

IN THE MATTER OF

PITTSBURGH PLATE GLASS COMPANY ET AL.

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

Docket 3491. Complaint, July 14, 1938—Decision, Dec. 2, 1938

Where various corporations, individuals, and organizations engaged or concerned in distribution and sale of glass and glazing contracting business in St. Louis trade area, namely—

- (1) A corporation engaged in manufacturing glass and in selling and distributing same, and in conducting glass glazing contracting business throughout that part of the United States east of the Rocky Mountains, with manufacturing plants in 5 States and with some 70 warehouses or jobbing branches in many different States through which it sold and distributed its glass to dealers, and including among such jobbing branches 1 in city of St. Louis through which it sold and distributed its products in St. Louis trade area and conducted its glazing contracting business therein; (2) a second concern engaged in sale and distribution of said product and in said glazing contracting business in various States, and with 5 jobbing branches in different States, including St. Louis branch, through which latter it sold and distributed said product in aforesaid trade area and conducted its said glazing contracting business therein; and, (3) and (4), two others similarly engaged in aforesaid glazing contracting business and in sale and distribution of such products in aforesaid area; and, as incident to their said businesses, engaged, in case of all 4, in obtaining or purchasing glass from the various manufacturers with their factories in many different States and causing same to be transported from States of origin to State of Missouri, and in reselling same to dealers, processors, and users in said State and in Illinois, and, in some cases, in other States in trade area adjacent thereto, and in contracting for supply and installation of glass in buildings and structures in said St. Louis trade area and in supplying and installing glass in such structures therein, and, as thus variously engaged, in competition with one another in sale of glass in glazing contracting business in area in question, except insofar as their competition had been hindered, restricted or restrained, or potential competition in said glazing business among them forestalled, by said practices and policies below set forth, and in competition with other distributors likewise competitively engaged with one another in businesses and area aforesaid, except insofar as said competition had been hindered, etc., as hereinbefore described, by practices and policies involved;

Four individuals, managers, or officers of said four corporate distributors, in charge of said concerns' St. Louis branches or businesses serving area in question;

Secretary of the Southwest Division of the National Glass Distributors' Association, employed by such distributors on a part time basis (1) to police glazing contracting jobs in the St. Louis trade area to secure strict adherence

to specifications as to quality of workmanship and material, (2) to encourage use by said distributors of their code of ethics of fair trade practices, and (3) to promote the use of glass in competition with other materials used for the same purpose with architects and building owners and contractors; and

Two labor organizations of glaziers, members of which were engaged in glazing and installing plate, window, and structural glass in buildings in St. Louis trade area, and three individuals, officers and agents of said labor organizations, engaged in practices and policies as below described, tending to affect and restrain competition in commerce in glazing contracting business among aforesaid corporate and other distributors and glazing contractors in area involved—

Agreed, as the case might be, together and with others, and pursued a common course of action and undertaking among themselves and with others, to recognize, follow, and carry out, in aforesaid area—

- (a) Policies and trade practices in relation to the business of contracting for the supply and installation of glass in buildings and structures in such area, namely, (1) policy and practice of imposing such conditions upon other glazing contractors competing with said distributors or desiring to compete with them, in connection with such competitors' employment of glaziers to install glass in buildings and structures being erected or repaired in said trade area, as to tend to make it difficult or impracticable for such other glazing contractors to engage in the glazing contracting business in such area, and policies and practices which tended to (2) preclude such competing glazing contractors from bidding on contracts for the supply and installation of glass in such buildings and structures, or (3) from installing glass in buildings and structures being erected or repaired therein, or (4) which had a tendency to impose upon competing glazing contractors a requirement that they employ four glaziers steadily at the rate of \$12 per day each whether said glazing contractors could provide such employment or not, and (5) which tended to prejudice sash and door manufacturers operating in the St. Louis trade area in glazing glass and installing the same in sash and frames in their respective factories; and
- (b) Policies and practices in relation to sale of glass sold in glazing contracting business in said trade area, namely, policy and practice of discussing and exchanging information concerning (1) prices or proposed changes in price at which glass was being sold or was to be sold by such distributors in the glazing contracting business in the St. Louis trade area and of using such prices, and (2) prices at which glass was being supplied and installed in buildings and structures being erected or repaired in the St. Louis trade area and of using and observing such prices, and policy and practice (3) used by such distributors of apportioning among themselves some of the glazing contracting business in the St. Louis trade area, and (4) policy and practice of establishing some cost elements in the composition of bids to be submitted by said distributors individually for supplying and installing glass in buildings and structures in said trade area with result, in some cases, of uniform quotations, and (5) policy and practice which tended to hamper and restrict competition in the glazing contracting business in the St. Louis trade area, and which tended to promote a monopoly in such business in said area; and

Syllabus

27 F. T. C.

Where aforesaid various distributor concerns, and managers or officers, aforesaid secretary and aforesaid labor organizations and officers or agents thereof, for the purpose of making aforesaid policies and practices effective and requiring compliance therewith in said trade area, and acting separately or together, as the case might be, and in pursuance of the practices and policies above described—

- (a) Held meetings at which (1) said policies and practices were discussed, (2) the wisdom, feasibility or necessity of changes in the generally recognized market for glazing contracting work were discussed, and (3) forthcoming change or changes contemplated by some one distributor were indicated, to be followed, in some instances, by other distributors; and

Where aforesaid corporate distributors herein concerned, and aforesaid labor organizations, in pursuance of aforesaid policies and practices, etc., as above set forth—

- (b) Entered into agreements requiring that glazing contractors in St. Louis trade area should employ at least four glaziers steadily at the rate of \$12 per day, failing which they could not secure glaziers to install glass in buildings or structures in said area, and that no glass, installed under a glazing contractor's contract, should be set or glazed at any place except on the premises of the particular building or structure for which said glass was being furnished; and

Where aforesaid officers or representatives of such corporate distributors' branches or businesses in and for said St. Louis trade area, and acting in their capacity as such representatives and in pursuance of aforesaid objectives, etc.—

- (c) Occasionally met at irregular intervals and discussed subjects of interest to them in the industry, including prices for supplying and installing glass on contract in the St. Louis trade area, with tendency to result in uniform price schedule which was generally used by aforesaid distributors in their bidding on contracts in St. Louis trade area; and

Where said corporate distributors, acting as above set forth—

- (d) Employed aforesaid Glass Distributors' Association secretary to review, as part of his duties, bids on the more important glazing construction projects made by said distributors, to keep them informed as to prices bid by each of their number, and to check, when important disparities in quotations appeared, the accuracy of quantities and sizes taken from plans and the interpretations of the specifications; with tendency to neutralize competitive action; and

Where aforesaid distributors and their representatives, as above set forth—

- (e) Submitted bids, through understanding, in some cases, in such a manner that one of their number would submit a bid for a designated job that was less than the normal bid prices as bid by the other distributors, with result that some of glazing contracting business in said trade area was apportioned among aforesaid distributors; and

Where aforesaid distributors, as above set forth—

- (f) Sought and obtained cooperation from one another in making effective practices and policies hereinabove described and exchanged information with reference to their respective glazing contracting businesses to be used in furtherance of the policies and practices referred to; and

(g) Investigated practices and policies of competing glazing contractors, results of which, or investigations concerning same, were conveyed to such corporate distributors;

With result that the capacity, tendency, and effect of said policies and practices, and acts and practices in pursuance thereof as aforesaid, were to tend to (1) concentrate in said distributors the glazing contracting business in the St. Louis trade area, (2) maintain prices at, and conditions under, which glass is supplied by distributors in the glazing contracting business in St. Louis trade area, (3) lessen and restrict competition in glazing contracting business in said trade area, and otherwise tend to operate as a restraint upon, obstruction to, and detriment to the freedom of fair and legitimate competition in such business, (4) suppress competition among distributors in glazing contracting business in said trade area, and (5) burden, hamper, and interfere with the normal and natural flow of trade and commerce in glass into, through, and from the various States of the United States, particularly those included in the St. Louis trade area; and

With result that practices and policies of said corporate distributors, organizations, and individuals, as aforesaid, lessened, restricted and restrained glazing contracting business of members thereof and other glazing contractors, and directly and immediately restrained interstate commerce with respect to glass for glazing contracting business transported beyond the State in which the same was made or transported from the State of Missouri into other States; and

With further result that effect of such practices and policies, which exercised power not possessed by individual action upon public interest, had been or might be to tend to (1) increase normal price of glass sold in glazing contracts for construction purposes, (2) suppress and discriminate against small glazing contractors who were, or had been, engaged in, or desired to engage in, glazing contracting business in St. Louis trade area, (3) bring about disappearance of prices arrived at through play of competitive forces in glazing contracting business at the expense of buying public, (4) lessen the volume of private and public construction in which glass is used, (5) correspondingly tend to lessen the opportunities for employment, both in glass industry and in construction industry, and (6) tend to raise cost of public buildings and projects and private structures in which glass is used and thereby tend either to make them less available to public or raise taxes and rents by which public pays for them;

All to the prejudice of the public, and with result of placing in aforesaid corporations, individuals, and organizations power to control the glazing contracting business and tending to create monopoly in such business in hands thereof:

Held, That such acts and things, done as aforesaid by such corporations, individuals, and organizations, constituted unfair methods of competition in commerce.

Mr. Allen C. Phelps for the Commission.

Igoe, Carroll, Keefe & McAfee, of St. Louis, Mo., for Pittsburgh Plate Glass Co., Frank Clarke, Hadley-Dean Glass Co., Leo Hadley, Jr., and E. V. Hanser.

Complaint

27 F. T. C.

Mr. Jess B. Fields, of Bloomington, Ind., for Burroughs Glass Co. and Herbert H. Piou, and, together with *Greensfelder & Hemker*, of St. Louis, Mo., for The Nurre Companies, Inc. and Belmont W. Beinke.

Mr. J. A. Lennon, of St. Louis, Mo., for District Council No. 2, of the Brotherhood of Painters, Decorators, and Paperhangers of America, St. Louis, Mo., Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators, and Paperhangers of America, St. Louis, Mo., Lawrence M. Raftery, James F. Egan, and Edward W. Hill.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that the respondents herein named have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. The words and terms defined in this paragraph have the following meaning as used in this complaint:

"Glass" means plate, window, safety, and structural glass;

"Respondent Distributors" refers to respondents Pittsburgh Plate Glass Co., The Nurre Cos., Inc., Burroughs Glass Co., and Hadley-Dean Glass Co.;

"St. Louis Trade Area" means the area surrounding and adjacent to the city of St. Louis, Mo., in which glass is sold or delivered or supplied and installed in buildings by respondent distributors, and includes many cities and localities in the States of Missouri and Illinois, and points in States adjoining Missouri and Illinois;

"Glazing contracting business" refers to the business of contracting to sell and install glass in buildings and structures and of selling glass therefor and installing the same therein;

"Glazing contractor" means one who engages in the glazing contracting business;

"Sash and door manufacturers" refers to concerns which manufacture sashes, doors and frames in which glass is set or fitted at the factory.

PAR. 2. Respondent Pittsburgh Plate Glass Co. is a corporation organized and existing under the laws of Pennsylvania, with its office and principal place of business located in the Grant Building, Pittsburgh, Pa. This respondent is engaged in the business of manufacturing glass, and of selling and distributing the same and of conducting a glass glazing contracting business throughout the United

States. It maintains and operates factories or manufacturing plants in the States of Pennsylvania, Indiana, Missouri, Ohio, and West Virginia. It also maintains and operates approximately 75 warehouses or jobbing branches, located in many different States of the United States, from which it sells and distributes its glass to dealers and consumers located in the same and different States. Among said jobbing branches so maintained and operated by this respondent is the St. Louis jobbing or distributing branch, which sells and distributes respondent's glass in the St. Louis trade area and conducts its glazing contracting business in said area. Respondent's St. Louis branch is managed by respondent Frank Clarke, who is an employee and the representative and agent of respondent Pittsburgh Plate Glass Co. in the St. Louis trade area.

PAR. 3. Respondent The Nurre Companies, Inc., is a corporation organized and existing under the laws of the State of Indiana, with its principal office at Bloomington, Ind. This respondent is engaged in selling and distributing glass and in the glazing contracting business in various States of the United States. It maintains jobbing branches at Memphis, Tenn., Kansas City, Mo., Dubuque, Iowa, Egg Harbor, N. J., and St. Louis, Mo. The St. Louis, Mo., branch sells and distributes respondent's glass in the St. Louis trade area and conducts its glazing contracting business in said area, and is under the direction and management of respondent Belmont W. Beinke, who is respondent's agent and representative in this trade area.

PAR. 4. Respondent Burroughs Glass Co. is a corporation organized and existing under the laws of the State of Missouri, with its principal office at 814 South Vandeventer Avenue, St. Louis, Mo. This respondent is engaged in selling and distributing glass in the St. Louis trade area and in the glazing contracting business in said area. Respondent Herbert H. Piou is the vice-president of respondent Burroughs Glass Co., and in active management of its business and policies.

PAR. 5. Respondent Hadley-Dean Glass Co. is a corporation organized, and existing under the laws of the State of Missouri, with its principal office located at 703 North Eleventh Street, in St. Louis, Mo. This respondent is engaged in selling and distributing glass in the St. Louis trade area and in the glazing contracting business in said area. Respondent Leo Hadley, Jr., is the manager of respondent Hadley-Dean Glass Co., and directs its business and policies.

PAR. 6. Respondents Pittsburgh Plate Glass Co. and The Nurre Cos., Inc., through their respective St. Louis branches, and respondents Burroughs Glass Co. and Hadley-Dean Glass Co., in the course and conduct of their respective businesses, purchase or obtain glass from

Complaint

27 F. T. C.

the various manufacturers thereof who have factories located in many different States of the United States, and cause said glass so purchased or obtained to be transported from the States of origin thereof, being usually States other than the State of Missouri, to, into and through various States of the United States and into the State of Missouri. Said respondents resell said glass to dealers, processors, and consumers or users located in the States of Missouri and Illinois and in other States in the trade area adjacent to such States, and also contract for the supply and installation of glass in buildings and structures and supply and install glass in such structures in the St. Louis trade area. Said glass is ordinarily purchased or obtained from the manufacturer by said respondents, with the intention and for the purpose of reselling, delivering the same to purchasers located in the States of Missouri and Illinois and States adjacent thereto, such resales being made in the respective St. Louis places of business of said respondents, where said glass is assembled for sale. Said respondents, upon sales of glass being made to purchasers, deliver and transport, or cause to be delivered and transported, said glass, so shipped into the State of Missouri, to the purchasers thereof located in the States of Missouri and Illinois and other States adjacent thereto. Said respondents are, and have been since prior to 1930 engaged in commerce between and among the various States of the United States, and each of said respondents is and has been engaged in trade, business, and commerce having a direct effect upon interstate commerce in glass. There is a continuous stream and flow of such commerce in glass across State lines from the factories, where such glass is manufactured, to the warehouses and branches of said respondents and from said warehouses and branches to the numerous and divers purchasers thereof.

PAR. 7. Respondent E. V. Hanser, during a part of the time since prior to 1930, was secretary of the Southwest Division of the National Glass Distributors' Association, which is an association made up of corporations, firms and individuals dealing in and distributing glass in various cities and localities in the United States. Said respondent E. V. Hanser, since about 1930, has been employed by the respondent distributors, and is now employed by such distributors, to provide a central agency for the formulation and effectuation of the unfair policies, practices and methods hereinafter set forth as having been and now being used by respondent distributors in conjunction with the other respondents named herein.

PAR. 8. Respondents District Council No. 2, and Glaziers' Local Union 513, of the Brotherhood of Painters, Decorators, and Paper-hangers of America, are organizations of glaziers, the members of

which are engaged in glazing and installing plate, window, and structural glass in buildings in the St. Louis trade area.

Respondent Lawrence M. Raftery is, and has been during the time herein mentioned, the Secretary of said respondent District Council No. 2. Respondents James F. Egan and Edward W. Hill are and have been business agents of respondent Glaziers' Local Union No. 513, and as such have represented said respondent Union and its members in its and their dealings with respondent distributors and other glass distributors in the St. Louis trade area.

The respondents named in this paragraph are engaged in unfair practices and methods hereinafter described, which directly affect and restrain competition in commerce among respondent distributors and between respondent distributors and other distributors in said trade area.

PAR. 9. Respondent distributors are in competition with one another in the sale and distribution of glass and in the glazing contracting business in the St. Louis trade area, except insofar as said competition has been hindered, lessened, restricted, or restrained, or potential competition among them forestalled by the unfair practices and methods hereinafter set forth. There are other jobbers and distributors of plate, window, and structural glass who are engaged in the sale and distribution of such glass in said St. Louis trade area and who are engaged in the glazing contracting business therein, in competition with one another and with one or more of the respondent distributors, except insofar as such competition has been hindered, lessened, and restricted or restrained, or potential competition among them forestalled, by the use by respondent distributors and the other respondents named herein of the unfair practices and methods hereinafter set forth. The competitors of respondent distributors above mentioned are engaged in purchasing glass which is transported across State lines to the States of Missouri, Illinois and adjacent States, and in reselling said glass in many instances to buyers ordering same for delivery in States other than the State in which said competing distributors are engaged in business. All of said respondent distributors are engaged in unfair methods as hereinafter set forth, which directly and substantially affect competition among themselves and between themselves and other distributors in said trade area.

PAR. 10. The respondents named herein, since prior to 1930, have agreed and conspired, and 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, fix, and maintain in said St.

Complaint

27 F. T. C.

Louis trade area, certain monopolistic prices, policies, sales methods, and trade practices hereinafter described, which said respondents have agreed to, and adhered to themselves, and which they have attempted to and have, by coercion and compulsion, imposed upon glass distributors in said trade area who were not permitted to or did not desire to join such combination and conspiracy, and upon glazing contractors, building contractors, owners of buildings, processors of glass, and users and consumers of glass generally, in said area.

PAR. 11. The said monopolistic policies, sales methods, trade practices and prices referred to in the preceding paragraph, which were so formulated, adopted and put into effect, were as follows:

(a) The following policies and practices in relation to the business of contracting for the supply and installation of glass in buildings and structures in the St. Louis trade area, used by respondent distributors and their agents and employees, with the aid and cooperation and active assistance of the other respondents named herein;

1. A policy and practice of preventing distributors of glass competing with respondent distributors or desiring to compete with them, located within and outside of the St. Louis trade area, from securing glaziers to install glass in buildings and structures being erected or repaired in said trade area.

2. A policy and practice of precluding such competing distributors from bidding on contracts for the supply and installation of glass in such buildings and structures.

3. A policy and practice of precluding such competing distributors from supplying and installing glass in buildings and structures being erected or repaired in said trade area.

4. A policy and practice of compelling such competing distributors to employ four glaziers steadily, at the rate of twelve dollars per day each, whether such distributor could provide employment for said glaziers or not.

5. A policy and practice of preventing sash and door manufacturers operating in the St. Louis trade area from glazing glass and installing the same in sash and frames in their respective factories.

6. A policy and practice of intimidating and harassing competing glass distributors who attempted to or did engage in the glazing contracting business in the St. Louis trade area.

(b) The following policies and practices in relation to the sale and distribution of glass, including glass sold in the glazing contracting business, in said St. Louis trade area, used by respondent distributors and their agents and employees:

1. A policy and practice of fixing and maintaining the prices at which glass is sold by distributors to the retail trade and to processors and consumers in the St. Louis trade area;

2. A policy and practice of fixing and maintaining the prices at which glass is supplied and installed in buildings and structures being erected or repaired in the St. Louis trade area;

3. A policy and practice used by respondent distributors of apportioning among themselves the business of selling glass in the St. Louis trade area;

4. The policy and practice used by respondent distributors of apportioning among themselves the glazing contracting business in the St. Louis trade area;

5. A policy and practice of fixing the amount of bids submitted for supplying and installing glass in buildings and structures in the St. Louis trade area, particularly buildings being constructed by Federal or State agencies with public funds;

6. A policy and practice of preventing glass distributors and dealers competing with respondent distributors from buying glass at the manufacturers' quoted prices, and of compelling them to purchase glass from respondent distributors at prices above such manufacturers' quoted prices;

7. A general policy and practice of eliminating competition in the glass business and the glazing contracting business in the St. Louis trade area, and of creating and maintaining a monopoly in such businesses in said area.

PAR. 12. For the purpose of making such policies and practices effective and of requiring compliance therewith by all competing distributors and dealers in glass in the St. Louis trade area, and by the purchasing public located therein, the individual respondents named herein, or one or more of them, acting in furtherance of and in pursuance of the general plan, undertaking, conspiracy, and policy above described, have collectively as groups, or individually, done the following things:

1. Formulated, adopted, followed, carried out, enforced, imposed, and made effective the policies, practices, and methods described in the preceding paragraph;

2. Held meetings at which said policies, practices, and methods were discussed, adopted, and agreed to, and issued and distributed price lists and other printed matter, and distributed the same among the respondent distributors, announcing the adoption of such policies, practices, and methods, and the imposition of the same upon all concerned;

Complaint

27 F. T. C.

3. Respondent distributors entered into an agreement with respondents District Council No. 2 and Glaziers' Local Union No. 513 of the Brotherhood of Painters, Decorators and Paperhangers of America, which required all glazing contractors in the St. Louis trade area to employ at least four glaziers steadily at the rate of \$12 per day, failing which no glass distributor would be recognized as a glazing contractor, and providing that no unrecognized glazing contractor could secure glaziers to install glass in buildings or structures in the St. Louis trade area.

4. Respondent distributors entered into an agreement with respondent District Council No. 2 and Glaziers' Local Union No. 513, providing that no glass, sold under a glazing contractor's contract, should be set or glazed at any place except on the premises of the particular building or structure for which said glass was being furnished;

5. Respondent distributors organized a price-fixing and policy committee, membership in which was confined to one official from each of the four respondent distributors, the said committee having included respondents Frank Clarke, Herbert H. Piou, Leo Hadley, Jr., and Belmont W. Beinke;

6. Respondent distributors, through such committee, fixed and maintained the prices charged for glass and glazing in the St. Louis trade area, issued a confidential so-called Metropolitan Glazing Schedule to be used by respondent distributors in bidding on glazing contracts and glass construction jobs in said area, and required that all such bids be based upon such so-called glazing schedule;

7. Respondent distributors employed respondent E. V. Hanser as their agent to review all bids on glazing construction projects made by respondent distributors, to fix the price bid by each of the respondent distributors and to designate one of such respondent distributors as the low bidder, or to bring about identical bids;

8. Respondent distributors, acting through such committee and their agent, respondent E. V. Hanser, have apportioned the available glass distribution business in the St. Louis trade area among themselves on a percentage basis determined by said committee;

9. Respondent distributors and their representatives, with respondent E. V. Hanser, have by agreement arbitrarily increased or "loaded" bids submitted upon construction projects, particularly on State and Federal projects upon which public funds were being expended;

10. Respondent distributors, through the said committee and said respondent Hanser in one case increased or "loaded" a bid on a glass and glazing contract for a building being constructed by the Public Works Administration, an agency of the United States Government,

approximately \$14,000, and used this amount to jointly purchase the assets of a competing distributor who was not a member of the conspiracy herein alleged, and who did not adhere to or conform to the policies and practices of respondent distributors hereinabove set forth.

11. Respondent distributors have sought and have obtained promises and assurances of cooperation from one another in establishing and making effective the sales practices, policies, and pricing methods hereinabove described.

12. Respondent distributors have exchanged information with reference to their respective businesses and activities to be used in furtherance of the policies and methods referred to.

13. Respondent distributors have supervised and investigated the practices and policies of competing distributors, and have acted concertedly to maintain certain prices agreed upon to control markets and to coercively require recalcitrant distributors and dealers to recognize and conform to such practices and methods.

14. Respondents generally have threatened, harassed, and intimidated glass distributors and dealers in the St. Louis trade area to compel such distributors and dealers to recognize and concede to respondents the alleged right to use the unfair policies and practices above set forth.

PAR. 13. The capacity, tendency, and effect of said plan, agreement, combination, conspiracy, policies, and methods, and the said acts and practices of said respondents in pursuance thereof, are and have been:

1. To monopolize in the said respondent distributors the business of selling and distributing glass, and the glazing contracting business in the St. Louis trade area;

2. To monopolize in respondent distributors the opportunity to purchase or obtain glass from the manufacturers at the manufacturers' list price;

3. To fix and maintain the prices at, and conditions under, which glass is sold by distributors in the St. Louis trade area;

4. To prevent glazing contractors and glass distributors located outside of the St. Louis trade area from bidding upon or from securing glass construction contracts and from selling glass in said trade area;

5. To unreasonably lessen, eliminate, restrict, stifle, hamper, and suppress competition in the glass trade and industry in the St. Louis trade area, and to deprive the purchasing and consuming public and public agencies of advantages in price, service, and other considerations which they would receive and enjoy under conditions

Complaint

27 F. T. C.

of normal and unobstructed and free and fair competition in said trade and industry; and to otherwise operate as a restraint upon, obstruction to, and a detriment to, the freedom of fair and legitimate competition in such trade and industry;

6. To substantially increase the cost of glass to purchasers and to increase the normal price of glass sold on glazing contracts for construction purposes from 35 percent to 50 percent and more.

7. To suppress, eliminate, and discriminate against small distributors who are or have been engaged in or desire to engage in selling glass in the St. Louis trade area;

8. To obstruct and prevent the establishment of new distributors of glass in said area;

9. To suppress and eliminate all price competition among distributors in the sale of glass and in the sale of glass for glazing construction contracts in said trade area;

10. To burden, hamper, interfere with the normal and natural flow of trade and commerce in glass into, through, and from the various States of the United States, particularly those included in the St. Louis trade area; and to injure the competitors of individual respondent distributors by unfairly diverting business and trade from them, depriving them thereof, and otherwise driving or "freezing" them out of business;

11. To prejudice and injure glass distributors and glazing contractors who do not conform to respondents' program or methods, or who do not desire to conform to them; but are compelled to do so by the concerted action of respondents herein alleged.

PAR. 14. The combination of respondents as hereinabove averred has hindered, lessened, restricted and restrained the trade of members thereof and other distributors and dealers, and still hinders, lessens, restricts and restrains the same. The direct and immediate result of the said combination has been and is restraint upon interstate commerce with respect to glass transported beyond the State in which the same is made, or transported from the State of Missouri into other States. Such confederated action exercises a power which individual action could not exercise or possess, and the necessary tendency and the direct and substantial effect of the combination are injury to the public.

The effect of respondents' combination upon the public interest has been and now is:

1. To bring about the disappearance of prices arrived at through the play of competitive forces at the expense of the buying public;

2. To lessen the demand for glass and the volume of public and private construction in which glass is used;

3. Correspondingly to lessen the opportunities for employment, both in the glass industry and in the construction industry;

4. To raise the cost of public buildings and projects and private structures in which glass is used and thereby either to make them less available to the public or to raise the taxes and rents by which the public pays for them.

PAR. 15. The above alleged acts and things done by respondents have a dangerous tendency unduly to hinder competition in the glass distribution and glazing contracting business and trade in the St. Louis trade area, and to create a monopoly thereof in the hands of respondents, and constitute unfair methods of competition in commerce within the intent and meaning of the said Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 14th day of July 1938, issued and served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Thereafter stipulations were entered into whereby it was stipulated and agreed that a statement of facts signed and executed by respondents Pittsburgh Plate Glass Co., Frank Clarke, Hadley-Dean Glass Co., Leo Hadley, Jr., and E. V. Hanser, and their counsel, Igoe, Carroll, Keefe & McAfee; and respondents The Nurre Cos., Inc., and Belmont W. Beinke, and their counsel, Greensfelder & Hemker; and respondents Burroughs Glass Co. and Herbert H. Piou, and their counsel, Jess Fields; and respondents District Council No. 2 of the Brotherhood of Painters, Decorators and Paperhangers of America, St. Louis, Missouri, Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators, and Paperhangers of America, St. Louis, Mo., Lawrence M. Raftery, James F. Egan, and Edward W. Hill, and their counsel, J. A. Lennon, and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of arguments or the filing of briefs. Thereafter this proceeding regularly came on for final hearing before the Commission on said complaint and stipulations, said

stipulations having been approved, accepted and filed, 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The words and terms defined in this paragraph have the following meaning as used herein :

"Glass" means plate, window, safety, and structural glass ;

"Respondent distributors" refers to respondents Pittsburgh Plate Glass Co., The Nurre Glass Cos., Inc., Burroughs Glass Co., and Hadley-Dean Glass Co. ;

"St. Louis trade area" means the area surrounding and adjacent to the City of St. Louis, Mo., in which glass is sold or delivered or supplied and installed in buildings by respondent distributors, and includes many cities and localities in the States of Missouri and Illinois ;

"Glazing contracting business" refers to the business of contracting to sell and install glass in buildings and structures and of selling glass therefor and installing the same therein ;

"Glazing contractor" means one who engages in the glazing contracting business ;

"Sash and door manufacturers" refers to concerns which manufacture sashes, doors and frames in which glass is set or fitted at the factory.

PAR. 2. Respondent Pittsburgh Plate Glass Co. is a corporation organized and existing under the laws of Pennsylvania, with its office and principal place of business located in the Grant Building, Pittsburgh, Pa. This respondent is engaged in the business of manufacturing glass, and of selling and distributing the same and of conducting a glass glazing contracting business throughout that section of the United States east of the Rocky Mountains. It maintains and operates factories or manufacturing plants in the States of Pennsylvania, Indiana, Missouri, Ohio, and West Virginia. It also maintains and operates approximately 70 warehouses or jobbing branches, located in many different States of the United States, from which it sells and distributes its glass to dealers located in the same and different States. Among said jobbing branches so maintained and operated by this respondent is the St. Louis jobbing or distributing branch, which sells and distributes respondent's glass in the St. Louis trade area and conducts its glazing contracting business in said area. Respondent's St. Louis branch is managed by respondent

Frank Clarke, who is an employee and the representative of respondent Pittsburgh Plate Glass Co. in the St. Louis trade area.

PAR. 3. Respondent The Nurre Cos., Inc., is a corporation organized and existing under the laws of the State of Indiana, with its principal office at Bloomington, Ind. This respondent is engaged in selling and distributing glass and in the glazing contracting business in various States of the United States. It maintains jobbing branches at Memphis, Tenn.; Kansas City, Mo.; Dubuque, Iowa; Egg Harbor, N. J.; and St. Louis, Mo. The St. Louis, Mo., branch sells and distributes respondent's glass in the St. Louis trade area and conducts its glazing contracting business in said area, and is under the direction and management of respondent Belmont W. Beinke, who is respondent's representative in this trade area.

PAR. 4. Respondent Burroughs Glass Co. is a corporation organized and existing under the laws of the State of Missouri, with its principal office at 814 South Vandeventer Avenue, St. Louis, Mo. This respondent is engaged in selling and distributing glass in the St. Louis trade area and in the glazing contracting business in said area. Respondent Herbert H. Piou is the vice-president of respondent Burroughs Glass Co., and participates in the active management of its business and policies.

PAR. 5. Respondent Hadley-Dean Glass Co. is a corporation organized and existing under the laws of the State of Missouri, with its principal office located at 703 North Eleventh Street, in St. Louis, Mo. This respondent is engaged in selling and distributing glass in the St. Louis trade area and in the glazing contracting business in said area. Respondent Leo Hadley, Jr., is the manager of respondent Hadley-Dean Glass Co., and directs its business and policies.

PAR. 6. Respondents Pittsburgh Plate Glass Co. and The Nurre Cos., Inc., through their respective St. Louis branches, and respondents Burroughs Glass Co. and Hadley-Dean Glass Co., in the course and conduct of their respective businesses, purchase or obtain glass from the various manufacturers thereof who have factories located in many different States of the United States, and cause said glass so purchased or obtained to be transported from the States of origin thereof, being usually States other than the State of Missouri, to, into, and through various States of the United States and into the State of Missouri. Said respondents resell said glass to dealers, processors, and users located in the States of Missouri and Illinois, and in some cases in other States in the trade area adjacent to such States, and also contract for the supply and installation of glass in buildings and structures and supply and install glass in such structures in the

Findings

27 F. T. C.

St. Louis trade area. Said glass is ordinarily purchased or obtained from the manufacturer by said respondents, with the intention and for the purpose of reselling, delivering the same to purchasers located in the States of Missouri and Illinois and in some cases in States adjacent thereto, such resales being made in the respective St. Louis places of business of said respondents, where said glass is assembled for sale. Said respondents, upon sales of glass being made to purchasers, deliver and transport, or cause to be delivered and transported, said glass, so shipped into the State of Missouri, to the purchasers thereof located in the States of Missouri and Illinois and in some cases in other States adjacent thereto. Said respondents are, and have been since prior to 1930 engaged in commerce between and among the various States of the United States, and each of said respondents is and has been engaged in trade, business, and commerce having a direct effect upon interstate commerce in glass. There is a continuous stream and flow of such commerce in glass across State lines from the factories where such glass is manufactured, to the warehouses and branches of said respondents and from said warehouses and branches to the numerous and divers purchasers thereof.

PAR. 7. Respondent E. V. Hanser, during a part of the time since prior to 1933, was secretary of the Southwest Division of the National Glass Distributors' Association, which is an association made up of corporations, firms, and individuals dealing in and distributing glass in various cities and localities in the United States. Said respondent E. V. Hanser, since about December 1933 has been employed part time by the respondent distributors, and is now employed by such distributors, for the following purposes: (1) To police glazing contracting jobs in the St. Louis trade area to secure strict adherence to specifications as to quality of workmanship and material; (2) to encourage use by respondent distributors of their code of ethics of fair trade practices; (3) to promote the use of glass in competition with other materials used for the same purpose with architects and building owners and contractors. Said respondent E. V. Hanser, has functioned as an employee of respondent distributors to effectuate some of the policies and practices hereinafter set forth as having been and now being used by respondent distributors.

PAR. 8. Respondents District Council No. 2 and Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators and Paperhangers of America, are organizations of glaziers, the members of which are engaged in glazing and installing plate, window, and structural glass in buildings in the St. Louis trade area.

Respondent Lawrence M. Raftery has been during the time herein mentioned the secretary of said respondent District Council No. 2. Respondents James F. Egan and Edward W. Hill are and have been business agents of respondent Glaziers' Local Union No. 513, and as such have represented said respondent union and its members in its and their dealings in connection with labor matters with respondent distributors and other glazing contractors in the St. Louis trade area.

The respondents named in this paragraph are engaged in practices and policies hereinafter described, which tend to affect and restrain competition in commerce in the glazing contracting business among respondent distributors and between respondent distributors and other glazing contractors in said trade area.

PAR. 9. Respondent distributors are in competition with one another in the sale of glass in the glazing contracting business in the St. Louis trade area, except insofar as said competition has been hindered, lessened, restricted or restrained, or potential competition in the glazing contracting business among them forestalled by the practices and policies hereinafter set forth. There are dealers in plate, window, and structural glass who are engaged in the glazing of such glass in said St. Louis trade area and who are engaged in the glazing contracting business therein, in competition with one another in the glazing contracting business and with one or more of the respondent distributors, except insofar as such competition has been hindered, lessened, and restricted or restrained or potential competition among them in the glazing contracting business forestalled, by the use by respondent distributors and the other respondents named herein of the practices and policies hereinafter set forth. The competitors of respondent distributors above mentioned are engaged in purchasing glass for their glazing contracting businesses which is transported across State lines to the States of Missouri, Illinois, and adjacent States, and in reselling said glass in many instances to buyers ordering the same for installation in States other than the State in which said glazing contractors are engaged in business. All of said respondent distributors are engaged in some of the policies and practices as hereinafter set forth, which tend to directly and substantially affect competition among themselves and between themselves and other glazing contractors in said trade area.

PAR. 10. The respondents named herein, or some of them, since prior to 1930, have agreed together and with others and have pursued a common course of action, and undertaking among themselves and with others, to recognize, follow, and carry out in said St. Louis trade area certain of the policies and trade practices, in said trade area, hereinafter described.

Findings

27 F. T. C.

PAR. 11. The said policies and trade practices referred to in the preceding paragraph, were as follows:

(a) The following policies and practices in relation to the business of contracting for the supply and installation of glass in buildings and structures in the St. Louis trade area:

1. A policy and practice of imposing such conditions upon other glazing contractors competing with respondent distributors or desiring to compete with them, in connection with such competitors' employment of glaziers to install glass in buildings and structures being erected or repaired in said trade area, as to tend to make it difficult or impracticable for such other glazing contractors to engage in the glazing contracting business in such area.

2. A policy and practice which tended to preclude such competing glazing contractors from bidding on contracts for the supply and installation of glass in such buildings and structures.

3. A policy and practice which tended to preclude such glazing contractors from installing glass in buildings and structures being erected or repaired in said trade area.

4. A policy and practice which had a tendency to impose upon competing glazing contractors a requirement that they employ four glaziers steadily at the rate of \$12 per day each whether said glazing contractors could provide such employment or not.

5. A policy and practice which tended to prejudice sash and door manufacturers operating in the St. Louis trade area in glazing glass and installing the same in sash and frames in their respective factories.

(b) The following policies and practices in relation to the sale of glass sold in the glazing contracting business, in said St. Louis trade area:

1. A policy and practice of discussing and exchanging information concerning prices or proposed changes in price at which glass was being sold or was to be sold by respondent distributors in the glazing contracting business in the St. Louis trade area and of using such prices.

2. A policy and practice of discussing and exchanging information concerning the prices at which glass was being supplied and installed in buildings and structures being erected or repaired in the St. Louis trade area and of using and observing such prices.

3. A policy and practice used by respondent distributors of apportioning among themselves some of the glazing contracting business in the St. Louis trade area.

4. A policy and practice of establishing some cost elements in the composition of bids to be submitted by respondent distributors in-

dividually for supplying and installing glass in buildings and structures in the St. Louis trade area, which resulted in some cases in uniform quotations.

5. A policy and practice which tended to hamper and restrict competition in the glazing contracting business in the St. Louis trade area, and which tended to promote a monopoly in such business in said area.

PAR. 12. For the purpose of making such policies and practices effective and of requiring compliance therewith in the St. Louis trade area, the individual respondents named herein, or one or more of them, acting in pursuance of the practice and policy above described, have collectively or individually done the following things:

1. Held meetings at which (a) said policies and practices were discussed; (b) the wisdom, feasibility, or necessity of changes in the generally recognized market for glazing contracting work were discussed; (c) some one distributor indicated forthcoming change or changes this distributor contemplated making and in some instances this change was followed by other distributors.

2. Respondent distributors entered into an agreement with respondents District Council No. 2 and Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators, and Paperhangers of America, requiring that glazing contractors in the St. Louis trade area should employ at least four glaziers steadily at the rate of \$12 per day, failing which they could not secure glaziers to install glass in buildings or structures in the St. Louis trade area.

3. Respondent distributors entered into an agreement with respondents District Council No. 2 and Glaziers' Local Union No. 513 requiring that no glass, installed under a glazing contractor's contract, should be set or glazed at any place except on the premises of the particular building or structure for which said glass was being furnished.

4. Respondents Frank Clarke, Herbert H. Piou, Leo Hadley, Jr., and Belmont W. Beinke, as representatives of respondent distributors, occasionally met at irregular intervals and discussed subjects of interest to them in the industry, among these being prices for supplying and installing glass on contract in the St. Louis trade area. Such exchange of information concerning prices charged for supplying and installing glass on contract tended to result in a uniform price schedule which was generally used by respondent distributors in their bidding on contracts in the St. Louis trade area.

5. Respondent distributors employed respondent E. V. Hanser to review, as part of his duties, bids on the more important glazing construction projects made by respondent distributors; to keep them

Conclusion

27 F. T. C.

informed as to prices bid by each of their number; and to check, when important disparities in quotations appeared, the accuracy of quantities and sizes taken from plans and the interpretations of the specifications, all of which activities tended to neutralize competitive action.

6. Respondent distributors and their representatives have, by understanding in some cases, submitted bids in such manner that one of their number would submit a bid for a designated job that was less than the normal bid price as bid by the other distributors with the result that some of the glazing contracting business in the St. Louis trade area was apportioned among the respondent distributors.

7. Respondent distributors have sought and obtained cooperation from one another in making effective the practices and policies hereinabove described.

8. Respondent distributors have exchanged information with reference to their respective glazing contracting businesses to be used in furtherance of the policies and practices referred to.

9. Respondent distributors have investigated the practices and policies of competing glazing contractors and information concerning the result of said investigations has been conveyed to respondent distributors.

PAR. 13. The capacity, tendency, and effect of said policies and practices, and the said acts and practices of said respondent in pursuance thereof, are and have been:

1. To tend to concentrate in the said respondent distributors the glazing contracting business in the St. Louis trade area.

2. To tend to maintain the prices at, and conditions under, which glass is supplied by distributors in the glazing contracting business in the St. Louis trade area.

3. To tend to lessen and restrict competition in the glazing contracting business in the St. Louis trade area; and to otherwise tend to operate as a restraint upon, obstruction to and detriment to the freedom of fair and legitimate competition in such business.

4. To tend to suppress competition among distributors in the glazing contracting business in said trade area.

5. To tend to burden, hamper, and interfere with the normal and natural flow of trade and commerce in glass into, through and from the various States of the United States, particularly those included in the St. Louis trade area.

CONCLUSION

The practices and policies of respondents as hereinabove found have lessened, restricted, and restrained the glazing contracting business of members thereof and other glazing contractors. The direct

and immediate result of the said practices and policies has been, and is, restraint upon interstate commerce with respect to glass, for the glazing contracting business, transported beyond the State in which the same is made, or transported from the State of Missouri into other States. Such practices and policies exercise a power which individual action could not exercise or possess, and the necessary tendency and the direct and substantial effect of the practices and policies are injury to the public.

The effect of respondents' practices and policies upon the public interest has been or may be:

1. To tend to increase the normal price of glass sold in glazing contracts for construction purposes.

2. To tend to suppress and discriminate against small glazing contractors who are, or have been, engaged in, or desire to engage in, the glazing contracting business in the St. Louis trade area.

3. To tend to bring about the disappearance of prices arrived at through the play of competitive forces in the glazing contracting business at the expense of the buying public.

4. To tend to lessen the volume of private and public construction in which glass is used.

5. Correspondingly to tend to lessen the opportunities for employment, both in the glass industry and in the construction industry.

6. To tend to raise the cost of public buildings and projects and private structures in which glass is used and thereby tend to either make them less available to the public or raise the taxes and rents by which the public pays for them.

The above acts and things done by respondents are all to the prejudice of the public and have a dangerous tendency to hinder competition in the glazing contracting business in the St. Louis trade area; have placed in respondents the power to control the glazing contracting business and have tended to create a monopoly in such business in the hands of respondents; and constitute unfair methods of competition in commerce within the intent and meaning of the said Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and stipulations as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provide among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein and each of them, findings as to the facts and conclusion based

Order

27 F. T. C.

thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents Pittsburgh Plate Glass Co., a corporation, The Nurre Cos., Inc., a corporation, Burroughs Glass Co., a corporation, and Hadley-Dean Glass Co., a corporation, and their officers, directors, representatives, and employees, including, specifically, respondents Frank Clarke, Belmont W. Beinke, Herbert H. Piou, Leo Hadley, Jr., and E. V. Hanser, hereinafter referred to as respondent distributors, in connection with the sale, in the glazing contracting business, of plate, window, and structural glass in interstate commerce in the St. Louis trade area for installation of such glass in buildings and structures, do forthwith cease and desist from:

Agreeing among themselves, or with others, to engage in, pursuant to any agreement or understanding, directly or through any corporation or other device, and from engaging in any of the following acts, practices, or policies:

1. Exchanging information concerning prevailing prices, or contemplated or proposed changes in prices, for plate, window, or structural glass used in the glazing contracting business.

2. Discussing or exchanging information concerning bids to be submitted by any individual respondent for supplying and installing glass in any structure or building.

3. Collectively agreeing upon any formula to be used in computing bids for supplying and installing glass in any structure or building; upon standards of cost, either of labor or material, or upon the amount of any item of such bids or the total amount thereof.

4. Preparing, publishing, or circulating schedules or otherwise conveying information between or among themselves which set forth, directly or by implication, any such above policy and practice to be used in computing bids, standards of cost or other data which is designed to influence or determine the amount of any item of any contemplated bid or the total thereof.

5. Fixing or establishing by agreement the amount to be bid by any individual respondent for supplying and installing any such glass in any building or structure.

6. Collectively cooperating with respondent District Council No. 2 or Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators, and Paperhangers of America, St. Louis, Mo., or Lawrence M. Raftery, James F. Egan, or Edward W. Hill, or any other labor organization or representative thereof, in requiring or agree-

ing that glazing contractors competing with respondent distributors be compelled to employ four glaziers, or any other specified number, steadily at the rate of \$12 per day each, or any other specified figure, as a condition to securing glaziers to install glass in any structure or building, or collectively agreeing to any such requirement as applicable to themselves;

7. Collectively cooperating in any way with the respondents named in the preceding paragraph in requiring that glazing contractors competing with respondent distributors in supplying glass for installation in any building or structure must have such glass glazed on the premises as a condition to securing glaziers to install such glass, or collectively agreeing, to any such requirement as applicable to themselves;

8. Collectively continuing, renewing, or by joint action complying with or carrying into effect any agreement to accomplish anything prohibited by this order.

It is further ordered, That respondents District Council No. 2 of the Brotherhood of Painters, Decorators, and Paperhangers of America, St. Louis, Mo., an unincorporated association, and Glaziers' Local Union No. 513, of the Brotherhood of Painters, Decorators, and Paperhangers of America, St. Louis, Mo., an unincorporated association, and Lawrence M. Raftery individually and as secretary of said District Council No. 2 and James F. Egan and Edward W. Hill, individually and as business agents of said Glaziers' Local Union No. 513, in connection with the supplying and installation of glass in structures or buildings in interstate commerce in the St. Louis trade area, do forthwith cease and desist from:

1. Persuading or inducing respondent distributors collectively to agree among themselves to the requirement that they must employ four glaziers, or any other specified number, steadily at the rate of \$12 per day each, or any other given figure, as a condition to securing glaziers to install glass supplied by such distributors for any structure or building, or the requirement that all such glass must be glazed upon the premises for which the same has been supplied by such distributors;

2. Entering into any collective agreement incorporating the above terms, conditions, or requirements with any two or more glazing contractors or distributors, or enforcing any such agreement heretofore made.

It is further ordered, That the respondents herein and each of them shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
RARITAN DISTILLERS CORPORATION

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

Docket 2442. Complaint, June 18, 1935—Decision, Dec. 3, 1938

Where a corporation engaged in purchasing, rectifying, blending, and bottling whiskies, gins, cordials, liqueurs, vermouths, cocktails, and other alcoholic beverages, and in selling its aforesaid various products to wholesaler and retailer purchasers in other States and in District of Columbia, in substantial competition with those engaged in manufacture by distillation of whiskies, gins and other alcoholic beverages from mash, wort, or wash, and in sale thereof in trade and commerce among the various States and in said District, and with those engaged in rectifying, blending, and bottling such various beverages and similarly selling same, and including among said competitors those who distill, from mash, wort or wash, whiskies, gins, and other alcoholic beverages and truthfully use words "distillery," "distilleries," "distillers," or "distilling" as part of their corporate or trade names and on their stationery and advertising and on the labels of the bottles in which they sell and ship their said products, and those who, engaged in purchasing, rectifying, blending, bottling, and selling such various products, do not use aforesaid words as above set forth—

Represented, through use of word "Distillers" in its corporate name, printed on its stationery, invoices, billheads, order blanks, and on the labels attached to the bottles in which it sold and shipped its said products, and in various other ways to customers, that the said whiskies, gins, cordials, and other alcoholic beverages contained in said bottles were by it made through true process of distillation from mash, wort, or wash, and furnished said customers with means of so representing to their retailer-vendees and ultimate consuming public, notwithstanding fact it did not thus distill said various beverages thus bottled, labeled, sold and transported by it through process of distillation from mash, wort, or wash, as long definitely understood from word "distillers" used in connection with liquor industry and products thereof in the trade and by the ultimate purchasing public, and did not own, operate, or control any place or places where said beverages were made by such process of distillation as aforesaid, and said products were not produced and bottled by distillers or in a distillery, and it was not a distiller, for the purchase of the bottled liquors of which there is a preference on the part of a substantial portion of the purchasing public;

With effect of misleading and deceiving dealers and purchasing public into belief that it was a distiller and that the whiskies, gins, and other alcoholic beverages sold by it were by it distilled from mash, wort, or wash, and of inducing dealers and such public, acting in such belief, to purchase its aforesaid products made and bottled by it, and of thereby diverting trade to it from its competitors who do not, by their corporate or trade names, or in any other manner, misrepresent that they are distillers; to the substantial injury of substantial competition in commerce:

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