

Syllabus

IN THE MATTER OF

NATIONAL CONVERTERS 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 3897. Complaint, Sept. 19, 1939—Decision, Aug. 28, 1940

Where nine corporations which were engaged in converting for sale transparent cellulose sheets and rolls, such as cellophane, sylphrap, kodapak, protectoid, and other similar transparent materials, and in sale thereof to customers and users throughout the several States of the United States, and which represented, in the aggregate, 90 percent of the output and sale of said products, and were members of a voluntary unincorporated trade association or institute—

- (a) Filed with their said Institute, for cellulose sheets and rolls, base price lists and discounts and deviations thereupon not available to the public, and agreed that they would sell said products in the course and conduct of their business at approximately prices stated on price lists, and would maintain such prices and discounts to best of their ability, and exchanged information as to conduct of their businesses by reporting orders received from and invoices issued to customers in sale of products in question through medium of said Institute, as clearing house, and secretary thereof, by whom current price lists submitted by members were checked against price information contained in such orders and invoices, and by whom said information and reports were summarized and weekly bulletin issued to each member showing dollar volume of sales to all participating members and total number of orders taken by all such members, and by whom, in addition to aforesaid summarizing and distribution of such reports, data, and information not available to public, there were issued monthly summary reports showing total volume of sales of all participating members and, to each member, his own proportion in comparison therewith; and
- (b) Furnished information, upon request of member, as to instances where other members had sold products at prices and discounts other than those set forth in their respective price lists, in order to maintain net prices and discounts which such member corporations had theretofore agreed to maintain, through setting forth, in instances involved, (1) percentage of filed price over or under price at which sale was made, (2) date of sale, and (3) size of sale; and through supplying further, upon request, and on forms supplied by Institute, detailed information as to sales of products in question;

With the result that such acts and practices hindered and prevented price competition between and among corporations aforesaid in sale of their said products made and converted from cellulose sheets as aforesaid, and had dangerous tendency so to hinder and prevent, and placed in said corporations power and control to enhance prices in question, and tended dangerously to create in them and said Institute and individual, monopoly of said products in commerce involved, and unreasonably restrained interstate commerce therein:

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

Mr. George W. Williams for the Commission.

Mr. John Walsh, of Washington, D. C., for National Converters Institute, Richard M. McClure, Caton Printing Co., and Pioneer Wrapper & Printing Co., and, along with—

Mr. Franklin M. Warden, of Chicago, Ill., for Shellmar Products Co.; *Mr. Edward J. Dempsey*, of Oshkosh, Wisc., for Milprint Products Corp.; *Marshall & Marshall*, of Chicago, Ill., for Traver Paper & Manufacturing Co.; *Mr. Clark T. McConnell*, of Cleveland, Ohio, for Dobeckmun Co.; and *Wise, Corlett & Canfield*, of New York City, for Dennison Manufacturing Co.

Ballard, Spahr, Andrew & Ingersoll, of Philadelphia, Pa., for Thomas M. Royal & Co.

Nutter, McClennen & Fish, of Boston, Mass., for Nashua Gummed & Coated Paper Co.

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 each and all of the parties named in the caption hereof and more particularly described herein in paragraphs 1 and 2, and hereinafter referred to as respondents, have violated the provisions of the 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. Respondent National Converters Institute, hereinafter referred to as "Institute," is a voluntary unincorporated trade association originally organized in September 1930, and reorganized in September 1935, principally by representatives of the respondents Shellmar Products Co., Milprint Products Corporation, and the Traver Paper & Manufacturing Co., the principal members of the Transparent Materials Converters Industry. Said Institute has its principal office and place of business located at 111 West Washington Street in the city of Chicago, State of Illinois.

The membership of said respondent Institute since September 1935 has consisted of the several corporations hereinafter named and described in paragraph 2 herein and hereinafter referred to as member respondents. All of said member respondents were during the times mentioned herein, and still are, corporations engaged in the business of converting for sale transparent cellulose sheeting (such as cello-

phane, sylphrap, kodapak, protectoid, and other similar transparent materials) into bags, envelopes, tubes, pouches, sheets, rolls, ribbons, and other similar miscellaneous transparent products, hereinafter referred to as "products," and in the printing, stamping, or otherwise imprinting or placing various advertising description or other matter upon said products, and in the sale thereof to the consumers and users of such products located throughout the several States of the United States, causing said products when sold to be shipped or otherwise transported from the States wherein said member respondents maintain their respective factories and places of business to the purchaser thereof located in States other than the said States, and there has been, and now is, a constant current and course of trade and commerce in said products between and among the several States and territories of the United States and in the District of Columbia.

PAR. 2. The following-described corporations, member respondents, have been since September 1935, and now are, except as hereinafter indicated, members of respondent Institute and engaged generally in the said business hereinbefore described in paragraph 1.

(a) Respondent Shellmar Products Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its factory, principal office, and place of business located at 224 South Michigan Avenue in the city of Chicago, State of Illinois. Said member respondent is the largest converter of cellulose sheeting into the products hereinbefore described in paragraph 1 in the United States, and is the owner of a patent on a machine for, and a process of, printing and finishing cellophane, and has issued licenses to some of the other member respondents to use its said process and machine.

(b) Respondent Milprint Products Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its factory, principal office, and place of business located at 431 West Florida Street in the city of Milwaukee, State of Wisconsin. It has branch factories in the cities of Philadelphia, Pa., and Los Angeles, Calif. This member respondent uses a rubber type with analine ink to print its said products and is not a licensee of member-respondent Shellmar Products Co.

(c) Respondent Traver Paper & Manufacturing Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its factory, principal office and place of business, located at 358 West Ontario Street in the city of Chicago, in said State.

(d) Respondent Dobeckmun Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State

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of Ohio, with its factory, principal office and place of business located at 3301 Monroe Avenue, city of Cleveland, in said State. Said member respondent is a licensee of the member-respondent Shellmar Products Co. in the production by the gravure method of printing upon transparent materials such as cellophane.

(e) Respondent Dennison Manufacturing Co. is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its factory, principal office and place of business located in the city of Framingham, in said State. Said member respondent is a licensee of member-respondent Shellmar Products Co. in the production by the gravure method of printing upon transparent materials such as cellophane.

(f) Respondent Caton Printing Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its factory, principal office, and place of business located at 422 West Eighth Street, in the city of Kansas City, in said State.

(g) Respondent Thomas M. Royal & Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its factory, principal office and place of business located at 5800 North Seventh Street, in the city of Philadelphia, in said State. Said member respondent prints cellophane by the use of rubber plates, which is a cheaper process than the gravure process patented by said member-respondent Shellmar Products Co.

(h) Respondent Nashua Gummed & Coated Paper Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its factory, principal office, and place of business located in the city of Nashua, in the State of New Hampshire. Said member respondent is a licensee of the member-respondent Shellmar Products Co. in the production by the gravure method of printing upon transparent materials such as cellophane. Said member respondent resigned its membership in said respondent Institute effective January 1, 1939, and since that date has not actively cooperated with the said Institute in its activities as hereinafter set forth.

(i) Respondent Pioneer Wrapper & Printing Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its factory, principal office, and place of business located at 837 East Fourth Place in the city of Los Angeles, in the said State. Said member respondent resigned its membership in the respondent Institute in January 1938, but con-

tinued to cooperate with the said Institute and its members as hereinafter set forth.

PAR. 3. Respondent Richard M. McClure, since September 1935, has been and now is secretary-treasurer and manager of respondent Institute, with office at 111 West Washington Street, Chicago, Ill., and as such has directed its activities, including the conduct of meetings of said member respondents, the general correspondence of the said Institute, the collection, compilation, and dissemination of such statistical and other information as required by the member respondents in the carrying out of its "sales reporting and statistical service," the issuance of a manual of instructions under said plan, and the performance of all necessary acts in carrying out the agreement between and among the said member respondents as hereinafter set forth.

PAR. 4. Said member respondents in the course and conduct of their several businesses, as hereinbefore described, but for the matters and things hereinafter set forth would be naturally and normally in competition with each other and/or in competition with other individuals, copartners, and corporations also engaged in the business of converting cellulose sheeting and in the manufacturing of said products described in paragraph 1 herein, and in the sale thereof to customers located throughout the several States of the United States. The said member respondents have been at all times herein mentioned, and now are, the dominant factors in the Transparent Materials Converters Industry, controlling more than 90 percent of the output and sale of said products manufactured or converted from cellulose sheeting, as more particularly described in paragraph 1 herein.

PAR. 5. The said member respondents hereinbefore named and described, during the period of time, to wit, from September 1930, and particularly from September 1935, to the date of this complaint, have entered into and carried out an agreement, combination, and conspiracy with each other and with other persons, including respondent Richard M. McClure, now acting as manager of respondent Institute, to hinder and suppress competition in the interstate sale and distribution of said products hereinbefore mentioned and described in paragraph 1, and also to hinder and suppress competition between and among manufacturers of said products in the interstate sale and distribution of said products to the consumers and users thereof and to create a monopoly in the manufacture and sale of said products in the United States in said member respondents. Pursuant to said agreement, combination, and conspiracy said respondents have respectively and cooperatively performed and are now performing the following acts and practices, to wit:

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1. Member respondent corporations through the medium of said respondent Institute and respondent Richard M. McClure, manager thereof, fix uniform prices at which their said products are to be sold, including the discounts therefrom to be allowed to the purchasers thereof.

2. Member respondent corporations publish and issue price lists of said products to the trade and through the medium of said respondent Institute and respondent Richard M. McClure, manager thereof, exchange current price lists of said products in order to establish and maintain uniform net prices at which the respective members will sell said products in various quantities to the purchasers thereof located in various States of the United States and in the District of Columbia.

3. Member respondent corporations, through the medium of respondent Institute and respondent Richard M. McClure, its manager, acting as a clearing house, exchange confidential detailed information daily as to conduct of their said businesses as to orders received from, and invoices issued to, customers in the sale of said products.

4. Said respondent Richard M. McClure, acting as manager of respondent Institute, checks the current price lists of said products submitted by said member respondents to him against the price information contained in orders and invoices received from said member respondents as set forth in subparagraphs (2) and (3) herein; summarizes the reports and issues a weekly bulletin to each member respondent showing—

- (a) the dollar volume of sales to all participating member respondents;
- (b) the total number of orders taken by all participating member respondents;
- (c) the individual member respondent's proportion to the foregoing total;

and also summarizes said reports and issues a monthly report thereon showing—

- (1) the total dollar volume of sales of all participating member respondents by geographical location, and to the individual member respondent his proportion in comparison therewith; and
- (2) a report showing the total sales broken down by commodities of all members for each commodity carried, and to the individual member respondent his relation thereto.

5. Said member respondent corporations adhere to the uniform prices and discounts as set forth in their said price lists issued and exchanged by them as set forth in subparagraph (2) herein and file

with the said respondent Institute reports of deviations from the said price lists and prices and discounts fixed and agreed upon as hereinbefore set forth, at which their said products are to be sold.

6. Said respondent Richard M. McClure as manager of respondent Institute, upon request of any member respondent, furnishes information as to instances of where other member respondents have sold their said products at prices and discounts other than those set forth in their said respective price lists in the following manner, to wit:

- (1) The percentage of the filed price over or under the price at which the sale was made;
- (2) the date of the sale; and
- (3) the size of the sale.

PAR. 6. Said member respondents, as a result of the activities described in paragraph 5 herein, have sold their said products at uniform prices and discounts to their respective customers located in the same geographical area and buying in comparable quantities since September 1930, or so long as they were a member of respondent Institute, except in a few instances where they sold at lower net prices to meet the competition of manufacturers of said products who were not members of said respondent Institute. Approximately 70 percent of the total volume of sales of said products by said member respondents throughout the United States were during the past 3 years and now are sold at prices and discounts and on terms fixed and maintained by said member respondent and set forth and described in paragraph 5 herein.

PAR. 7. As a result of said agreement, combination, and conspiracy and the acts and practices performed thereunder and pursuant thereto by said respondents as hereinbefore set forth, the consumers and users of said products, more particularly described in paragraph 1 herein, since September 1930, have been and now are forced and compelled to pay to said member respondents prices for said products which are arbitrarily fixed and maintained at artificial levels and have been and now are deprived, to their detriment, of normal and free competition between and among said member-respondent corporations in the purchase of said products; and due to the dominant position in the industry of the said member respondents, the consumers and users of said products have been unable to purchase their requirements from manufacturers and converters of said products who were not members of said respondent Institute and the said member respondents have been and now are the only adequate sources of supply of said products.

PAR. 8. The acts and practices of the said respondents as herein alleged are all to the prejudice of the public; have a dangerous

tendency to hinder and prevent, and have actually hindered and prevented, price competition between and among said member-respondent corporations in the sale of said products manufactured and converted from cellulose sheeting (such as cellophane, sylphrap, kodapak, protectoid and other similar transparent materials) in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in said member respondents the power to control and enhance prices of said products; have a dangerous tendency to create in respondents a monopoly in said products in such commerce; have unreasonably restrained such commerce in products manufactured and converted from cellulose sheeting, 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 the 19th day of September 1939, issued and served its complaint in this proceeding upon said respondents, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. The respondents duly filed their answers in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and their counsel 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 argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer 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 this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, National Converters Institute, hereinafter referred to as "Institute" is a voluntary unincorporated trade association originally organized in September 1930, and reorganized in

August 1933, and that its principal office and place of business is located at 111 West Washington Street, in the city of Chicago, State of Illinois.

PAR. 2. The following corporate respondents have been since September 1933, and now are, except as hereinafter indicated, members of respondent Institute, and are engaged generally in the manufacture of cellulose sheets and rolls which are sold by said respondent in interstate commerce.

(a) Shellmar Products Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, having its factory, principal office, and place of business at Mount Vernon, Ohio.

(b) Milprint Products Corporation (now Milprint, Inc.) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its factory, principal office, and place of business located at 431 West Florida Street in the city of Milwaukee, State of Wisconsin, and it has branch factories in the cities of Philadelphia, Pa., and Los Angeles, Calif.

(c) Traver Paper Corporation (formerly known as Traver Paper & Manufacturing Co.) is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its factory, principal office and place of business located at 358 West Ontario Street, in the city of Chicago, in said State.

(d) Dobeckmun Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its factory, principal office and place of business located at 3301 Monroe Avenue, city of Cleveland, in said State.

(e) Dennison Manufacturing Co. is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its factory, principal office and place of business located in the city of Framingham, in said State.

(f) Caton Printing Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its factory, principal office, and place of business located at 422 West Eighth Street, in the city of Kansas City, in said State.

(g) Thomas M. Royal & Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its factory, principal office, and place of business located at 5800 North Seventh Street, in the city of Philadelphia, in said State.

(h) Nashua Gummed & Coated Paper Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its factory, principal office, and

place of business located in the city of Nashua, in the State of New Hampshire.

(i) Pioneer Wrapper & Printing Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, with its factory, principal office, and place of business located at 837 East Fourth Place in the city of Los Angeles, in said State.

PAR. 3. That the following named corporate respondents resigned their respective memberships in said Institute shortly prior to the service of the complaint herein, to wit: Pioneer Wrapper & Printing Co., Nashua Gummed & Coated Paper Co., and Thomas M. Royal & Co.

PAR. 4. The respondent Institute was first organized in 1931, with the following members:

Caton Printing Co., Kansas City, Mo.
Edward E. Cox Printer, Inc., Hartford City, Ind.
Milprint Products Corporation, Milwaukee, Wis.
Package Paper Company, Holyoke, Mass.
Shellmar Products Co., Chicago, Ill.
Traver Paper & Manufacturing Co., Chicago, Ill.
Transparent Package & Printing Corporation, New York City.
Dennison Manufacturing Co., Framingham, Mass.
Gabriel-Meyerfeld Co., Ltd., San Francisco, Calif.
Western Paper Converting Co., Salem, Oreg.
Pioneer Wrapper & Printing Co., Los Angeles, Calif.

with Wainwright Davis, the Secretary and active officer thereof.

PAR. 5. Corporate respondents are engaged in the business of converting for sale transparent cellulose sheets and rolls such as cellophane, sylphrap, kodapak, protectoid, and other similar transparent materials, hereinafter referred to as "products," and in the sale thereof to customers and users of said products located throughout the several States of the United States, causing said products when sold to be shipped or otherwise transported from States wherein said members respondents maintain their respective factories and places of business to the purchasers thereof located in the States other than the said States of origin, and there is, and has been, a constant current and course of trade in commerce in said products between and among the several States of the United States and in the District of Columbia.

PAR. 6. Respondent, Richard M. McClure, since August 1935, has been, and now is, secretary-treasurer and manager of the Institute, and has directed its activities, including the conduct of meetings of representatives of members of the Institute, and has collected, com-

piled, and disseminated statistical information, and has conducted its sales reporting and statistical service.

PAR. 7. The membership of respondent Institute has at all times represented approximately 90 percent of the output and sale of said products. The respondents Shellmar Products Co., Millprint Products Corporation, and Traver Paper Corporation do, and since the organization of said Institute have done, approximately 80 percent of the business done by members of said Institute in sheets and rolls.

PAR. 8. Corporate respondents, Shellmar Products Co., Milprint Products Corporation, Traver Paper & Manufacturing Co., Dobeckmun Co., Dennison Manufacturing Co., Caton Printing Co., Pioneer Wrapper & Printing Co., file, and the corporate respondents, Thomas M. Royal & Co. and Nashua Gummed & Coated Paper Co., during their membership in said Institute, namely, from March 1933 to August 28, 1939, and December 1937, to February 28, 1939, respectively, filed, uniform base price lists and discounts and deviations therefrom of cellulose sheets and rolls with the Institute which are not available to the public, and agree or agreed, as the case may be, among themselves that each respondent will sell said products in the course and conduct of its business, as above defined, at approximately the prices stated on its price list and that they will all maintain said prices and discounts to the best of their ability.

The corporate respondents, Thomas M. Royal & Co. and Nashua Gummed & Coated Paper Co. did not stipulate in the aforesaid stipulation of facts that they, or either of them, agreed between themselves or with the other corporate respondents that each respondent would sell said products in the course of its business at approximately the prices stated on its price list and that all corporate respondents would maintain said prices and discounts to the best of their ability. All of the corporate respondents, except the corporate respondents, Thomas M. Royal & Co. and Nashua Gummed & Coated Paper Co., stipulated in the aforesaid stipulation of facts that all corporate respondents, including the corporate respondents, Thomas M. Royal & Co. and Nashua Gummed & Coated Paper Co., did enter into such agreement. The corporate respondents, Thomas M. Royal & Co. and Nashua Gummed & Coated Paper Co., stipulated in the aforesaid stipulation of facts that they were members of the respondent Institute during the times above-mentioned and participated and cooperated in the activities of said Institute in the manner herein found, and that they sold said products at approximately the prices stated on said price lists. The Commission therefore finds, as hereinabove stated, that the corporate respondents, Thomas M. Royal & Co. and Nashua Gummed & Coated Paper Co., did agree with all

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other corporate respondents that each respondent would sell said products in the course and conduct of its business at approximately the prices stated on its price list and that they would all maintain said prices and discounts to the best of their ability.

PAR. 9. That, through the medium of said Institute and said McClure, as secretary thereof, acting as a clearing house, the said corporate respondents exchange information as to the conduct of their businesses as above described, by reporting orders received from, and invoices issued to, customers in the sale of said products, in commerce, as commerce is above defined, and the said McClure, acting as Manager of respondent Institute checks the current price lists of said products submitted by said member respondents to him against the price information contained in said orders and invoices received. He also summarizes said information and reports in reference to sales, and issues a weekly bulletin to each member of respondent Institute showing—

(a) the dollar volume of sale to all participating member respondents,
and

(b) the total number of orders taken by all participating member respondents.

That said reports, data, and information are not available to the public.

PAR. 10. The said McClure also summarizes said reports and issues a monthly report thereon showing the total volume of sales of said rolls and sheets of all participating member respondents, and to the individual member respondents, his proportion in comparison therewith.

PAR. 11. Said respondent McClure, as manager of said Institute, upon the request of any member respondent, furnishes information as to instances where other members have sold said products at prices and discounts other than those set forth in their respective price lists, in the following manner, to wit:

(a) the percentage of the filed price over or under the price at which the sale was made;

(b) the date of the sale; and

(c) the size of the sale.

Provision is also made for the supplying to members detailed information as to sales of said products upon the request of any member, such information to be made upon forms supplied by the Institute.

CONCLUSION

The aforesaid acts and practices of said respondents are all to the prejudice of the public, have a dangerous tendency to hinder and

prevent and have actually hindered and prevented price competition between and among said member respondents corporations in the sale of said products manufactured and converted from cellulose sheets, such as cellophane, sylphrap, kodapak, protectoid, and other similar transparent materials, in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in said member respondents the power and control to enhance prices of said products and have a dangerous tendency to create in respondents a monopoly in such products in such commerce; have unreasonably restrained interstate commerce in such products and constitute unfair methods of competition and unfair acts and practices 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 complaint of the Commission, the answers of the respondents, and a stipulation as to the facts entered into between counsel for the respondents herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or other 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 said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, their officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution in commerce among and between the several States of the United States and in the District of Columbia, of cellulose sheets and rolls or other similar products do forthwith cease and desist from:

1. Filing uniform prices and discounts at which their said products are to be sold either directly or through the medium of respondent Institute and respondent Richard M. McClure, or any other agency.

2. Exchanging through the medium of respondent Institute and respondent Richard M. McClure, manager thereof, or any other agency, price lists, containing proposed or future prices and discounts of said products in order to establish net prices at which said respondent corporations will sell said products.

3. Filing with said respondent Institute and respondent Richard M. McClure, or any other agency, deviations in current price lists of

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said product in order to establish and maintain uniform net prices at which they will sell said products.

4. Agreeing among themselves that they will maintain said proposed future prices and discounts published by them and filed with respondent Institute and respondent Richard M. McClure, or any other agency.

5. Collecting or disseminating information as to instances where respondent corporations have sold their products at prices and discounts other than those set forth in their respective price lists, in order to maintain the net prices and discounts which respondent corporations theretofore agreed to maintain.

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.

Syllabus

IN THE MATTER OF
POPPER & KLEIN, INC., ALSO TRADING AS PERFEKTUM
PRODUCTS COMPANY

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

Docket 3288. Complaint, Dec. 28, 1937—Decision, Sept. 5, 1940

Where a corporation engaged in offer, sale, and distribution of microscope cover glasses and other laboratory supplies, to purchasers in various other States and in the District of Columbia, in competition with others engaged in sale and distribution of such products in commerce as aforesaid; in selling certain microscope cover glasses of foreign origin purchased by it, in some instances in same cardboard boxes in which originally packed and imported, but generally in wooden boxes or containers which it substituted for original as received by it, and which, as originally contained and received, bore, by virtue of long established practice of imprinting and otherwise marking products of foreign origin or their containers, and in accordance with requirements of law, name of such country or origin, conspicuously and in legible English words—

(a) Attached to such wooden boxes in which it repacked such cover glasses as received by it in cardboard containers clearly and conspicuously marked with words "Made in Japan," its labels, conspicuously bearing words identifying and describing said glasses as its product and positively non-corrosive, and ink-stamped on bottom of boxes aforesaid, dimly and lightly and disassociated and far removed from aforesaid labeling or imprinting bearing its New York address, and so as not to be noticed, word "Japan";

With capacity and tendency to mislead and deceive purchasers and prospective purchasers and users of such cover glasses into mistaken and erroneous belief that they were made in the United States and were of domestic origin, as substantially preferred by purchasers and users thereof over those of foreign manufacture or origin, and into purchase of glasses in question in reliance upon such erroneous and mistaken belief, and thereby unfairly to divert trade in commerce as aforesaid to it from its competitors; and

Where such corporation engaged, as above described, in offering, selling, and distributing certain microscope cover glasses produced, in common with all of said product, in strips or sheets, and by it purchased from a source in the United States by which said cover glasses were merely cut from said sheets or strips as marked therefor, upon importation—

(b) Offered, sold, and distributed said cover glasses, procured as aforesaid, in boxes or containers labeled or imprinted, among other things, with words or letters "Made in U. S. A.," notwithstanding fact glass in question was not changed in any way, except as to size, by operation of cutting as aforesaid, which did not constitute manufacture and only effect of which was to make available such glasses in various sizes convenient for use in microscopical examinations, and accordingly packaged;

With tendency and capacity to mislead and deceive purchasers, prospective purchasers, and users, substantial number of whom substantially prefer micro-