

Syllabus

IN THE MATTER OF
THE STEEL OFFICE FURNITURE INSTITUTE 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 3319. Complaint, Mar. 9, 1938¹—Decision, Feb. 20, 1940*

Where twelve corporations engaged in manufacture and sale of more than 50 percent of all the steel office furniture made in the United States, and consisting of filing cabinets, sections, book, index and transfer cases, and desks and tables, and storage cabinets and wardrobes, and certain other units or products, and in price competition with one another in sale in interstate commerce of their said products, and members of their unincorporated institute which, during period involved, (1) collected, compiled and made available to members and public monthly statistical compilations and tabulations of total wholesale value of industry's shipments for month preceding and existing future delivery contracts, (2) conducted industry tests to encourage standardization and interchangeability, (3) disseminated such information as Federal and State legislation and Governmental rulings of interest, (4) collected from members and others published price lists and distributed among members requesting same such lists, and (5) encouraged members and industry to comply with Commission's Trade Practice Conference Rules, and with and through which "institute" below-described agreements were entered into and carried out—

- (a) Agreed among themselves to and, in some instances, did fix and maintain identical delivered prices, uniform discounts, terms and conditions in sale of products in question;
- (b) Agreed to and, in some instances, did induce or cause dealers and customers purchasing such products for resale to maintain resale prices fixed by said manufacturing companies, and to join and form local dealer associations having such objectives; and
- (c) Agreed to and many times did abide by and not deviate from identical delivered prices and uniform discounts and terms and conditions of sale filed by them with institute aforesaid;

With result that price competition theretofore existing among them was substantially suppressed by such activities, and with effect of hindering and preventing such competition in sale of said products in commerce throughout the United States, and with dangerous tendency so to do;

Held, That such acts and practices of said manufacturing companies in entering into and carrying out such agreements, and in doing acts and things done thereunder, pursuant thereto and in furtherance thereof, were all to the prejudice of the public, and constituted unfair methods of competition.

Mr. Edward L. Smith for the Commission.

Donovan, Leisure, Newton & Lombard, of Washington, D. C., for The Steel Office Furniture Institute, Corry-Jamestown Manufacturing Corporation, Metal Office Furniture Co., The Shaw-Walker Co., Emerson's, Inc. and George Andrew Carnegie, and also, in conjunc-

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tion with various other counsel, as below set forth, for all respondents, excepting last, as there named.

Franchot & Schachtel, of New York City, and *Mr. J. A. W. Simson*, of Buffalo, N. Y., for Remington Rand, Inc. and Victor Safe & Equipment Co., Inc.

Mr. Lou L. Landman, of Muskegon, Mich., for Brown-Morse Co.

Roper & Caldwell, of Philadelphia, Pa., for Columbia Steel Equipment Co.

Harrington, Husley & Smith, of Youngstown, Ohio, for The General Fireproofing Co.

Slee, O'Brian, Hellings & Ulsh, of Buffalo, N. Y., for Art Metal Construction Co.

Kunkel & Kunkel, of Cleveland, Ohio, for The Globe-Wernicke Co.

Nash & Nash, of Manitowoc, Wisc., for Invincible Metal Furniture Co.

Goodwin, Nixon, Hargrave, Middleton & Devans, of Rochester, N. Y., for Yawman and Erbe Manufacturing Co.

Mr. William M. Phipps, of Norfolk, Va., for Norfolk Stationery Co., Inc. and Hampton Roads Paper Co., and along with *Mr. Clyde H. Jacob*, of Norfolk, Va., for Frank B. Hodgson.

Mr. Thomas F. Patton, of Cleveland, Ohio, for Bentson Manufacturing Co., and, separately for The Berger Manufacturing Co.

AMENDED COMPLAINT

Pursuant to the provisions of an act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that the parties described in the caption hereof, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be to the public interest, hereby issues its amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Steel Office Furniture Institute, hereinafter referred to as the respondent institute, is a voluntary incorporated association of firms engaged in the manufacture, sale, and distribution of steel office furniture and equipment. Its principal office is in Room 604 Chester Avenue, and Ninth Street Bldg., in the city of Cleveland, Ohio. Respondent institute was organized in 1935 by certain of the member respondents hereinafter described, as a trade

association for the promotion of the interests of its members, and it has, since its organization so acted.

The activities of said member respondents hereinafter described were carried out through, and under the supervision of, said respondent institute. Approximately 85 percent of all the steel office furniture and equipment sold in the United States is produced and sold by the members of respondent institute.

PAR. 2. Respondent Art Metal Construction Co., Inc., is a corporation with its principal office and place of business in Jamestown, N. Y.

Respondent Bentson Manufacturing Co. is a corporation with its principal office and place of business in Aurora, Ill.

Respondent Berger Manufacturing Co.² is a corporation with its principal office and place of business in Canton, Ohio.

Respondent Browne-Morse Co. is a corporation with its principal office and place of business in Muskegon, Mich.

Respondent Corry-Jamestown Manufacturing Corporation is a corporation with its principal office and place of business in Corry, Pa.

Respondent General Fire Proofing Co. is a corporation with its principal office and place of business in Youngstown, Ohio.

Respondent The Globe-Wernicke Co. is a corporation with its principal office and place of business in Norwood, Cincinnati, Ohio.

Respondent Invincible Metal Furniture Co. is a corporation with its principal office and place of business in Manitowoc, Wis.

Respondent Metal Office Furniture Co. is a corporation with its principal office and place of business in Grand Rapids, Mich.

Respondent Remington-Rand, Inc. is a corporation with its principal office and place of business in Buffalo, N. Y.

Respondent The Shaw-Walker Co. is a corporation with its principal office and place of business in Manitowoc, Wis.

Respondent Victor Safe and Equipment Co., Inc., is a corporation with its principal office and place of business in North Tonawanda, N. Y.

² Commission on August 3, 1938, granted motion to dismiss complaint as to The Berger Manufacturing Co. by the following order:

This matter coming on to be heard before the Commission on the motion of Thomas F. Patton, attorney for respondent, The Berger Manufacturing Company, that the complaint herein be dismissed as to said respondent for the reason that respondent corporation was dissolved on or about November 1, 1937, and the Commission having duly considered said motion and the record herein, and being now fully advised in the premises;

It is ordered, That the said motion be, and the same is hereby, granted and that the complaint herein be, and the same is hereby dismissed as to respondent, The Berger Manufacturing Company.

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Respondent The Yawman & Erbe Manufacturing Co. is a corporation with its principal office and place of business in Rochester, N. Y.

Respondent Columbia Steel Equipment Co. is a corporation with its principal office in Philadelphia, Pa.

All of the respondents named and described in this paragraph are members of the respondent institute except Columbia Steel Equipment Co., and are all engaged in the manufacture, sale and distribution of steel office furniture and equipment. Each of said member respondents sells and distributes its said products to wholesalers, retailers, and others purchasers in the United States, and causes said products when sold to be transported from its principal place of business, as hereinbefore set out, into and through the several States of the United States, and the District of Columbia, to such purchasers located at various points in the several States of the United States, other than in the State of the origin of such shipments, and in the District of Columbia. Remington-Rand, Inc., is also a member of the respondent association hereinafter described.

Before the adoption of the practices hereinafter alleged, these member respondents were in active and substantial price competition with each other and with other members of the industry, in making and seeking to make sales of their said products in commerce between and among the several States of the United States and in the District of Columbia, and but for the facts hereinafter alleged such active and substantial price competition would have continued to the present time and said member respondents would now be in active and substantial price competition with each other in said commerce. Said member respondents maintain a constant current of trade and commerce in said products between and among the several States of the United States and in the District of Columbia.

These member respondents manufacture and sell approximately 85 percent of the steel office furniture and equipment manufactured and sold in the United States and they occupy such a dominant and powerful position in the industry as to enable them, through the respondent institute, to dictate, dominate, and control the practices and policies of the industry as a whole.

PAR. 3. Respondent Tidewater Office Equipment Dealer's Association is an unincorporated association composed of corporations, partnerships and individuals engaged in the sale and distribution, among other things, of office furniture, equipment and supplies, with its office in the city of Norfolk, Va. Said respondent will hereinafter be referred to on occasion as respondent association. Respondent association was formed in 1936 by the respondents named in paragraph 4 hereof and other corporations and individuals located in the

city of Norfolk, Va., for the purpose of practicing and promoting the interests of said members and protecting the interests of the respondents named in paragraph 2 hereof. The activities of the members of respondent association hereinafter set out were carried out through and under the supervision of, said respondent association.

PAR. 4. Respondent Norfolk Stationery Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business in the city of Norfolk, Va.

Respondent Hampton Roads Paper Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business in the city of Norfolk, Va.

Respondent Emmerson's, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business in the city of Norfolk, Va.

Respondent Frank B. Hodgson is an individual trading as Frank B. Hodgson Office Furniture with his office and place of business in the city of Norfolk, Va.

Respondent George Andrew Carnegie is an individual trading as Carnegie Office Appliance Co., with his office and place of business in the city of Norfolk, Va.

The respondents in this paragraph named are now, or have been, members of the respondent association and will hereinafter, on occasion, be referred to as respondent association members.

The membership of said respondent association varies from time to time as the result of the dropping out of old and the addition of new members, and they constitute a class so numerous and fluctuating that it is impracticable at any given time to name as parties respondent and bring before the Commission each and all of said members without manifest inconvenience and delay, and the respondent association members named are made parties respondent individually and separately, and as representatives of each and all other members as a class.

Members of said respondent association are all engaged in the sale and distribution of office furniture, equipment, and supplies and they purchase from some one or more of the respondent members of respondent institute, or act as agents for some one or more of said respondent members of respondent institute in the sale of, some of the products sold and distributed by said member respondents of said respondent institute.

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Members of said respondent association, in the course and conduct of their said businesses in the purchase and sale of said products, are engaged in trade and commerce between, among, in, and with the several States of the United States and in and with the District of Columbia. Said members cause said products, when sold by them, to be shipped from points in various States of the United States other than Virginia to the purchasers thereof located in the State of Virginia, and, on occasion, from their respective places of business in the State of Virginia to purchasers located in States of the United States other than the State of Virginia and in the District of Columbia. Said members maintain a constant current of trade and commerce in said products between and among the several States of the United States and in the District of Columbia.

Before the adoption of the practices hereinafter alleged, said members were in active and substantial price competition with each other, and with others engaged in the same business, in making and seeking to make sales of their said products in said commerce between, among, in, and with the several States of the United States and in the District of Columbia, and but for the facts hereinafter alleged such active and substantial competition would have continued to the present time and said members would now be in active and substantial price competition with each other in said commerce.

PAR. 5. On or about June 15, 1935, and on divers days and dates thereafter, said member respondents of said respondent institute entered into and thereafter carried out understandings, agreements, combinations, and conspiracies, hereinafter, at times, referred to as an undertaking, for the purpose and with the effect of restricting, restraining, and monopolizing, and suppressing and eliminating price competition in, the sale of steel office furniture and equipment in trade and commerce between, among, in and with the several States of the United States and in the District of Columbia, and for the purpose and with the effect of restricting, restraining, suppressing, and eliminating price competition in the sale of such products between jobbers, retailers and others in said commerce purchasing such products for resale.

PAR. 6. Pursuant to said understandings, agreements, combinations, and conspiracies, said member respondents of said respondent institute and said respondent institute have done and performed, and still do and perform, the following acts and things:

1. Said member respondents agreed to fix and maintain and do fix and maintain, identical delivered prices for said products;
2. Said member respondents agreed to fix and maintain, and do fix and maintain, minimum delivered prices for said products;

3. Said member respondents agreed to fix and maintain, and do fix and maintain, uniform maximum discounts which are allowed in the sale of said products;

4. Said member respondents agreed to fix and maintain, and do fix and maintain, uniform terms and conditions, including but without limitation, maximum discounts, brokerage fees, freight and other allowances, in the sale of said products;

5. Said member respondents have caused, through coercion and other means, their agents and customers purchasing for resale to form and join local associations having for their objective the maintenance of the resale prices fixed by said member respondents;

6. Said member respondents agreed to require, and do require agents and wholesalers, retailers and others purchasing said products for resale, to maintain the resale prices on said products fixed by said members. To secure the cooperation of agents and of wholesalers, retailers, and others purchasing said products for resale, in maintaining the resale prices fixed by said member respondents, said member respondents, acting through respondent institute, have formed, and caused to be formed, local associations of such agents and purchasers for resale, at various and sundry points throughout the United States; and they have induced and coerced members of said local associations of agents and purchasers for resale, and the members of other local associations of agents and purchasers for resale, theretofore in existence, and into entering into and thereafter carrying out understandings, agreement, combinations and conspiracies to maintain the resale prices fixed by said member respondents in furtherance of said undertaking. The respondent association Tidewater Office Equipment Dealers' Association, is typical of the type of association formed and used by said member respondents and the respondent institute in inducing and coercing agents and purchasers for resale to maintain the resale prices fixed by said member respondents in furtherance of said undertaking.

7. Each of the respondent members agreed to file and does file with the respondent institute a schedule of the delivered prices, including discounts and the terms and conditions of all sales at which said member will and does sell said products.

8. Each said respondent member agreed that it would not deviate from the delivered prices, discounts and terms and conditions of sale stated in its delivered prices filed with the respondent institute.

9. The respondent institute collects from and disseminates among the member respondents information as to delivered prices, discounts and terms and conditions of sale, and other information used and

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useful in carrying out said undertaking. Said respondent members and the respondent institute have adopted and agreed upon detailed rules and regulations designed and intended to prevent deviation on the part of respondent members from the delivered prices, discounts and terms and conditions of sale announced by such members.

10. Said respondents have adopted and used and are using other methods and means designed to carry out said undertaking.

PAR. 7. Each of said member respondents of said respondent institute acted in concert and cooperation with one or more of the other member respondents and with the respondent institute in doing and performing the acts and things hereinabove alleged in furtherance of said undertaking, and in concert and cooperation with the members of the respondent association in the doing of the acts and things hereinafter alleged.

PAR. 8. On or about June 4, 1936, and on divers days and dates thereafter, said respondent association members and the other members of the respondent association entered into and thereafter carried out understandings, agreements, combinations and conspiracies for the purpose and with the effect of restricting, restraining, and monopolizing, and suppressing and eliminating price competition between and among said members in, the sale of steel office furniture and equipment and other office supplies in trade and commerce between, among, in and with the several States of the United States and in the District of Columbia.

PAR. 9. Pursuant to such agreements, combinations, and conspiracies, said respondent association members and said respondent association have done, performed, and still do and perform, the following acts and things:

1. Said respondent association members agreed to fix and maintain, and do fix and maintain, uniform resale prices for said products.

2. Said respondent association members agreed to fix and maintain, and do fix and maintain, minimum resale prices for said products.

3. Said respondent association members agreed to fix and maintain, and do fix and maintain uniform maximum discounts which are allowed in the sale of said products.

4. Said respondent association members agreed to fix and maintain, and do fix and maintain, uniform terms and conditions in the sale of said products.

5. Said respondent association members agreed to submit and do submit identical bids to agencies of municipal, county, State, and Federal Governments, when bids are requested by such agencies on said products.

6. Said respondent association members agreed to adopt and maintain, and have adopted and maintained, the resale prices and discounts fixed and established by the member respondents of said respondent institute, described in paragraph 2 hereof.

7. Said respondent association members induced the respondents described in paragraph 2 hereof to refuse to sell steel office furniture and equipment to certain dealer competitors of said respondent association members who had refused to participate in and become parties to said understandings, agreements, combinations and conspiracies to fix and maintain resale prices and maintain discounts and terms and conditions of sale as above alleged, thereby interfering with the source of supply of said non-cooperating competitors in an effort to compel them to become participants in such understandings, agreements, combinations and conspiracies.

8. Said respondent association members agreed and did attempt, by threats, coercion and persuasion, and through other means, to induce competitors who were not parties to said understandings, agreements, combinations and conspiracies to cooperate with them in carrying out the same.

PAR. 10. Respondent members of said respondent institute and said respondent association members and the Columbia Steel Equipment Company cooperated with each other in carrying out and making effective the understandings, agreements, combinations, and conspiracies hereinabove alleged.

PAR. 11. Said understandings, agreements, combinations, and conspiracies between and among said member respondents of said respondent institute and between and among said respondent association members and Columbia Steel Equipment Co., and the things done thereunder and pursuant thereto, and in furtherance thereof, including the cooperation between the members of the respondent institute and the members of the respondent association, as hereinabove alleged, have had and do have the effect of unduly and unlawfully restricting and restraining the sale of steel office furniture and equipment and other office supplies in trade and commerce between, among, in, and with the several States of the United States and in the District of Columbia; of unduly and unlawfully restricting and restraining trade in said products in said commerce; of substantially enhancing prices to the consuming public and maintaining prices at artificial levels and otherwise depriving the public of the benefits that would flow from normal competition between and among the respondent members of said respondent institute and between and among said respondent association members; of eliminating price competition, with the tendency and capacity of creating a monopoly, in the sale of said products

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in said commerce. Said understandings, agreements, combinations, and conspiracies and the things done thereunder and pursuant thereto, and in furtherance thereof, as herein alleged, constitute unfair methods of competition in commerce within the intent and meaning of an Act of Congress, approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 9th day of March 1938, issued and served its amended complaint in this proceeding upon said respondents, The Steel Office Furniture Institute, Remington Rand, Inc., Browne-Morse Co., Columbia Steel Equipment Co., The General Fireproofing Co., Art Metal Construction Co., Bentson Manufacturing Co., Corry-Jamestown Manufacturing Corporation, The Globe-Wernicke Co., Invincible Metal Furniture Co., Metal Office Furniture Co., The Shaw-Walker Co., Victor Safe & Equipment Co., Inc., Yawman and Erbe Manufacturing Co., Tidewater Office Equipment Dealers' Association, Norfolk Stationery Co., Inc., Hampton Roads Paper Co., Emmerson's, Inc., Frank B. Hodgson, trading as Frank B. Hodgson Office Furniture, and George Andrew Carnegie, trading as Carnegie Office Appliance Co., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Thereafter, each of the respondents, except Emmerson's, Inc., filed its answer in this proceeding. Thereafter, under date of January 15, 1940, a stipulation was entered into whereby it was stipulated and agreed that a statement signed and executed by the respondents, The Steel Office Furniture Institute, Remington Rand, Inc., Browne-Morse Co., The General Fireproofing Co., Art Metal Construction Co., Bentson Manufacturing Co., Corry-Jamestown Manufacturing Corporation, The Globe-Wernicke Co., Invincible Metal Furniture Co., Metal Office Furniture Co., The Shaw-Walker Co., Victor Safe & Equipment Co., Inc., and Yawman and Erbe Manufacturing Co., by their counsel, and W. T. Kelley, Chief Counsel for the Federal Trade Commission, subject to the approval of the Commission, solely for the purpose of this proceeding, the enforcement of review thereof in the Circuit Court of Appeals, and for any review in the Supreme Court of the United States, or for any other court proceeding in enforcement of the order to be entered herein or to recover any penalty for violation thereof which may be brought or instituted pursuant to authority contained in the Federal Trade Commission Act as amended, and approved

March 21, 1938, and for no other purpose, that the Commission can adduce the evidence as hereinafter set forth in the following Statement, which is to be taken and considered as a part of the record herein the same, and with the same effect as if said evidence had been adduced at hearings in the usual course, in lieu of testimony in support of the charges stated in the complaint, and that said respondents waive their rights to adduce evidence in opposition thereto and do not contest this proceeding; and that the said Commission may proceed upon said statement to make its report stating its findings as to the facts (including inferences which it may draw therefrom), and its conclusion based thereon, and enter its order disposing of this proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said amended complaint, said answers and stipulation, said stipulation 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 respondent, The Steel Office Furniture Institute, hereinafter referred to as the Institute, during the period from about June 15, 1935, to and including March 9, 1938, hereinafter referred to as the period specified in the amended complaint, was an unincorporated association of manufacturers of steel office furniture industry products, hereinafter referred to as industry products, which consist of

Steel vertical filing cabinets.

Steel horizontal sections and half-sections, and book-cases.

Steel Hi-line and book-shelf units.

Steel card index cases.

Steel transfer cases.

Steel desks and tables.

Steel storage cabinets and wardrobes.

The Institute was formed on or about April 10, 1931, by some of the respondents named in paragraph 2 and others, and has been active since its formation except for the period from November 4, 1933 to June 5, 1935. During its existence, including the period specified in the amended complaint, the Institute performed the following functions:

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a. Collected and compiled statistical information which it made available to its members and the public. This information during the period specified in the amended complaint consisted of

1. a compilation each month of the total wholesale value of shipments of industry products for the previous month,
2. a monthly tabulation of existing future delivery contracts.

b. Conducted tests of industry products to encourage standardization and interchangeability of product.

c. Disseminated among its members information of interest to them such as federal and State legislation, and rulings of governmental bodies.

d. Collected from its members and other members of the industry the published price lists of industry products and distributed such price lists among such members of the industry as had requested the same.

e. Encouraged its members and the industry to comply with the Trade Practice Conference Rules approved by the Federal Trade Commission for this industry.

f. Miscellaneous temporary activities.

PAR. 2. Respondent Art Metal Construction Co. is a corporation with its principal office and place of business in Jamestown, N. Y.

Respondent Bentson Manufacturing Co. is a corporation with its principal office and place of business in Aurora, Ill.

Respondent Browne-Morse Co. is a corporation with its principal office and place of business in Muskegon, Mich.

Respondent Corry-Jamestown Manufacturing Corporation is a corporation with its principal office and place of business in Corry, Pa.

Respondent The General Fireproofing Co. is a corporation with its principal office and place of business in Youngstown, Ohio.

Respondent The Globe-Wernicke Co. is a corporation with its principal office and place of business in Norwood, Cincinnati, Ohio.

Respondent Invincible Metal Furniture Co. is a corporation with its principal office and place of business in Manitowoc, Wis.

Respondent Metal Office Furniture Co. is a corporation with its principal office and place of business in Grand Rapids, Mich.

Respondent Remington Rand, Inc., is a corporation with its principal office and place of business in Buffalo, N. Y.

Respondent The Shaw-Walker Co. is a corporation with its principal office and place of business in Muskegon, Mich.

Respondent Victor Safe & Equipment Co., Inc., is a corporation with its principal office and place of business in North Tonawanda, N. Y.

Respondent Yawman and Erbe Manufacturing Co. is a corporation with its principal office and place of business in Rochester, N. Y.

The above-named respondents, hereinafter referred to as respondent manufacturing companies, during the period specified in the amended complaint, were each engaged in the manufacture and sale of some or all of the said industry products, and had caused some of said products to be sold and shipped in interstate commerce, and, each of said respondents was a member of the Institute during all or a portion of said period. Said respondent manufacturing companies prior to the said period specified in the amended complaint were in price competition with each other in making sales of their said products in interstate commerce, and said competition has been substantially suppressed by the activities hereinafter set forth. Said respondent manufacturing companies manufacture and sell more than 50 percent of all of the said industry products manufactured and sold throughout the United States.

PAR. 3. Respondent manufacturing companies, during the said period specified in the amended complaint, agreed among themselves to fix and maintain identical delivered prices, uniform discounts and uniform terms and conditions in the sale of said industry products, and pursuant to such agreement, in certain instances, did fix and maintain said prices, discounts, and terms.

PAR. 4. Respondent manufacturing companies, during the period specified in the amended complaint, agreed among themselves to induce or cause, and pursuant to such agreement in some instances, did induce or cause their dealers and customers purchasing said industry products for resale to maintain resale prices fixed by said respondent manufacturing companies and to join and form local associations of dealers having for an objective the maintenance of said resale prices.

PAR. 5. Respondent manufacturing companies, during the period specified in the amended complaint, agreed among themselves to abide by and not to deviate from the identical delivered prices, uniform discounts and uniform terms and conditions of sale filed by said respondent manufacturing companies with the Institute, and pursuant to such agreement many times did abide by and not deviate from said prices, discounts, and terms in the sale of said industry products.

PAR. 6. The agreements hereinabove described in paragraphs 3, 4, and 5 were entered into and carried out through and by means of the Institute.

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CONCLUSION

The aforesaid acts and practices of the said respondent manufacturing companies in entering into and carrying out such agreements, and in doing the acts and things done thereunder, pursuant thereto and in furtherance thereof, are all to the prejudice of the public, and have a dangerous tendency to and have hindered and prevented price competition between and among the said respondent manufacturing companies in the sale of said industry products in commerce throughout the United States, and constitute unfair methods of competition in commerce 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 amended complaint of the Commission, the separate answers of the respondents, and a stipulation dated January 15, 1940, entered into between certain of the respondents herein by their attorneys and W. T. Kelley, Chief Counsel for the Commission, which stipulation has been approved by the Commission, and which provides, among other things, that without other evidence and without intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that certain of said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, The Steel Office Furniture Institute, Remington Rand, Inc., Browne-Morse Co., The General Fireproofing Co., Art Metal Construction Co., Bentson Manufacturing Co., Corry-Jamestown Manufacturing Corporation, The Globe-Wernicke Co., Invincible Metal Furniture Co., Metal Office Furniture Co., The Shaw-Walker Co., Victor Safe & Equipment Co., Inc., and Yawman and Erbe Manufacturing Co., their officers, representatives, agents, and employees, directly or through any corporate or other device, or through the respondent The Steel Office Furniture Institute, in connection with the offering for sale, sale, and distribution of steel vertical filing cabinets; steel horizontal sections and half-sections, and bookcases; steel hi-line and bookshelf units; steel card index cases; steel transfer cases; steel desks and tables; steel storage cabinets and wardrobes in interstate commerce or in the District of Columbia, do forthwith cease and desist from doing any of the following acts and things:

1. Agreeing, combining or conspiring among themselves to fix and maintain identical delivered prices, uniform discounts and terms and conditions of sale;

2. Agreeing among themselves to induce and, pursuant to such agreement, inducing their dealers and customers, or the dealers and customers of any of them to join or form local associations having for their objective the maintenance of resale prices.

3. Agreeing among themselves to require and, pursuant to such agreement, requiring their dealers and customers purchasing for resale to maintain resale prices fixed by the manufacturing company respondents.

4. Agreeing among themselves to abide by and not to deviate from prices, discounts, terms, and conditions of sale filed by respondent manufacturing companies with respondent Institute, and pursuant to such agreement, abiding by and not deviating from such prices, discounts, and terms of sale.

5. Filing prices with the respondent Institute for the purpose or having the effect of fixing and maintaining such prices arrived at by agreement among themselves.

6. Disseminating prices filed with the respondent Institute among said respondents for the purpose of fixing said prices by agreements among themselves.

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

It is further ordered, That this proceeding be and the same hereby is dismissed as to Columbia Steel Equipment Co. and Tidewater Office Equipment Dealers' Association and its former respondent members without prejudice to the right of the Commission should the facts so warrant to reopen the same and resume prosecution of the complaint in accordance with its regular procedure insofar as Columbia Steel Equipment Co. and Tidewater Office Equipment Dealers' Association and its former respondent members are concerned.

IN THE MATTER OF

CHESTER L. THOMAS, TRADING AS THOMAS QUILT
FACTORIES

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

Docket 3375. Complaint, Apr. 9, 1938—Decision, Feb. 23, 1940

Where an individual engaged in manufacture, sale, and distribution of quilts, bed pads, and similar products, to purchasers in various States and in the District of Columbia; in advertisements of his said quilts by mail, newspapers, advertising folders, pamphlets, circulars, letters and other literature published and circulated to purchasers and prospective purchasers throughout the United States, and through agents personally soliciting orders—

Represented that his Thomas Feather-Quilts usually retailed at \$37.50, and that quoted price of \$18.75 was introductory and special, limited as to time, and one-half of customary selling price therefor, and that quilts in question were of a value of \$37.50, specially offered as aforesaid, through such statements as "Save 50%. Introductory Half Price Offer * * * During the next 5 days you and your friends may reserve the right to purchase two famous Thomas Feather-Quilts for the usual price of one! * * *" and "'Factory irregular' Thomas Feather-Quilt only \$20.00 (or two for \$37.50) * * * Identical in every way to the first quality * * * originally retailed for \$37.50 * * * YOU SAVE OVER \$17.50 PER QUILT * * *, and "Hurry! Save one-half Regular Retail Price by mailing This Card AT ONCE. This special offer is Limited * * * During the next few days only * * * Our extremely low price will be discontinued after this sale! So don't wait. Beat the price rise," and others of similar tenor, facts being said price of \$18.75 was neither reduced, special nor introductory, nor limited as to time, but customary one at which said quilts were sold by him in usual and regular course of business at all times;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that all said representations were true, and with result, as consequence thereof, that number of consuming public purchased substantial volume of his said products and trade was diverted unfairly to him from competitors engaged in sale and distribution of said and similar goods:

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

Before *Mr. Miles J. Furnas* and *Mr. Randolph Preston*, trial examiners.

Mr. Carrel F. Rhodes for the Commission.

Mr. J. Frederick Schneider, of Denver, Colo., for respondent.