa. Respondents E. J. Holway and Lawrence I. MacQueen were such chairman and secretary-treasurer, respectively.

Certain persons who are members of said council and as such have served as councillors of said Alliance, and the respective companies or organizations by or with which such persons are employed or connected, which companies and organizations are representative members of said Alliance, are as follows:

Name of Councillor	Name of Concern With Which Respective Councillor Is Connected as Officer or Employee, Such Concerns Being Members of Said Alliance
G. H. Lanz.....	Geo. H. Lanz & Sons, Pittsburgh, Pa.
E. J. Holway.....	Youngstown Ice Co., Youngstown, Ohio.
Lawrence I. MacQueen.....	Pittsburgh Builders Supply Club, Pittsburgh, Pa.
J. A. Thomas.....	W. E. Wright Co., Akron, Ohio.
Wm. R. Jones.....	Alliance Builders Supply Co., Alliance, Ohio.
M. C. Robinson.....	M. C. Robinson & Co., Ashtabula, Ohio.
I. W. Royer.....	Ohio Builders & Milling, Inc., Canton, Ohio.
Howard Tolerton.....	The Tolerton Co., Alliance, Ohio.
C. R. Boyd.....	H. C. Boyd Lumber Co., Coraopolis, Pa.
E. C. Holloway.....	The Kensington Supply Co., Kensington, Ohio.
Chas. H. McAlister.....	Allied Construction Industries of Cleveland, Ohio, Inc., Cleveland, Ohio.
D. O. Fonda.....	Collingwood Shale Brick & Supply Co., Cleveland, Ohio.
Harry Dubroy.....	Lakeshore Builders Supply Co., Cleveland, Ohio.
H. C. McCoy.....	Inter-City Coal & Supply Co., Elyria, Ohio.
Jas. N. Thayer.....	O. C. Thayer & Son, Erie, Pa.
E. B. Bye.....	Bye & Bye, Lisbon, Ohio.
J. W. Pattison.....	Penn Coal & Supply Co., New Castle, Pa.
Ralph Wright.....	D. W. Challis & Sons, Inc., Sewickley, Pa.
B. N. Hamilton.....	Hamilton & Meigs, Warren, Ohio.
Joseph Alcorn.....	Alcorn-Hahn Supply Co., Youngstown, Ohio.
E. H. Schory.....	Hursh & Schory Coal Co., Canton, Ohio.

PAR. 2. The respondent Pittsburgh Builders Supply Club is a corporation organized under the laws of the State of Pennsylvania, having its executive headquarters in the city of Pittsburgh, in said State of Pennsylvania at the office of its secretary and manager, to wit: respondent Lawrence I. MacQueen. The members of said respondent Club consisted of dealers in building materials and builders' supplies having places of business in the trade area in and about Pittsburgh, Pa. Respondents George Lanz and Elliot Keller were the president and vice-president, respectively, of said Club, and were its representatives on the Council of the respondent Alliance. The said respondent George Lanz also served as a councillor of the respondent Western Pennsylvania Builders Supply Alliance. The members of said Club, with a few exceptions, were also members of the respondent Alliance, and said Club and Alliance, and their officers and members, actively cooperated with each other in carrying out the program and policies of the respondent organizations and associations. The members of the Club were the largest business firms in the building and material industry in Pittsburgh, and they sold over 75% of the builders' supplies sold in Pittsburgh and the metropolitan area.

The following persons and concerns are building material and builders' supplies dealers who are representative members of said Club and are also members of said Alliance, but do not constitute the entire membership of said Club or Alliance:

Nathan Bilder Co., Pittsburgh, Pa.
Wm. H. Brant Sons, West View, Pa.
Frank Bryan, McKees Rocks, Pa.
H. G. Dettling Co., Pittsburgh, Pa.
Duncan & Porter Co., Pittsburgh, Pa.
Heppenstall & Marquis, Pittsburgh, Pa.
Hillside Stone & Supply Co., Aspinwall, Pa.
Houston-Starr Co., Pittsburgh, Pa.
Iron City Sand & Gravel Co., Pittsburgh, Pa.
Keller Brothers, Pittsburgh, Pa.
D. J. Kennedy Co., Pittsburgh, Pa.
Knox Strouss & Bragdon Co., Pittsburgh, Pa.
Geo. Lanz & Sons, Pittsburgh, Pa.
W. T. Leggett Co., Pittsburgh, Pa.
McCrary-Rodgers Co., Pittsburgh, Pa.
Morrison Bros., Emsworth, Pa.
Pittsburgh Plaster & Supply Co., McKees Rocks, Pa.
Ed. Vero Company, Millvale, Pa.

PAR. 3. The respondent Building Material Institute is an unincorporated trade association of dealers in building materials and builders' supplies, having a place of business in the trade area surrounding

Cleveland, Ohio, where its headquarters or principal offices are maintained. The respondents George W. Denison and B. E. Reid were the president and secretary, respectively, of said Institute. The said Institute was affiliated with and cooperated with, the respondent Alliance in carrying out its program and policies, and contributed to its support. The members of said Institute, with a few exceptions, were also members of said Alliance, and were represented on the Council of said Alliance by respondents D. A. Fonda and Harry DuBroy. The following concerns, among others, are and have been members of said institute:

City Material & Coal, Inc., Cleveland, O.
The Tom George Co., Cleveland, O.
St. Clair Coal & Supply Co., Cleveland, O.
Vanis Builders Supply & Lbr. Co., Cleveland, O.
Collingwood Shale B & S Co., Cleveland, O.
Geist Kemper Material Co., Cleveland, O.
Ideal Builders Supply & Fuel Co., Cleveland, O.
Lake Shore Builders Supply Co., Cleveland, O.
Medal Brick & Tile, Cleveland, O.
Ohio Building Material Co., Cleveland, O.
Ohio Clay Co., Cleveland, O.
Bagley Road Lumber Co., Berea, O.
Quincy Coal & Supply Co., Cleveland, O.
Geo. D. Barriball Co., Cleveland, O.
Zone Coal & Supply Co., Cleveland, O.
Bennett Concrete Stone Co., Cleveland, O.
The Clinton Co., Cleveland, O.
Pompei Coal & Supply Co., Cleveland, O.
Mayfield Builders Supply Co., Cleveland, O.
Cleveland Builders Supply Co., Cleveland, O.
Builders Supply & Fuel Co., Cleveland, O.
City Material & Coal, Inc., Cleveland, O.
E. E. Elias Company, Cleveland, O.
Herot Builders Supply Co., Cleveland, O.
Neff Coal & Supply Co., Cleveland, O.
Chas. E. Phipps Company, Cleveland, O.
Quincy Cement Block & Coal Co., Cleveland, O.
Scheuer Bros. Builders Supply Co., Cleveland, O.
Vanis Builders Supply Co., Cleveland, O.

PAR. 4. The respondent Western Pennsylvania Builders Supply Alliance is an unincorporated association formed in the early part of 1932, and was a reorganization of the Western Pennsylvania Building Supply Dealers Association. Its membership consisted of dealers in building materials and builders' supplies doing business in the western half of Pennsylvania and in the trade area adjacent thereto, which territory is part of the aforesaid Cleveland-Pittsburgh Trade Area. The said Western Pennsylvania Building Material

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Dealers Alliance had executive officers and a board of councillors representative of its membership, which functioned as a board of directors of said association. The said Western Pennsylvania Building Material Dealers Alliance was affiliated with, and actively cooperated with, respondents Building Material Dealers Alliance and the National Federation of Builders Supply Association, and its officers and members cooperated in carrying out the program and policies of said respondent organizations and associations. The officers and councillors of the said Western Pennsylvania Alliance held joint meetings with its "sister" respondent Alliance, to wit: the Building Material Dealers Alliance, and said Alliances issued joint letters or bulletins. The members of said Western Pennsylvania Alliance included all the members of respondent Alliance who had a place of business in Pennsylvania, and said members were the outstanding dealers in Western Pennsylvania and sold the preponderance of building materials and builders' supplies sold in that market. The headquarters of said Western Pennsylvania Alliance were in the city of Pittsburgh, Pa., at the office of its executive secretary, to wit: respondent Lawrence I. MacQueen.

Although not comprising the entire membership, the following concerns are members of said Western Pennsylvania association and also members of respondent Alliance:

Kittanning Limestone Supply Co., Kittanning, Pa.
Shufflin & Green, Butler, Pa.
E. M. Fullington's Sons, Clearfield, Pa.
F. B. Scowden & Son, Meadville, Pa.
Boyd & Schafer, Erie, Pa.
O. C. Thayer & Son, Erie, Pa.
O. C. Cluss Lumber Co., Uniontown, Pa.
Campbell Co., New Wilmington, Pa.
E. W. Bissett & Son, Bradford, Pa.
Builders Supply Co., McKeesport, Pa.
King Company, Grove City, Pa.
Colbert Supply Co., West Brownsville, Pa.
River Sand & Supply Co., Cheswick, Pa.
D. W. Challis Co., Sewickley, Pa.
Geo. Lanz & Sons, Pittsburgh, Pa.
Russell Bros., Washington, Pa.
C. L. Reed Lumber Co., Houston, Pa.
Greensburg Builders Supply Co., Greensburg, Pa.
Clinton Coal & Supply Co., Meadville, Pa.
Keystone Supply Co., Foxburg, Pa.
T. R. Bolton, Cochranton, Pa.
City Coal & Supply Co., Meadville, Pa.
Peoples Coal & Builders Supply Co., Sharon, Pa.
J. A. Walker, W. Middlesex, Pa.
B. Scott McFarland, Ambridge, Pa.

Hornbake Bros., Coal Center, Pa.
Patterson Supply Co., Monongahela, Pa.
Monessen Sand & Gravel Co., Monessen, Pa.
Dunbar & Wallace Lumber Co., Washington, Pa.
State Construction Co., New Kensington, Pa.
Clarion Lumber Co., Inc., Clarion, Pa.
Woodwork Supply Co., Reynoldsville, Pa.
Taylor Supply Co., Inc., Sharon, Pa.

PAR. 5. The respondent Allied Construction Industries of Cleveland, Inc., is a corporation organized under the laws of the State of Ohio, having its principal headquarters in the city of Cleveland, in said State of Ohio. Its membership consisted of firms engaged in various lines of business related to the building and construction industry, and included among its members certain building materials and builders' supplies dealers in and about Cleveland. Respondent Charles H. McAlister was the manager of said respondent Allied Construction Industries of Cleveland, Inc., and was at the same time a councillor of the respondent Building Material Dealers Alliance, and said respondent McAlister was active in organizing said Alliance and in securing the cooperation of the respondent Allied Construction Industries with the Alliance program. Of the twelve concerns listed as members of the respondent Allied Construction Industries, five are classified as builders' supplies dealers and are listed as members of the said respondent Building Material Dealers Alliance.

PAR. 6. The Lime and Cement Exchange of Baltimore City is an association of members organized and existing as a corporation formed in 1898 under the laws of the State of Maryland, having its office and principal place of business in the city of Baltimore, in said State. Said members were certain persons, partnerships, and corporations having places of business in the trade area in and about said Baltimore and towns adjacent thereto engaged in the sale and distribution of building materials and builders' supplies. The said respondent Lime and Cement Exchange of Baltimore City is an affiliated unit, or a sub-division, of respondents National Federation of Builders Supply Associations and Middle Atlantic Council of Builders Supply Associations, and the officers and members of said respondents Exchange, Federation, and Council actively cooperated with each other in carrying out the program and policies of respondent organizations and associations. Respondent H. C. Thompson was the executive secretary of the Exchange and was also the secretary and treasurer of respondent Middle Atlantic Council of Builders Supply Associations and also secretary and treasurer of the respondent Maryland Builders Supply Association. The said respondent

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Thompson conducted the business of each of the three said respondent organizations from the same address in Baltimore, Maryland, and over the same telephone. Respondent H. W. Classen was president of the said Exchange in 1934, and was also president of the respondent Middle Atlantic Council of Builders Supply Associations. The following persons and concerns are building material and builders' supplies dealers who are representative members of said Exchange and are also representative members of respondent Maryland Builders Supply Association, but do not constitute the entire membership of said exchange or Association:

Baltimore Clay Product Company,
Alan E. Barton
Belair Road Supply Company, Inc.
Central Building Supply, Inc.
T. C. Davis Building Supply Company
Fred Elenbrok
Fullerton Supply Company
Robert S. Green, Inc.
Hudson Building Supply Company
J. Scott Hunter
King Coal & Supply Company
Maryland Lime & Cement Co., Inc.
Monumental Brick & Supply Company
National Building Supply Co., Inc.
Northeastern Supply Company
The Patapsco Supply Co. (Lee Lumber and Supply Co., Inc.)
Pen-Mar Company, Inc.
Geo. Sack and Sons, Incorporated
M. B. Segall and Sons, Incorporated
Stebbins-Anderson Co.,
James H. Warthen
United Clay and Supply Company
Quincy L. Morrow Company

PAR. 7. The respondent Middle Atlantic Council of Builders Supply Associations was an unincorporated trade association or organization, formed about October 1934, consisting of eight builders' supply associations whose members were engaged in business as dealers of building materials and builders' supplies in the Middle Atlantic States, including Pennsylvania, Delaware, Maryland, New Jersey, Virginia, and also the District of Columbia. The respondents Lime and Cement Exchange and Maryland Builders Supply Association were units of said respondent Council, and were also units of respondent National Federation of Builders Supply Associations, and of the other six associated units of said respondent Council, five others were also federated units of the National Federation. The headquarters of said respondent Council were located in

Baltimore, in the State of Maryland, at the office of its secretary and treasurer, to wit: respondent H. C. Thompson, who also, as above stated, was the executive secretary of the respondent Lime and Cement Exchange of Baltimore City and secretary and treasurer of the respondent Maryland Builders Supply Association, all having their principal office at the same location in said city of Baltimore. Respondent Joseph M. Pusey was the chairman of said Council, and was also the treasurer of respondent National Federation.

PAR. 8. The respondent Maryland Builders Supply Association was an unincorporated trade association organized in 1934, and its membership consisted of dealers in building materials and builders' supplies having places of business in that part of the State of Maryland which is west of Chesapeake Bay and west and south of the Susquehanna River. Said respondent association was a unit of the respondents Middle Atlantic Council and National Federation, and the officers and members of said respondent Association actively cooperated in carrying out the program and policies of the respondent organizations and associations. Respondent H. C. Thompson, who was also the executive secretary of the respondent Lime and Cement Exchange, and secretary and treasurer of the respondent Middle Atlantic Council of Builders Supply Associations, was also the secretary and treasurer of the said respondent Maryland Builders Supply Association, and conducted the affairs of all three organizations from the same office in the city of Baltimore, in said State of Maryland. Respondent H. W. Classen, who was the president of the respondent Exchange, was also president of the respondent Maryland Builders Supply Association. The members of the respondent Lime and Cement Exchange were also members of the respondent Maryland Builders Supply Association.

PAR. 9. The respondent National Federation of Builders Supply Associations is a corporation organized under the laws of the State of New Jersey in 1933, comprising certain associations of dealers engaged in the several States of the United States in the sale and distribution of building materials and builders' supplies and federated together for the purpose of promoting the business interest of the dealer members of said associations. The membership of said respondent Federation consisted of forty-one federated units located in approximately thirty-two States throughout the United States. The said federated units were as follows: the respondents Building Material Institute of Cleveland, the Western Pennsylvania Builders Supply Alliance, Lime and Cement Exchange of Baltimore City, Maryland Builders Supply Association, New Jersey Mason Material

Dealers Association, New York State Builders Supply Association, Ohio Builders Supply Association, the Building Material Merchants of Chicago District, Michigan Builders Supply Association, Builders Supply Dealers Association of Eastern Pennsylvania, Greater Washington Builders Supply Association, Philadelphia Builders Supply Association, Virginia Lumber and Building Supply Dealers Association, Inc., Alabama Lumber and Building Material Association, Builders Supply Dealers Association of Wisconsin, Building Material Credit Association, Inc., Building Material Dealers Association of Greater St. Louis, Building Material Dealers Association of San Diego, California, Building Material Dealers Association of Western Washington, Building Material Men's Association of Westchester County, Building Supply Dealers Association of Northern California, Building Supply Dealers Association of Oregon, Carolina Retail Lumber and Building Supply Dealers Association, Colorado Association of Builders Supply Dealers, Florida Lumber and Millwork Association, Georgia Retail Lumber and Building Supply Association, Inc., Illinois Lumber and Material Dealers Association, Indiana Builders Supply Association, Iowa State Builders Supply Association, Kentucky Builders Supply Association, Los Angeles County Building Material Dealers Association, Mason Material Dealers Association, Inc., Mason Material Dealers Association of New Castle County, Delaware, Minnesota Building Supply Dealers Association, Missouri Valley Builders Supply Association, Inc., New England Builders Supply Association, Southern Builders Supply Association, Texas Builders Supply Dealers Association, Tri-County Division of Michigan Builders Supply Association, West Virginia Lumber and Builders' Supply Association, New York Builders Supply Trade Area Association, Inc., and Mississippi Retail Lumber Dealers Association. The affairs of said respondent Federation were managed by executive officers, including a president, vice-presidents, treasurer, secretary, and an executive committee which functioned in the nature of a board of directors, meeting from time to time for the transaction of business of the Federation. Respondent John M. Stoner was the president of said respondent Federation, and respondent Lawrence I. MacQueen, who was also the executive secretary of the respondent Building Material Dealers Alliance, manager of the respondent Pittsburgh Builders Supply Club, and executive secretary of respondent Western Pennsylvania Builders Supply Alliance, was also the secretary of the said respondent Federation, and the headquarters of said respondent Federation were maintained in the office of its secretary in Pittsburgh, Pa. The officers and executive

committee of said respondent Federation were actively engaged in securing the cooperation of all its affiliated units in maintaining the respondents' program and policies.

PAR. 10. The respondent members of respondent organizations and associations purchase building materials and builders' supplies from manufacturers and producers located in various States of the United States other than the States in which the respective members have their places of business, and cause said materials and supplies to be transported from the various States in which they are manufactured and produced to respondents at their respective places of business. Respondent members sometimes cause materials and supplies to be shipped and delivered to their customers from the respective places of manufacture of such materials and supplies in States other than those in which the respective customers are located. The activities of the respondent organizations and associations and the members thereof, have affected interstate commerce to the extent and in the manner hereinafter set forth. In the course of their respective businesses, the members of the respective respondent organizations and associations, but for the matters and things hereinafter set out, would be naturally and normally in competition with each other, and are in competition with other individuals, partnerships and corporations also engaged in the sale and distribution of building materials and builders' supplies.

I. Paragraphs 11 to 15, inclusive, refer primarily to the following respondent organizations, their officers, and their members, to wit: Building Material Dealers Alliance, Pittsburgh Builders Supply Club, Building Material Institute, Western Pennsylvania Builders Supply Alliance, Allied Construction Industries of Cleveland, Ohio, Inc., and to their cooperation in maintaining and enforcing the said respondents' program known as the Alliance program.

PAR. 11. The respondent organizations as aforesaid established a class of dealers in building materials and builders' supplies known as "recognized" dealers. These recognized dealers were the members of the respondent organizations and associations and building materials and builders' supplies dealers approved by the respondents. The articles of organization of the respondent Alliance provided as follows:

The recognized dealers in the Cleveland-Pittsburgh Trade Area shall be construed as those holding membership in, cooperating with, an organized dealer group within this territory, or who hold membership in the Alliance.

Membership in the respondent organizations was restricted, theoretically, to the ability of a dealer seeking recognition to establish an economic necessity for his business in the community which he served or proposed to serve, but, practically, it was the arbitrary decision of the officers and leaders representing the respondent members, competitors, or prospective competitors of the said dealer seeking recognition, in determining whether the said dealer should be classed as "recognized."

PAR. 12. The basic object and purpose of the Alliance program which all the respondents actively cooperated in maintaining was to control and confine the retail distribution of building materials and builders' supplies exclusively through such recognized dealers, and to prevent the direct sale of such materials and supplies by manufacturers to all others, to wit: consumers, non-recognized dealers, vendors, contractors, and State Governments and other political sub-divisions; and to require all such purchasers to purchase their materials and supplies through recognized dealer channels upon terms or conditions of sale which afforded a commission or profit to such recognized dealers.

PAR. 13. Further objectives of the respondents' Alliance program were (a) to limit the distribution of building materials and builders' supplies to carload quantities by railroad only, and thus eliminate distribution by motor truck or motor vehicles, so preventing competing dealers, vendors, contractors, and other purchasers from obtaining their requirements in truckload quantities; only recognized dealers could participate in pool car shipments, and all others were to be prevented from so participating with the recognized dealers; (b) to prevent manufacturers of cement blocks from purchasing their raw materials direct from manufacturers and producers, and to require such manufacturers to purchase their raw materials exclusively from the respondent members and recognized dealers at prices which afforded a profit to such dealers and members; (c) to require the sale and distribution of all cement requirements for all buildings and other private construction, as well as for highway, bridge, and culvert construction and maintenance, and the cement requirements for cities, counties, and all other political sub-divisions of states to be made through the medium of said respondent members and recognized dealers and at prices affording a profit to said members and dealers; (d) to facilitate price fixing among recognized dealers in their respective communities; and (e) to eliminate brokers in the distribution of building materials and builders' supplies.

PAR. 14. For the accomplishment of the aforesaid objects and purposes of the respondents' Alliance program, the respondent organizations, their officers and members, under the leadership of respondent Lawrence I. MacQueen, have used the following methods and practices:

(a) They have exacted and procured written pledges and other promises and agreements from each respondent member and from manufacturers and producers of building materials and builders' supplies to the effect that such members and manufacturers will support and adhere to the respondents' Alliance program. The articles of the Alliance organization provided: "A member of the Alliance shall be required to pledge support to such principles and policies as may at that time represent the mind of the Alliance, and to such later policies as may be duly and properly adopted." The Alliance membership pledge is as follows:

BUILDING MATERIAL DEALERS ALLIANCE

In recognition of the value and importance of a closer relationship and co-operation between those dealers in building material who have an obvious community of interest, we do hereby accept membership in the Building Material Dealers Alliance and do pledge ourselves to the observance and maintenance, in so far as it is within our power, of the following principles:

1. It is the sole right and prerogative of the organized dealers in Building Material serving any community to determine who shall be qualified as a recognized dealer in that community and when such recognition shall be accorded.

2. The interests of the building industry are conserved and protected when producers of Building Material distribute their products exclusively through recognized dealers in such material.

3. Our mutual interests are best served and the welfare of the industry is advanced when the solicitation of business and the quotation of prices by producer's representatives and salesmen are confined to recognized dealers.

4. The maintenance both by ourselves and by our sources of supply of definite terms of sale and proper credit practices is a fundamental necessity for the continuity of our business.

5. Where equitable practice and market stability requires, the shipment of all building material shall be made in carload quantities by rail.

6. The use of jobbers and brokers as a medium for the distribution of building material in an area served by recognized dealers is unnecessary and uneconomic.

SIGNED:-----

(b) For the purpose of inducing and compelling manufacturers and producers to conform to said program, membership lists of the respondent organizers were mailed to large numbers of such manufacturers and producers in the various States of the United States, together with statements of policy and letters which implied boycott, or contained threats of boycott, against the materials of manufac-

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turers and producers who failed to cooperate. For example, secretary MacQueen addressed the following form letter:

To all manufacturers of Building Material serving the Cleveland-Pittsburgh Area:

GENTLEMEN:

By direction of the councilors of the Building Material Alliance representing the recognized dealers in the Cleveland-Pittsburgh Trade Area, I am sending to you certain statements which represent the basic policy of each member of the Alliance * * *.

It would be very pleasing to this group of more than 150 recognized dealers in this area, if you would inform your salesmen or sales representatives of these statements of policy, and it's our earnest hope that you may see your way clear to insist that they give to these recognized dealers their sincere and wholehearted support. * * *

Naturally, a statement from any manufacturer of his desire and willingness to cooperate with the Alliance—will be appreciated and all members will be fully informed of such evidence of understanding helpfulness.

You will find enclosed a list of the membership of the Building Material Alliance of the Cleveland-Pittsburgh Trade Area, representing the recognized dealers in this territory of March 1, 1933. This is sent you in the expectation that it will be helpful to you in the proper distribution of your product in this district.

Very sincerely yours,

(S) L. I. MACQUEEN,
Secretary.

The following statements of policy were enclosed with the above letter:

STATEMENT OF POLICY

NUMBER THREE

It is the fixed policy of each member of the Building Material Dealers Alliance of the Cleveland-Pittsburgh Trade Area that they will only warehouse and push the sale of those brands of commodities which are marketed exclusively through the recognized dealers in this trade area.

NUMBER FOUR

The members of the Building Material Dealers Alliance will construe as an unfriendly act the sale of any type of building material, usually and customarily sold through building supply dealers, directly to contractor or consumer at any point within the Cleveland-Pittsburgh trade area where recognized dealer distribution is available. Further, it is held by the members of the Alliance that on new business, on and after March 1st, the shipment by manufacturers of any building material within this trade area other than in car lots by rail will be detrimental to the interests of the recognized building material dealers and subversive to the dealer structure.

(c) Consistent and combined pressure of the respondent dealers was exerted on manufacturers and producers to accept and cooperate with the respondents' program. This pressure took the form of

official letters, personal contacts, telephone calls, and telegrams containing implied threats that if a manufacturer did not so abide the members of the respondent organizations would not do further business with him.

(d) The respondent officers and members conducted a system of espionage upon the business of manufacturers, members, non-recognized dealers, and others; complaints against manufacturers for violations of the respondents' program were made directly to secretary MacQueen, or indirectly through a councillor, and said complaints were brought to the attention of the respondent members and discussed at the meetings of the respondent organizations; letters to secretary MacQueen from manufacturers and producers indicating cooperation with respondents' program were also brought to the notice of respondent members at their meetings; secretary MacQueen, through various sources of information, particularly through members, received reports relative to the conduct of other members and the observance or nonobservance of their pledges.

(e) In conformity to secretary MacQueen's advocacy of "publicity for the facts" to insure an effective working unit, the officers of respondent organizations transmitted information, either orally or by official bulletins and communications, to respondent dealer members in regard to manufacturers who were not abiding by the respondents' program, the obvious inference being that the members should not further do business with these non-conforming manufacturers.

(f) Official letters and resolutions of respondents were addressed to, and oral conferences were had with manufacturers and railroad officials in order to promote and enforce the respondents' policy of "shipments of carload lots by rail only" and to eliminate the trucking of building materials and builders' supplies.

(g) Price-lists were issued from the office of Lawrence I. MacQueen as an official of respondent organizations, to which lists the dealers in the Pittsburgh and Western Pennsylvania markets were supposed to adhere. Changes of prices were furnished from Mr. MacQueen's office by supplemental pages forwarded or handed to the members to insert in their "price books." If a dealer failed to adhere to said prices, pressure was brought to bear by the respondents on the source of supply of that dealer, and other respondent dealers would not purchase materials from a manufacturer who insisted upon selling to a dealer who was not adhering to the price-list.

PAR. 15. The respondent organizations and associations actively cooperated in the enforcement and maintenance of the Alliance program. Lawrence I. MacQueen was the executive secretary in two of the organizations, to wit: Building Material Dealers Alliance and

Western Pennsylvania Builders Supply Alliance, and manager of the Pittsburgh Builders Supply Club, and operated as the official of these three organizations from the same office in Pittsburgh; and the president and manager, respectively, of the other two organizations, to wit: Building Material Institute, and Allied Construction Industries were councillors of Building Material Dealers Alliance. Reports, bulletins, pamphlets, letters, extracts from meetings, rosters of membership, and other data were mailed by Mr. MacQueen to the members of the respondent organizations, most of whom were listed as members of the respondent Alliance. The officers of said respondent organizations cooperated in reporting and disseminating information identifying the manufacturers who violated the Alliance program.

II. Paragraphs 16 to 33 refer primarily to the activities of the other named respondent organizations and associations, their officers, and their members, to wit: Lime and Cement Exchange of Baltimore City, Middle Atlantic Council of Builders Supply Associations, Maryland Builders Supply Association, and the National Federation of Builders Supply Associations and its federated units and members thereof.

PAR. 16. On May 19, 1933, secretary L. I. MacQueen sent a form letter, entitled "A Call to Action," over the entire country to secretaries and presidents of organized groups and to various dealers in the building supply industry. The letter is in part as follows:

To the responsible executives of organized groups within the construction industry:

At the regular meeting of the councillors of the Building Material Dealers Alliance in the Cleveland-Pittsburgh area, it was directed that a general call be issued to all organized groups of dealers in builders supplies—requesting that they delegate representatives to a conference to be held in Cleveland, on Monday, June 5.

The said meeting on June 5, 1933, is the last recorded meeting of the Building Material Dealers Alliance as such. The meeting resulted in the formation of the respondent National Federation of Builders Supply Associations, which was to apply on a national scale the principles and programs of the Alliance under the same leadership, with its headquarters at Pittsburgh, Pa., at the office of its secretary, respondent L. I. MacQueen, who was the author of the booklet entitled "Alliance Program," which contained the principles and policies of the Alliance movement.

PAR. 17. The directors of the respondent National Federation, in convention assembled in December 1934, adopted a "Resolution of Dealer Definition," which set forth the qualifications necessary for

recognition as a dealer in builders' supplies. This dealer definition was mailed to the officers of the affiliated units of the National Federation for distribution among its members. At about the same time, the respondent National Federation issued "A Declaration of Business Policy," which was widely distributed among the dealer members of the units of said respondent National Federation. Many of the dealer members signed said declaration on perforated coupons attached to the bottom of said declarations, and mailed the said signed coupons to secretary MacQueen's office, indicating their acceptance thereof. The members were requested to hang said declarations in their offices. Said declaration is in part as follows:

We resolve, therefore, that whenever possible, we will hereafter purchase builders supplies from those manufacturers or producers of builders supplies who merchandise their products to dealers in builders supplies, when sold for use within a recognized marketing area which is constantly and regularly served by dealers or from those manufacturers who comply with the provisions of the Code of Fair Competition for the Builders Supply Trade.

The purpose and intention of the above resolution was to keep the sale and distribution of building materials and builders' supplies within clearly circumscribed limits, to wit: To the qualified recognized dealers under the respondent Federation's definition, as represented by the members of its affiliated units; and to have said dealer members limit their patronage to those manufacturers and producers who sold exclusively to those dealers so recognized by the Federation.

PAR. 18. The directors of the National Federation, at a meeting in Kansas City, Mo., on June 3 and 4, 1935, voted the following: "Executive Committee goes on record as definitely opposed to the practice of receiving builders' supplies in any other way than by rail, preferably in carload quantities."

PAR. 19. Secretary MacQueen of the respondent National Federation issued a form letter dated August 30, 1935, to officers and directors of federated units. Said letter is in part as follows: "Local markets must be stabilized. In some way we must control those dealers or alleged dealers who * * * are destroying the stability of our markets."

PAR. 20. Harloe S. Chaffee, a director of the National Federation, and the president of the New York State Builders Supply Association, an affiliated unit of the National Federation, was the chairman of a cement committee, consisting of twelve other dealer members located in various States of the United States, representing the said National Federation, which met with representatives of the cement industry, and as a result of negotiations, a large number of cement companies, in April 1935, announced a "Revised Distribution Policy." This revised policy contained a definition of an "equipped cement

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dealer" to whom the cement companies were to confine all sales of cement, with certain specific exceptions stated in said policy. Secretary MacQueen, in a circular letter mailed to all the secretaries of the federated units, stated "a most important element in this revised distribution policy is the definition of an equipped cement dealer." Secretary MacQueen, in an official communication to the federated units on June 19, 1935, stated: "The splendid service to the industry rendered by the Federation in connection with the sales policy generally announced by cement companies is illustrative of the necessity of the Federation and of its value to all federated groups. Without a doubt this recently announced cement policy will turn not less than \$25,000,000 worth of business into dealer channels * * *."

PAR. 21. At the meeting of the respondent National Federation in June 1935, secretary MacQueen stated:

First, the responsibility devolved upon every dealer in builders' supplies to ascertain whether or not the cement manufacturer from whom he purchased cement has issued a statement of policy as to distribution * * *.

It was suggested therefore that unless the dealer had received notice from his cement manufacturer of the adoption of this policy that he communicate with the manufacturer, inquiring whether such policy had been issued, and if not, why not. Unquestionably dealers should give their patronage to those manufacturers who had indicated in writing their policy of distribution.

Second, since the policy was to distribute through "equipped cement dealers" the speaker outlined a definite program which he recommended to all markets as the procedure to be followed in developing accurate lists of equipped dealers in every market.

Third, all markets were urged to maintain as a fixed mark-up the addition of 15¢ per barrel for Portland cement f. o. b. cars.

Secretary MacQueen's plan was that a committee be appointed within each federated unit to prepare a list of "equipped cement dealers," and that the list be presented personally to each cement manufacturer who sells within a given market. The secretary of each federated unit would then send his list to the secretary of the National Federation, and master lists would then be compiled which would include all the selected "equipped cement dealers" within the territories of all the federated units.

PAR. 22. The respondent National Federation, in calling its convention to be held January 9, 10, and 11, 1936, issued, on November 29, 1935, "A Call to Arms * * * to the 500 odd dealers throughout the United States who have always sold more than one-half of all hard material distributed through dealer channels in this country." The National Federation appointed major commodity committees to work in conjunction with the commodity committees of the federated units. The object of these commodity committees was to assist in the maintenance of a policy of dealer distribution for the par-

ticular major commodities of the building supply industry. The major commodity committees included committees on cement, clay products, metal lath, lime, gypsum products, metal sash, mineral aggregates, ready mixed concrete, brick, roofing, and sewer pipe. At said convention the Federation adopted the recommendations of the cement committee, which were in brief:

1. That cement manufacturers should not ship to dealers outside their particular dealer territory.

2. That the organized units, with the assistance of their dealer members, determine the selling territory of each dealer.

3. That the cement manufacturers desist from all warehouse operations.

4. That all trucking of cement be stopped.

5. That the dealers maintain a minimum differential of 15¢ per barrel on all sales of Portland cement in carload quantities.

6. That the federated units make revised lists of established dealers, these to be furnished to all cement manufacturers shipping into their territory.

7. That all ethical manufacturers of cement be given recognition in all metropolitan markets, even at some possible inconvenience to dealers in that market.

Chairman Chaffee of the said cement committee was appointed by the Federation as Special Liaison Officer to receive complaints from dealer members in regard to cement sales by cement companies throughout the country which the secretaries of the federated units of the Federation were unable "to effect a satisfactory settlement." Mr. Chaffee received a large number of these complaints which were "regularly destroyed as soon as they were cleaned up," and a large number of said complaints were made and handled entirely by long distance telephone. Mr. Chaffee testified, "I can assure you that I put nothing on paper." In response to complaints made by a dealer in Harrisonburg, Va., Mr. Chaffee, as chairman of the National Cement Committee, wrote to the Keystone Portland Cement Company of Philadelphia, Pa., because of a direct sale made by said cement company to the Nielsen Construction Company for delivery at Shenandoah, Va., and in regard to other prospective deliveries at Staunton, Va., for the same firm; Chairman Chaffee also wrote to the Superior Cement Company of Portsmouth, Ohio, in regard to a direct sale by that company to J. I. Barnes of Logansport, Ind., for use on the United States post office building at Orange, Va. The said Nielsen Construction Company and J. I. Barnes were not considered "equipped cement dealers" by the respondents.

Mr. Chaffee wrote, "The Dealers represented at this coming meeting (directors' meeting of the National Federation) are vitally interested in knowing the policy and position of the various manufacturers of cement throughout the country. Your cooperation will be keenly appreciated."

PAR. 23. In 1935, the United States Government, through the Procurement Division for the Relief Administration, announced a policy of buying directly from manufacturers. Secretary MacQueen of the respondent Federation announced that this policy "must be stopped" in a form letter dated July 8, 1935.

The United States Government, in connection with F. E. R. A., sent out an inquiry "for 100,000 barrels of cement to manufacturers within the State of Ohio." The following excerpt is taken from a report on Federation activities, signed by Lawrence I. MacQueen, Secretary, dated August 22, 1935:

As a result of the prompt action on the part of the State organization (Ohio Builders Supply Association, an affiliated unit of the National Federation), and with the leadership of the president of the Federation, no cement company quoted. This same inquiry was then issued to manufacturers outside of the State, and again no direct bids were made. A committee headed by the president of the Federation met with the purchasing agent for relief work in the State of Ohio, and negotiated for a recognition of the rights and privileges of dealers. This work in Ohio unquestionably served to assist in bringing the Government to see the position of the dealer in connection with Government bidding.

The National Federation was successful in having the United States Government change its announced policy of direct purchase of materials for relief purposes, and Secretary MacQueen, on August 28, 1935, addressed a form letter to the units of the Federation which refers to said activity of the Federation as "one of the finest pieces of cooperative work this industry ever engaged in" in "bucking a department of the Government" and thereby secured for "dealer distribution \$50,000,000 worth of business" which the Government "was determined to buy direct."

PAR. 24. The respondents Lime and Cement Exchange of Baltimore City and the Maryland Builders Supply Association, affiliated units of the respondent National Federation, and the Middle Atlantic Council of Builders Supply Associations, which included in its membership of eight associations seven affiliated units of the said National Federation, actively cooperated with the said National Federation in enforcing and maintaining the principles and program of the said National Federation, as above set forth. Respondent H. C. Thompson was the secretary of each of the three above named respondent organizations, as heretofore stated. Secretary Thompson

received from Secretary MacQueen of the National Federation copies of the "Resolution of Dealer Definition" above referred to, and adopted said definition in determining who was a dealer in building materials. Secretary Thompson also received from Secretary MacQueen at least 100 copies of "Declarations of Business Policy" referred to above, and he distributed at least 50 of the same. It was the duty of respondent Thompson, as secretary of these organizations, which he fulfilled, to notify members of the names of manufacturers who made direct sales to those whom the respondents did not consider as dealers in builders' supplies.

PAR. 25. Secretary Thompson of the Lime and Cement Exchange sent membership lists of said Exchange, together with the names of a few other approved dealers, to several manufacturers located in various States, to wit: New York, Pennsylvania, New Jersey, Illinois, Ohio, and Maryland, who shipped, sold, and distributed their products in the markets where the dealer members of said Exchange have their places of business, with the implied suggestion that sales be confined to said list. Replies from several manufacturers were received indicating cooperation. The respondent Exchange adopted a resolution stating that the Lehigh Portland Cement Company had accepted a contract in Baltimore without a dealer being a party thereto, and said resolution condemned the action of any cement manufacturer or any other manufacturer of building materials in selling direct to the United States Government, the State, or any political sub-division, concrete block manufacturers, ready-mix plants, or any other purchaser of building materials for manufacturing and/or construction. In accordance with the said resolution, copies were sent to all members and to all manufacturers selling to the dealers in the Baltimore area.

Secretary Thompson forwarded a copy of said resolution to the secretary of the National Federation, with the suggestion that a copy of this resolution be broadcast from the National Federation office among all of its units, "as this will be direct evidence that at least one cement company has already started to sell direct rather than through a building supply dealer."

PAR. 26. The respondent L. H. Thompson, as secretary of the Maryland Builders Supply Association, mailed a "Special Notice to all Members," calling attention to a direct sale to a contractor by the Lehigh Portland Cement Company. The Maryland Builders Supply Association included in its membership the members of the respondent Lime and Cement Exchange.

PAR. 27. The Baltimore Lumber Company, a competitor of the members of said Exchange, was unable to purchase cement in car-

load lots from several manufacturers because of the interference of the said Exchange and its unwillingness to classify the firm as a dealer. The said firm, in 1935, did about \$340,000 worth of business in lumber and building materials, both within and outside the State of Maryland; the said firm applied for membership in said Exchange, and it was refused membership.

PAR. 28. The Middle Atlantic Council of Builders' Supply Associations was formed "for the sole purpose of getting representation from adjoining trade areas of the builders' supply industry; thereby having a council to solve problems in the different overlapping areas which are more or less of the same character." The Council, at a meeting on January 18, 1935, adopted the following resolution:

First. "That manufacturers should distribute builders supplies through established and recognized builders supply dealers."

Second. "That a new dealer account * * * should not be opened by any manufacturer * * * until after such manufacturer had communicated * * * to ascertain if the contemplated account is a builders supply dealer in the trade area."

These resolutions, as adopted, are being mailed to manufacturers of the principal commodities sold by builders supply dealers in the territory in order that all manufacturers may know the distribution policies acceptable to the members of these associations.

Respondent Thompson, as secretary of said Council, sent the above resolution to several manufacturers located in various States of the United States who service the markets of the members of its associations, and several responses were received from said manufacturers indicating cooperation. The following reply is typical:

"We are pleased to advise you that we are taking steps to give you complete cooperation by advising our sales representatives to conform with the distribution policies which are acceptable to the members of your association * * *

PAR. 29. The New Jersey Mason Material Dealers Association is a New Jersey corporation, with its principal headquarters in Newark in said State. The said Association was a member of the respondent Middle Atlantic Council of Builders Supply Associations, and is an affiliated unit of the respondent National Federation, and actively cooperated with said Federation in maintaining and enforcing the policies and program of said Federation as hereinabove set forth. The membership of said Association consists of: (a) Active members who are dealers in building materials with places of business in New Jersey, and (b) associate members who are manufacturers located in various States of the United States, who service the building material markets in New Jersey. W. M. Staubus was secretary of said association during the years 1929-1933, and Edward J. Kernahan is now its secretary and manager. The said Association and its

officers were active in maintaining the principle that all building materials should be distributed through recognized dealers as represented by the members of said Association. Manufacturers were warned not to sell direct to those not recognized, and the dealer members were requested to buy only from those manufacturers who sold through the recognized dealers, and said dealer members were requested to consult the directories of the associate members of the Association, which were distributed to dealer members, when needing their supplies. The qualification of the associate members, who paid \$25.00 a year dues, is that they abide by the policies of the said Association. The dues of the active members were determined by the volume of their business. The active members of said Association comprised approximately 100 out of approximately 300 dealers in New Jersey, and the sales of the dealer members represented the preponderance of sales of building materials in the New Jersey market. The following concerns are representative members of said Association but do not constitute the entire membership of said Association:

Tidewater Stone & Supply Co.,
Hackensack, N. J.
Campbell, Morrell & Co., Passaic,
N. J.
Hill City Coal & Lumber Co., Sum-
mit, N. J.
Rovegno-Hall Co., Jersey City,
N. J.

Perry & Ruck, Inc., Newark, N. J.
Comfort Coal-Lumber Co., Hacken-
sack, N. J.
Ogden & Cadmus, Bloomfield, N. J.
Osborne & Marsellis Co., Upper
Montclair, N. J.
Phillipsburg Supply Co., Phillips-
burg, N. J.

The Association was active in the elimination of trucking to the dealers' jobs.

The Greenburg Sash, Door, and Supply Company, a New Jersey corporation, organized in 1926, with its principal place of business in Newark, in said State, was engaged in the building material supply business, selling its products both within and outside the said State of New Jersey. The average business of the corporation is about \$200,000 a year, of which about \$75,000 represented its mason material business. The said corporation is in competition with members of said Association. Several manufacturers of cement and building materials who shipped their products from outside the State of New Jersey into the markets of said State, stopped selling the said corporation because of the activity of said Association. The corporation applied for membership in the said Association on three different occasions, but its applications for membership were refused.

The Rockland Concrete Sales Company, Inc., is a New Jersey corporation engaged in the mason material supplies business. Several manufacturers of cement and building materials refused to sell said

company because it was not a member of the New Jersey Mason Material Dealers Association. The company made application for membership in the said Association, and was advised by Secretary Kernahan that it was not qualified to be a member. The said company had a large warehouse and garage, which is sufficiently stocked with mason and building materials, and necessary delivery facilities to supply the ordinary business demands of the community where its business was located. The said company is in competition with members of said Association.

James Ricigliano, another competitor of some of the members of said Association, experienced similar difficulty in obtaining his requirements due to the activity of said Association.

PAR. 30. The New York State Builders Supply Association is a corporation organized in 1917, under the laws of the State of New York, having its headquarters in Utica, N. Y. Its membership consisted of approximately 400 dealers in the building material business whose places of business were located in the State of New York, but outside the city of New York. The following concerns are representative members of said association but do not constitute the entire membership of said association:

Globe Plaster Co.,
Buffalo, N. Y.

Acme Builders Supply Co., Inc.,
Buffalo, N. Y.

Bison Builders Supply Co., Inc.,
Buffalo, N. Y.

Kenmore Builders Supply Co., Inc.,
Buffalo, N. Y.

Paragon Plaster Co.,
Syracuse, N. Y.

I. W. Miller & Son,
Olean, N. Y.

The said Association is an affiliated unit of the respondent National Federation. H. S. Chaffee was president of the said New York Association during 1933, 1934 and 1935, and represented the said Association as a director of the said National Federation during the years 1933 to 1936. He also served as chairman of the National Cement Committee, and as Special Liaison Officer, as hereinabove noted. The said New York Association, and its officers, actively cooperated with the National Federation and its officers, directors, and members, in the enforcement and maintenance of the Federation program and policies, as above set forth.

The said New York Association endorsed and adopted the recommendations of the National Cement Committee as adopted by the National Federation which recommendations are set forth in paragraph 22 above. Members of said New York Association, acting on the instruction of their authorized officers, forwarded notices and copies of all public bids for cement in their particular localities to the office of the secretary of said Association, where the bids were

tabulated and published, with the name of the bidder, amount bid, and the date, in news letters and other official documents which were distributed throughout the State to dealers. Said publications contained the "violations" of the dealers who failed to adhere to the 15¢ differential on Portland cement. President Chaffee communicated with, and criticized, a number of these bidders who did not adhere to the fifteen cents per barrel mark-up. Complaints were made to cement companies for selling dealers who were not adhering to the fifteen cents per barrel mark-up. The Alpha Portland Cement Company sells and distributes about 60,000 barrels a year in Buffalo, N. Y., and the surrounding counties; about one-half of this amount is shipped into the said Buffalo area from the plant of the company located in Pennsylvania; the other half is shipped from its plant located within the State of New York. Said company sold substantial amounts of cement to the Ark Builders Supply Company, Inc., of Buffalo, N. Y. Respondent Chaffee complained to a representative of said cement company for selling to the said Ark Builders Supply Company, Inc., because he was a price-cutter, and said Chaffee threatened the cement company with a loss of tonnage from other dealers if sales to the said Ark Builders Supply Company, Inc., were not discontinued. According to the program of said Association, only those dealers who were members, or who qualified under the definition of a dealer, as contained in the constitution and by-laws, of said Association should be able to buy direct from manufacturers and producers. Complaints were made by Mr. Chaffee to certain manufacturers for selling to dealers whom he did not consider qualified to be dealers. The Globe Plaster Company of Buffalo, New York, of which H. S. Chaffee was the vice-president, and the Acme Builders Supply & Fuel Co., of Buffalo, N. Y., are two of the largest dealers in building materials in the Buffalo area, and both are members of the said New York Association. The Globe Plaster Company and the Acme Builders Supply & Fuel Co., at separate intervals, issued price-lists which the dealer members of the said New York Association in the Buffalo area were supposed to adhere to. The Buffalo dealers, members of the New York Association, met at frequent intervals and discussed said prices. August Neuman, president of the Ark Builders Supply Company, Inc., which was having difficulty in obtaining its requirements, was "called down" by president Chaffee for selling below the prices as listed by the Globe Plaster Company.

PAR. 31. The Building Material Merchants of Chicago District is a voluntary trade association with its headquarters in Chicago, Ill.;

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its membership consisted of retail dealers in building supplies having places of business in Cook County, Ill., which composed the territorial jurisdiction of said Association. The said Cook County is one of the largest building supplies markets in the United States. The business of the members of said Association, in September 1935, represented about 92.2% of the building supplies sold in that area. The members of said Association purchase large quantities of their requirements from outside the State of Illinois, and some of said members sell and distribute their products outside the State of Illinois. The said Association was a unit of the National Federation and cooperated with the officials of said Federation in the Federation program as above set forth; said Association was active in securing dealer distribution of cement, plaster, and other building materials exclusively through the medium of its members; in accordance with a written request from the secretary of the said National Federation, the directors of the said Association, at its meeting on April 23, 1935, ordered the secretary of the said Association to prepare a list of "equipped cement dealers" for submission to cement manufacturers; that within certain territories within the jurisdiction of said Association, lists of "equipped cement dealers" were prepared; in at least one instance, the secretary of the said Association complained to a manufacturer for making a direct sale to a concern which was not a member of said Association and which concern said Association did not consider to be a dealer; letters forwarded to said manufacturer from the secretary contained a veiled threat that the members of the Association might not purchase the product of said manufacturer. The officers of said Association attempted to maintain retail prices on building materials by distributing composite price-lists, made up from prices filed by the various members, to which the members were expected to adhere. The following concerns are representative members of said association but do not constitute the entire membership of said association:

Consumers Company,
Chicago, Ill.
Chicago Fire Brick Company,
Chicago, Ill.
Moulding Brownell Corp.,
Chicago, Ill.

Consolidated Company,
Chicago, Ill.
Calumet Coal Co.,
Chicago, Ill.
Ideal Building Material Co.,
Chicago, Ill.

PAR. 32. The Michigan Builders Supply Association is an unincorporated voluntary trade association organized in 1927 and having its headquarters in Ypsilanti in said State of Michigan; its membership consists of approximately 235 retail dealers in building materials and builders' supplies with places of business in said State of Michi-

gan, not including the city of Detroit, and numbering in said membership many of the largest dealers in said area; as a federated unit of the respondent National Federation, the said Association contributed to the support of said Federation, and cooperated with it and its officers and members in the maintenance of the Federation program as above set forth. The basic policy of said Association calls for the "100% distribution" of all building materials and builders' supplies through dealers who qualify under the definition of a "legitimate and qualified retail builders' supply dealer" as set forth in the articles of said Association; the said legitimate and qualified dealers are the members of said Association and such other dealers as are recognized by the officers of said Association; a special bulletin issued by said Association, and distributed to its members, stated:

We work at all times to prevent the manufacturer selling *direct* to the *contractor* or customer, any kind of construction materials used by the *mason* contractor, the *plaster* contractor, or the *sewer* builder.—DISTRIBUTION OF BUILDERS' SUPPLIES THROUGH THE DEALER— * * *

We believe that dealers should stand together against the encroachments of direct selling by the manufacturer—whether these sales are made to private industry or to the UNITED STATES GOVERNMENT.

Manufacturers and producers servicing the markets within the territorial jurisdiction of said Association were notified of said dealer distribution policy; complaints were made to such manufacturers and producers who violated said policy in selling to others who were not recognized by the officers of said Association as legitimate and qualified dealers; the secretary of said Association sent letters to manufacturers "insisting" that they abide by said policy, and these letters contained the implied threats that members would not purchase the products of those manufacturers and producers who did not abide by the said dealer distribution policy; the secretary of said Association complained to the American Vitrified Products Company of Cleveland, Ohio, for violating the said dealer distribution policy and said letter is in part as follows: "before reaching a conclusion unfavorable to your company's policy, it is necessary to have an answer * * *"; another letter forwarded to a manufacturer by the secretary complained of a violation of said dealer policy, and said letter is in part as follows: "For your information, W. H. Knapp Company are contractors and are not, and never have been, recognized as dealers. Your quotations in that city (Monroe) should be made through one of the following: * * *" The names of four members of said Association are then set out in said letter.

In cooperation with the said National Federation, the secretary of said Association prepared a list of "equipped cement dealers" in

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Michigan which included, not only the members of said Association, but other dealers recognized by the officers of said Association as "equipped cement dealers;" said lists were forwarded to cement companies and to the office of the secretary of the National Federation; complaints were made by the secretary of said Association to the Aetna Portland Cement Company for selling to dealers not considered by the officers of said Association as "equipped cement dealers;" in cooperation with the Indiana Lumber and Builders Supply Association, the secretary of said respondent Association complained to the said Aetna Portland Cement Company about sales made in Indiana to the Farm Bureau Cooperative Association, Inc.; the said respondent Association actively cooperated with the National Federation in the policies calling for the elimination of trucking, as heretofore described, and the maintenance of the 15¢ dealers' differential per barrel on sales of Portland cement. The following concerns are representative members of said association but do not constitute the entire membership of said association:

Martin Dawson Company, Ypsilanti, Ann Arbor Fuel and Supply, Ann Mich. Arbor, Mich.

Van Poppelen Bros., Bay City, Mich.

J. P. Burroughs & Son, Flint, Mich.

S. A. Wilder & Son, Albion, Mich.

S. A. Morman & Co., Grand Rapids, Mich.

PAR. 33. The said National Federation was a national combination of effort and in the interest primarily of the dealers in builders' supplies who were members of its affiliated units; each member of each of the affiliated units of said National Federation, by virtue of such affiliation, joined and allied himself with all other builders' supplies dealers who were members of the other affiliated units located throughout the United States in concertedly pursuing common objects, purposes, and methods of said National Federation and its affiliated units. The activities of the said National Federation, as above set forth, were conducted primarily for the individual and mutual interests and advantages of the dealer members of all its federated units, and the results of said activities inured to the benefit of said dealer members. Respondents Lawrence I. MacQueen, as secretary of the said Federation, and H. C. Chaffee, as chairman of the National Cement Committee, and Special Liaison Officer, in their official duties and labors in behalf of the dealer members throughout the country of the federated units, were in frequent communication with the officers of said federated units. Said respondents also represented, and were in direct communication with, the dealer members thereof for the purpose, and with the effect, of assisting said dealer

members by effectuating the objects of the respondent organizations, with which said dealer members were respectively affiliated.

The dealer members of the affiliated units of the National Federation were at the time of the issuance and filing of the complaint herein so numerous and so widely scattered, to wit: several thousand dealer members of forty-one affiliated units located in thirty-two States of the United States, that all of the said dealer members of said affiliated units of said Federation could not, without manifest inconvenience and oppressive delay, be made parties respondent specifically by name, but were made parties respondent by representation herein. There is direct evidence in the record relative to the activities of the following respondent affiliated units of said National Federation and their officers and members: Building Material Institute, Western Pennsylvania Builders Supply Alliance, Lime & Cement Exchange of Baltimore City, Maryland Builders Supply Association, New Jersey Mason Material Dealers Association, New York Builders Supply Association, The Building Material Merchants of Chicago-District, The Michigan Builders Supply Association, and the Ohio Builders Supply Association. The above named respondent affiliated units were and have continued to be each and all of them fairly representative of the entire affiliated membership of the said National Federation, and the dealer membership of said affiliated units was and is representative of the dealer membership of all the other affiliated units of said Federation.

PAR. 34. The respondent dealer members of said associations and organizations of dealer members named herein do not constitute all of said dealer members, but are representative of the dealer members of said associations and organizations which have a common and general interest in the methods and purposes of said associations and organizations. Said dealer members constitute a class having a common or general interest so numerous as to make it impracticable to name them all as parties respondent.

PAR. 35. The aforesaid methods and purposes of the respondent organizations and associations, and the officers, councillors, and members, have tended to produce, and have produced, the following results:

(a) Interstate commerce in the sale and distribution of building materials and builders' supplies has been restrained by eliminating therefrom, or attempting to eliminate therefrom, the so-called irregular dealers, and manufacturers and producers who sell to such dealers, and by restricting, or attempting to restrict, said commerce to such manufacturers and producers, and to such dealers, as will, and do, abide by, adhere to, and support the program and plan of re-

spondents in the limitation of trade hereinabove described; and to otherwise restrain and obstruct the natural flow of commerce in the channels of interstate trade.

(b) Competition in the sale and distribution of building materials and builders' supplies has been substantially lessened, hindered, and suppressed in the territories served by the members of respondent organizations and associations.

(c) Manufacturers and producers of building material and builders' supplies in the various States who sell and distribute their products in the markets where respondent dealers have their places of business have quite generally confined such sale and distribution to the recognized dealers. Said manufacturers and producers received from respondents membership lists, together with official letters containing implied boycotts and threats of boycotts against the products of said manufacturers and producers unless their distribution was confined to the dealers recognized by respondents.

(d) Respondent members of respondent organizations have withdrawn and withheld their patronage from manufacturers and producers who have been reported and published as selling through so-called irregular channels, that is, not through recognized dealers.

(e) In numerous instances manufacturers and producers have refused to sell, or have discontinued selling, to persons or firms who were not on the respondents' membership lists, or who were reported to them by the respondents as not entitled to buy direct. In many instances, competitors of respondent members in the retail sale and distribution of building materials and builders' supplies were unable to obtain interstate shipments of their requirements because they were not recognized by the respondents.

(f) Manufacturers and producers were injured in their business by restriction of demand for their products and of freedom to sell same direct by confining their sales to the lists of dealers published and distributed by the respondents; in order not to incur "pressure" and "combined" or "concerted" action of respondents against them, they would not sell to many to whom they wanted to sell and considered as dealers; neither would they sell direct to consumers, contractors, vendors, Government and its political sub-divisions, but had to limit their sales through "recognized dealer distribution."

(g) Competition was further substantially interfered with and lessened by the respondents' activities in preventing dealer competitors from obtaining from manufacturers and producers small quantities of supplies to be transported by truck.

(h) Costs to the consuming public were increased by respondents' issuance and observance of price-lists in certain communities and by

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respondents' policy of exclusive dealer distribution because the consuming public was thereby denied the advantages in price which it otherwise would have obtained from the natural flow of commerce under conditions of free competition.

CONCLUSION

The practices of the respondent organizations and their officers, directors, and members, as set forth in the foregoing findings as to the facts, in the circumstances therein set forth, constituted a combination and conspiracy to engage in and to further unfair methods of competition in, and affecting, 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon 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, briefs filed herein, and oral arguments by Daniel J. Murphy, counsel for the Commission, and by Lawrence I. MacQueen, Herman J. Hughes and Webster C. Tall, counsel for the respondents, and the Commission having made its findings as to 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:

1. Building Material Dealers Alliance, its officers, councillors, and members, of which members the following respondents are representative: Geo. H. Lanz & Sons, Youngstown Ice Company, Pittsburgh Builders Supply Club, W. E. Wright Company, Alliance Builders Supply Company, M. C. Robinson & Company, Ohio Builders & Milling, Inc., The Tolerton Company, H. C. Boyd Lumber Company, The Kensington Supply Company, Allied Construction Industries of Cleveland, Ohio, Inc., Collingwood Shale Brick & Supply Company, Lakeshore Builders Supply Company, Inter-City Coal & Supply Company, O. C. Thayer & Son, Bye & Bye, Penn Coal & Supply Company, D. W. Challis & Sons, Inc., Hamilton & Meigs, Alcorn-Hahn Supply Company, and Hursh & Schory Coal Company;

2. Pittsburgh Builders Supply Club, its officers and members, of which members the following respondents are representative: Nathan

Bilder Company, Wm. H. Brant Sons, Frank Bryan, H. G. Dettling Company, Duncan & Porter Company, Heppenstall & Marquis, Hillside Stone & Supply Company, Houston-Starr Company, Iron City Sand & Gravel Company, Keller Brothers, D. J. Kennedy Company, Knox Strouss & Bragdon Company, Geo. Lanz & Sons, W. T. Leggett Company, McCrady-Rodgers Company, Morrison Bros., Pittsburgh Plaster & Supply Company, and Ed. Vero Company;

3. Building Material Institute, its officers and members, of which members the following respondents are representative: City Material & Coal, Inc., The Tom George Company, St. Clair Coal & Supply Company, Vanis Builders Supply & Lumber Company, Collingwood Shale B & S Company, Geist Kemper Material Company, Ideal Builders Supply & Fuel Company, Lake Shore Builders Supply Company, Medal Brick & Tile, Ohio Building Material Company, Ohio Clay Company, Bagley Road Lumber Company, Quincy Coal & Supply Company, Geo. D. Barriball Company, Zone Coal & Supply Company, Bennett Concrete Stone Company, The Clinton Company, Pompei Coal & Supply Company, Mayfield Builders Supply Company, Cleveland Builders Supply Company, Builders Supply & Fuel Company, City Material & Coal, Inc., E. E. Elias Company, Herot Builders Supply Company, Neff Coal & Supply Company, Chas. E. Phipps Company, Quincy Cement Block & Coal Company, Scheuer Bros. Builders Supply Company, and Vanis Builders Supply Company;

4. Western Pennsylvania Builders Supply Alliance, its officers, counsellors and members, of which members the following respondents are representative: Kittanning Limestone Supply Company, Shufflin & Green, E. M. Fullington's Sons, F. B. Scowden & Sons, Boyd & Schafer, O. C. Thayer & Son, O. C. Cluss Lumber Company, Campbell Company, E. W. Bissett & Son, Builders Supply Company, King Company, Colbert Supply Company, River Sand & Supply Company, D. W. Challis Company, Geo. Lanz & Sons, Russell Bros., C. L. Reed Lumber Company, Greensburg Builders Supply Company, Clinton Coal & Supply Company, Keystone Supply Company, T. R. Bolton, City Coal & Supply Company, Peoples Coal & Builders Supply Company, J. A. Walker, B. Scott McFarland, Hornbake Bros., Patterson Supply Company, Monessen Sand & Gravel Company, Dunbar & Wallace Lumber Company, State Construction Company, Clarion Lumber Company, Inc., Woodwork Supply Company, and Taylor Supply Company, Inc.

5. Allied Construction Industries of Cleveland, Inc., its officers and members, of which members the following respondents are repre-

sentative: Cleveland Builders Supply Company, Goff-Kirby Company and Ohio Building Material Company;

6. Lime & Cement Exchange of Baltimore City, its officers and members, of which members the following respondents are representative: Baltimore Clay Product Company, Alan E. Barton, Belair Road Supply Company, Inc., Central Building Supply, Inc., T. C. Davis Building Supply Company, Fred Elenbrok, Fullerton Supply Company, Robert S. Green, Inc., Hudson Building Supply Company, J. Scott Hunter, King Coal & Supply Company, Maryland Lime & Cement Company, Inc., Monumental Brick & Supply Company, National Building Supply Company, Inc., Northeastern Supply Company, The Patapsco Supply Company, Pen-Mar Company, Inc., Geo. Sack & Sons, Inc., M. B. Segall & Sons, Inc., Stebbins-Anderson Company, James H. Warthen, United Clay & Supply Company, Quincy L. Morrow Company;

7. Middle Atlantic Council of Builders Supply Associations, its officers and members;

8. Maryland Builders Supply Association, its officers and members; representative members of said association are enumerated above as respondent members of the Lime and Cement Exchange of Baltimore City;

9. National Federation of Builders Supply Associations, its officers, directors and respondent federated units and the officers and dealer members of said respondent federated units; representative of said respondent federated units are the following units and representative dealer members of each respectively:

New Jersey Mason Material Dealers Association, its officers and members, of which members the following are representative: Tidewater Stone & Supply Company, Campbell, Morrell & Company, Hill City Coal & Lumber Company, Rovegno-Hall Company, Perry & Ruck, Inc., Comfort Coal-Lumber Company, Ogden & Cadmus, Osborne & Marsellis Company, Phillipsburg Supply Company;

New York State Builders Supply Association, its officers and dealer members of which members the following are representative: Globe Plaster Company, Acme Builders Supply Company, Inc., Bison Builders Supply Company, Inc., Kenmore Builders Supply Company, Inc., Paragon Plaster Company, I. W. Miller & Son;

The Building Material Merchants of Chicago District, its officers and dealer members of which members the following are representative: Consumers Company, Chicago Fire Brick Com-

pany, Moulding Brownell Corporation, Consolidated Company, Calumet Coal Company, Ideal Building Material Company; and

The Michigan Builders Supply Association, its officers and dealer members of which members the following are representative: Martin Dawson Company, Van Poppelen Bros., S. A. Wilder & Son, Ann Arbor Fuel and Supply, J. P. Burroughs & Son, S. A. Morman & Company;

and their officers, directors, councillors, and members, separately and individually, and as representatives of the successors of said officers, directors and councillors, and as representatives of the members of all respondent organizations and associations, and all other respondents named in the complaint and in the findings as to the facts, and their agents, representatives, and employees, forthwith cease and desist from:

1. Preparing, publishing, and circulating among manufacturers and producers of building materials and builders' supplies, lists of directories containing the names of "recognized" dealers, for the purpose or with the effect of indicating that the specified persons or concerns are recognized as entitled to buy direct from said manufacturers and producers, and that other persons, concerns, or classes thereof are not so entitled.

2. Soliciting, accepting, or acting upon reports from respondent officers or members, concerning the arrival, delivery, or origin of shipments made to persons or concerns not recognized by them as entitled to buy direct from manufacturers or producers, for the purpose of preventing further dealings between such buyers and the manufacturers and producers selling them.

3. Using boycott, threats of boycott, either with or without other coercive methods, to persuade, induce, or compel manufacturers and producers to refrain from selling building materials and builders' supplies to the so-called irregular dealers, or to others, or to refrain from so selling, except on unfair, discriminatory, or prohibitive terms and conditions fixed by respondents.

4. Stating or intimating to manufacturers and producers that the so-called regular or "recognized" dealers would withhold or withdraw their patronage if said manufacturers and producers sold to the so-called irregular or non-recognized buyers.

5. Making or circulating among manufacturers and producers reports concerning the status, equipment, and business methods of dealer competitors of the respondent dealer members for the purpose of inducing manufacturers and producers not to sell to such dealer competitors.

6. Cooperating with other dealer organizations and with manufacturers and producers for the purpose of confining sale and distribution of building materials and builders' supplies to so-called regular channels, and preventing their sale and distribution otherwise.

7. Intimidating the representatives or agents of manufacturers and producers from having, or continuing, business relations with buyers or prospective buyers, who are not recognized by respondents as entitled to buy direct from manufacturers and producers.

8. Preparing, publishing, and circulating among the respondent dealer members, lists, bulletins, extracts of minutes of meetings or other communications, or otherwise conveying information to said dealer members concerning sales or prospective sales by manufacturers and producers to irregular or non-recognized dealers, or prospective buyers, for the purpose of having the said dealer members withhold or withdraw their patronage from such manufacturers and producers.

9. Engaging in any concerted or cooperative activity for the purpose of preventing manufacturers and producers of building materials and builders' supplies from selling freely to consumers, contractors, the United States Government, State Governments or their political sub-divisions, or other irregular dealers or retailers of any class or description, and of preventing such consumers, contractors, the United States Government, State governments or their political sub-divisions, or other irregular dealers or retailers of any class or description from purchasing freely from manufacturers and producers.

10. Fixing or establishing uniform prices at which respondent dealer members or others, in particular communities, should sell their materials and supplies.

11. Holding meetings of officers, directors, councillors, or members for the discussion and interchange of information and the adoption of plans and measures for executing or carrying out the above described programs and policies, or similar programs and policies.

12. Taking any other concerted, cooperative or coercive action to carry out or make effective any of the methods of competition alleged in the complaint.

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.¹

¹By order dated June 8, 1933, complaint in foregoing proceeding was dismissed without prejudice against the Illinois Lumber and Material Dealers Ass'n, Inc., its officers and members, included in the complaint at pages 156 and 157 in their representative capacity along with numerous others, as included in the membership of respondent National Federation of Builders Supply Associations, and again referred to as thus included in said associations' membership in the findings, *supra*, at pages 173 and 174.

IN THE MATTER OF

OLIVER BROTHERS, INC., ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (C) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 3088. Complaint, Mar. 26, 1937—Decision, Dec. 31, 1937

Where manufacturers, processors, and producers engaged in—

(1) Selling commodities, in course of interstate commerce, to distributing buyer concerns purchasing commodities in course of such commerce, through orders placed by such distributing buyer concerns as subscribers to corporation engaged in (a) selling market information and purchasing services to 300 distributing concerns scattered over the United States and, chiefly, wholesalers of automobile, electrical, radio, mill, machine, plumbing, steam, and hardware supplies, and in (b) purchasing, under its subscriber contracts and as called upon so to do, from several hundred similarly scattered individual manufacturers, processors, importers or producers; and in—

(2) Shipping merchandise to buyers in question as a result of orders thus placed by latter with aforesaid corporate service and under contract with it, pursuant to which, and in accordance with practice followed, said corporate service transmitted and paid over to buyers regular brokerage fees paid to it by purchasers on transactions in question, and in which fees it claimed no right, title or interest, and in which various transactions said corporate service acted solely as the agent and representative of the buyer and donated service, if any, to seller, and in connection with which various transactions buyers rendered no service either to said corporate concern or to sellers involved in connection with their purchase of commodities through said corporate concern, with result that buyers, through such service, obtained, by reason of payment over of such brokerage fees to them, a lower price on commodities thus purchased than other buyers and non-members of said corporate service organization obtained, on similar goods in like quantity bought direct from such sellers;

In pursuance of a general plan or scheme whereby fees and commissions paid by sellers might be and were made available to and transmitted to buyers through said corporate service and buyers be enabled to secure discounts in price from sellers under guise of brokerage payments—

- (a) Paid fees or commissions in connection with offer, sale and distribution of commodities as brokerage to aforesaid corporate service, with knowledge and intent that such fees or commissions would be and were paid over by said service to purchasers thereof as aforesaid; and

Where aforesaid distributing buyer concerns, engaged as aforesaid and as subscriber purchasers of said corporate service—

- (b) Accepted and received from said service fees or commissions paid or granted to it as brokerage or allowance by sellers of commodities on sales made by such sellers to aforesaid buyers; and