

Syllabus

IN THE MATTER OF

EDWARD W. BULLOCK, TRADING AS BONDED
JEWELERS OF AMERICA, AND GLADYS JOHNSTON

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

Docket 3459. Complaint, June 16, 1938—Decision, Dec. 21, 1938

Where two individuals, together engaged in sale of rings, watches, and like products to members of the purchasing public in other States and in the District of Columbia, in substantial competition with others engaged as aforesaid in sale of similar products, and including many who sell and distribute rings, watches, and like articles as aforesaid and do not in any manner misrepresent the quality of, or terms and conditions under which they sell, their said products, and their business status; in advertising rings and watches dealt in by them as aforesaid—

- (a) Made use of trade name "Bonded Jewelers of America" and of such words as "Guaranteed by million dollar factory," facts being they did not own, operate, or control a factory or place of business in which rings, watches, and other merchandise offered and sold by them were made, and business conducted was not bonded;
- (b) Designated and described as finished with white gold, or "White Gold Finish," rings advertised and offered as above set forth, through such statements as "FREE Simulated DIAMOND RING White Gold Finish Send a coupon for your sample ring at once! Several thousand sample rings will be given away under this special offer in order to advertise their startling beauty * * * Only a small deposit of 10¢ you are asked to send as evidence of good faith will be returned. FREE. If you send at once * * *", etc., facts being rings aforesaid were not thus finished; and
- (c) Represented in their said advertising that articles of merchandise were offered "free," through such statements as "FREE, AMAZING ADVERTISING OFFER" and "Your choice of a man's or lady's wrist watch FREE with every ring purchased from us during this sale and paid on our amazingly easy payment plan of only 10¢ a week * * * Our price only \$4.90 in all. Nothing extra for the watch," etc., facts being watches designated and described as "free" were not given without consideration or condition in connection with purchase of ring as aforesaid, but were delivered only to those purchasers who complied with certain requirements in regard to installment payments;

With capacity and tendency to confuse, mislead, and deceive substantial part of purchasing public into mistaken and erroneous belief that merchandise designated and described as "free" was given to all purchasers of such rings without consideration or condition, and that said individuals were bonded as jewelers and were manufacturers of merchandise offered and sold by them, and that rings designated and described as "free" and delivered upon "deposit" of sum of 10¢ were finished with white gold, and with result that such public purchased its said products as result of mistaken and erroneous belief thus engendered, with effect of thereby unfairly diverting trade to them from their competitors in commerce:

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

Mr. Carrel F. Rhodes for the Commission.

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 Edward W. Bullock, individually, and trading as Bonded Jewelers of America, and Gladys Johnston, an individual, hereinafter referred to as respondents, 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. Edward W. Bullock is an individual doing business under the trade name of Bonded Jewelers of America. Gladys Johnston is an individual closely associated and connected with said business. Respondents have their offices and principal place of business located at Room 802, 328 Chestnut Street, Philadelphia, Pa.

Said respondents have acted together and in cooperation with each other in carrying out the acts, practices, and methods hereinafter alleged.

PAR. 2. Respondents Edward W. Bullock, trading as Bonded Jewelers of America, and Gladys Johnston have been for more than 1 year last past, and are now, engaged in the business of selling and distributing rings, watches, jewelry, and like products. Respondents have caused their said merchandise, when sold, to be transported from their principal place of business in Philadelphia, Pa., to purchasers thereof located at points in the various States of the United States other than the aforesaid State of Pennsylvania and in the District of Columbia.

Respondents maintain and at all times herein mentioned have maintained a course of trade in said products so sold and distributed by respondents in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of their said business, respondents are in active and substantial competition with individuals, partnerships, and corporations likewise engaged in the sale and distribution of rings, watches, jewelry, and similar merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of said business, respondents for the purpose of inducing the purchase of their said rings, watches,

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jewelry, and like products, offered for sale and sold by them, have published and circulated to prospective customers throughout the United States and in the District of Columbia, by mail, newspaper advertisements, advertising folders, pamphlets, circulars, letters, and other literature, false and misleading statements and representations. Among such statements and representations are the following:

A pictorial representation of a diamond ring and a lady's wrist watch, together with the following statement:

FREE

AMAZING ADVERTISING OFFER. Your choice of a man's or lady's wrist watch FREE with every ring purchased from us during this sale and paid on our amazingly easy payment plan of only 10¢ a week! Lady's or man's ring with simulated diamond that you'd think cost at least \$200. Our price only \$4.90 in all. Nothing extra for the watch. It's FREE. Genuine American make—Guaranteed by million dollar factory. Send only 50¢ * * *. No C. O. D. to pay—Your package comes prepaid. No credit reference. Just send this ad. Enclose 50¢ and send 10¢ weekly if satisfied * * *.

BONDED JEWELERS OF AMERICA

A pictorial representation of a lady's ring and a man's ring, together with the following statement:

FREE

Simulated

DIAMOND RING

White Gold Finish

Send a coupon for your sample ring at once! Several thousand sample rings will be given away under this special offer in order to advertise their startling beauty and dazzling brilliance to all manufacturers of beautiful jewelry. The amazing fire and vivid flashes of Bonded Simulated Diamonds will thrill you. Only a small deposit of 10¢ you are asked to send as evidence of good faith will be returned. FREE. If you send at once * * * No obligation—Nothing more to pay. It's yours to keep FREE if you like it. Safe delivery is guaranteed by the Bonded Jewelers of America.

The aforesaid statements and representations, together with statements and representations not herein set out, serve as representations on the part of the respondents that respondents operate a factory, that the business conducted by respondents is bonded, that their said man's or lady's wrist watch is given free and without any cost or consideration therefor with the purchase of a simulated diamond ring, that said simulated diamond ring is finished with white gold and that several thousand of said simulated diamond rings with white

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gold finish are given free upon the deposit of 10 cents as a mere evidence of good faith.

PAR. 4. In truth and in fact, respondents do not operate a factory, their aforesaid business is not bonded, the aforesaid ladies' and men's watches are not given free and without condition, limitation, qualification, or consideration by respondents to purchasers of their aforesaid simulated diamond rings. The aforesaid simulated diamond rings are not finished with white gold and are not given free and without consideration, condition, qualification, or limitation.

PAR. 5. There are among respondents' competitors many who sell and distribute rings, watches, jewelry, and similar products who do not in any way misrepresent the quality and value of their respective merchandise and who do not misrepresent their business status nor the terms and conditions under which their said merchandise is sold.

PAR. 6. Each and all of the false and misleading statements and representations made by the respondents in describing their merchandise as hereinabove set out was and is calculated to, has had and now has a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all of said representations are true. As a result of this erroneous and mistaken belief a number of the consuming public have purchased a substantial volume of respondents' merchandise with the result that trade has been diverted unfairly to respondents from competitors likewise engaged in the business of selling and distributing rings, watches, jewelry, and similar merchandise in said commerce. As a result thereof injury has been done and is now being done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. The acts and practices of the respondents, as herein alleged, are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of the 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 June 16, 1938, issued and served its complaint in this proceeding upon respondents Edward W. Bullock, individually, and trading as Bonded Jewelers of America, and Gladys Johnston, individually, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. On August 16, 1938, the respondents filed their answer, in which answer they admitted all the material allegations

of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Edward W. Bullock is an individual operating and doing business under the trade name "Bonded Jewelers of America," and respondent Gladys Johnston is an individual. Respondents' office and principal place of business is located at 328 Chestnut Street, Philadelphia, Pa. Respondents are engaged in offering for sale, sale, and distribution of rings, watches, and similar jewelry.

Respondents, acting together and in cooperation with each other, at all times for more than 1 year last past have been engaged in the sale of rings, watches, and like products to members of the purchasing public.

PAR. 2. In the course and conduct of their said business, as described in paragraph 1 hereof, respondents cause their aforesaid products to be transported from their place of business in Philadelphia, Pa., to purchasers located in other States of the United States and in the District of Columbia.

In the course and conduct of such business respondents are now and have been in substantial competition with other individuals and with partnerships and corporations engaged in the sale of rings, watches, and other jewelry similar to those sold by respondents, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business, and in connection with the sale and distribution of their merchandise, respondents cause to be made, published, circulated, and distributed to the public throughout the United States and in the District of Columbia certain advertisements wherein it was represented or implied that watches were given without cost or condition to all purchasers of certain rings at a price of \$4.90, and that certain rings which were represented as being given "free" upon the making of a deposit of 10 cents were finished with white gold, and that the respondents were bonded as jewelers and made and manufactured the products offered for sale and sold by them. Among others, respondents made, pub-

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lished, circulated, and distributed advertisements containing, in part, the following:

FREE

AMAZING ADVERTISING OFFER. Your choice of a man's or lady's wrist watch FREE with every ring purchased from us during this sale and paid on our amazingly easy payment plan of only 10¢ a week! Lady's or man's ring with simulated diamond that you'd think cost at least \$200. Our price only \$4.90 in all. Nothing extra for the watch. It's FREE. Genuine American make—Guaranteed by million dollar factory. Send only 50¢ * * * No C. O. D. to pay—Your package comes prepaid. No credit reference. Just send this ad. Enclose 50¢ and send 10¢ weekly if satisfied * * *.

BONDED JEWELERS OF AMERICA

FREE

Simulated

DIAMOND RING

White Gold Finish

Send a coupon for your sample ring at once! Several thousand sample rings will be given away under this special offer in order to advertise their startling beauty and dazzling brilliance to all manufacturers of beautiful jewelry. The amazing fire and vivid flashes of Bonded Simulated Diamonds will thrill you. Only a small deposit of 10¢ you are asked to send as evidence of good faith will be returned. FREE. If you send at once * * * No obligation—Nothing more to pay. It's yours to keep FREE if you like it. Safe delivery is guaranteed by the Bonded Jewelers of America.

PAR. 4. In truth and in fact, respondents do not own, operate, or control a factory or place of business in which the rings, watches, and other merchandise offered for sale and sold by them are made or manufactured; the business conducted by the respondents is not bonded; and the watches designated and described as "free" are not given without consideration or condition in connection with the purchase of a ring at the price of \$4.90, but are delivered only to those purchasers of said rings who comply with certain requirements in regard to installment payments. The so-called simulated diamond rings are not finished in white gold.

PAR. 5. The representations of respondents, as aforesaid, to the effect that a watch would be given "free" to the purchaser of a ring have had and do have the capacity and tendency to confuse, mislead, and deceive a substantial part of the purchasing public into the mistaken and erroneous belief that the merchandise designated and described as "free" was given to all purchasers of said rings without consideration or condition. The representations and implications used by the respondents as above set out have had and do have the capacity and

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tendency to confuse, mislead, and deceive a substantial part of the purchasing public into the mistaken and erroneous belief that the respondents were and are bonded as jewelers and were and are the manufacturers of the merchandise offered for sale and sold by them, and that the rings designated and described as "free" and delivered upon "deposit" of the sum of 10 cents were and are finished with white gold.

There are among competitors of respondents many individuals, firms, and corporations who sell and distribute rings, watches, and like products in commerce between and among the various States of the United States and in the District of Columbia who do not in any manner misrepresent the quality of, or the terms and conditions under which they sell, their said products and who do not in any manner misrepresent the status of their business.

As a result of the mistaken and erroneous belief engendered by the acts and practices of respondents, as above set forth, a substantial portion of the purchasing public has purchased respondents' said products, thereby unfairly diverting trade to the respondents from their competitors in commerce between and among the several States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondents are to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition within the intent and meaning of the 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 the answer of the respondents in which answer respondents admit all material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents Edward W. Bullock and Gladys Johnston, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of rings, watches, and other jewelry products in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

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1. Representing, through the use of the trade name "Bonded Jewelers of America," or any other words of similar import or meaning, or in any other manner, that the business operated by respondents is bonded, when such is not the fact;

2. Representing that the respondents, or either of them, are the manufacturers of the products sold by them, unless and until they actually own and operate, or directly and absolutely control, the manufacturing plant wherein such products are manufactured by them;

3. Representing, designating, or describing rings as "finished with white gold," or "white gold finish," or any word or words of similar import and meaning, unless such rings are actually finished in white gold;

4. Representing, designating, or describing, articles of merchandise regularly included in a combination offer with other articles of merchandise as "free," "included free," or "included free of extra charge";

5. Using the word "free" to describe or to refer to goods, wares, or merchandise forming a part of any combination offer unless all of the terms and conditions of such offer are clearly and unequivocally stated in immediate connection or conjunction with the word "free" in words, letters, and figures of equal conspicuousness and there is no deception as to the price, quality, character, or any other feature of any of the items in the offer.

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.

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IN THE MATTER OF

BRADLEY BOSTON, INC., AND NATIONAL WATCH COMPANY, ALSO TRADING AS GOLD STANDARD WATCH COMPANY, AND PETER TURCHON

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

Docket 3461. Complaint, June 16, 1938—Decision, Dec. 22, 1938

Where two corporations and an individual, president thereof and director and controller of their sales policies and activities, engaged in sale and distribution of watches and other articles of jewelry to members of the purchasing public in other States and in the District of Columbia, in substantial competition with those engaged in sale and distribution of similar articles as aforesaid, and including therein sellers and distributors of watches and other products of same nature and character, who truthfully advertise the same in said respects and as to their merit and value, and do not represent the same as "free" when in fact not given away without cost or condition, and including sellers and distributors of genuine "railroad" and "engineer" watches who truthfully represent nature, character, merit, and value thereof; in advertising, through newspapers and periodicals, and circulars and other printed matter issued to prospective customers throughout the United States—

- (a) Represented that certain watches, therein offered and described as "railroad" or "engineer" watches, were equal in quality and value to those used on railroads and which must pass, periodically, rigid inspection, and that their said watches might be used by railroad employees and would pass regular railroad watch inspection, through such statements as " * * * Specially chosen jewelled movement. * * * Railroad dial. * * *," "Adjusted watch. * * * Railroad style * * * Railroad dial. * * *," " * * * American made heavy railroad duty model watch * * *," and " * * * Engineer: * * * Engineer's watch," etc., facts being watches thus represented, designated, and described were not "lever set" or equipped with micrometer, did not contain 19 or more jewels properly placed so as to insure accuracy and eliminate friction as in "railroad" or "engineer" watches, and their said watches were not comparable in quality or value to genuine "railroad" or "engineer" watches and would not qualify for or pass usual and customary inspections of "railroad" watches, and could not be used by railroad employees on duty, did not possess a single jewel and were not "railroad" or "engineer" watches; and
- (b) Made use of such terms, in their advertising aforesaid and in offering their said products, as "free," "included free" and "included free of extra charge," through such statements as "Watch included free," "Your choice of Man's or Lady's rolled gold plate face Wrist Watch included Free with every ring purchased from us during this Sale," etc., and "Included Free of Extra Charge * * * Your choice of Men's or Ladies' wrist Watch Free with every Ring ordered during this Sale," etc., facts being watches thus referred to were given to purchasers of other merchandise only upon condition that installment payments due were made promptly according to