

IN THE MATTER OF
L. B. PATTERSON, TRADING AS NU-WAY MANUFACTURING COMPANY

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

Docket 3852. Complaint, July 15, 1939—Decision, Jan. 27, 1941

Where an individual engaged in competitive, interstate sale and distribution of electric "Speed King Water Heater" for heating water through immersion in vessel containing same when attached by cord to ordinary electric fixture outlet, through representatives or distributors under plan by which such person took and transmitted orders and retained as commission certain amount of deposit made by purchasers, or under which he purchased heaters from aforesaid individual and resold same to public for whatever price could be obtained therefor; in advertising in newspapers and other periodicals of general circulation to secure services of such representatives or distributors in various States—

- (a) Represented that said heater or device comprised or embodied fastest way known of heating water and boiled it instantly or in 60 seconds, and saved 50 percent of fuel bills and did the work of a \$50 heater or one costing 40 to 50 times as much, facts being it would not save owners aforesaid proportion, or any substantial percentage, of their total household gas and fuel bills, could not be used for cooking except insofar as boiling small quantities of water might be considered cooking, did not boil water almost instantly or boil in 60 seconds any quantity of water sufficient to be of practical use in connection with purposes for which heater was designed, and other statements and representations above with respect thereto were likewise false, misleading, and deceptive;
- (b) Represented and implied, through depiction of one of his said heaters with cord attached, disseminated as part of his advertising, and in connection with which there was arrow pointed to heater and printed legend "Underwriters Laboratory Seal of Approval," that both heater and cord attached thereto had received such approval, facts being representation and impression thus conveyed were untrue and misleading;
- (c) Represented that representatives or distributors had earned as much as \$36 a day and amounts ranging from \$10 to \$25 a day, and made profits of from 141 percent to 218 percent, through such statements as "Make up to 218% profit on your sales," "Make up to \$20 a day," "With this plan you ought to be able to place 36 a day and sell at least 30 of them at a profit of \$1.20 each to yourself * * *," and others of similar tenor, facts being no representative or distributor of said individual had ever earned \$36 a day, nor did his representatives, except in very unusual cases, if ever, earn from \$10 to \$25 a day or make profits ranging as above set forth;
- (d) Made use of such words as "Daring free-sample offer" and "I give you the demonstrator if you are honest with me and will send in orders * * *," and "Cut out this coupon * * * and mail it quick for my

Complaint

free offer of pocket demonstrator," facts being he did not furnish a demonstrator free to said distributors or representatives, but price thereof was paid or included in that charged for total number sold to any of said individuals, and person obtaining same was obliged to purchase or to sell for said individual specified number of heaters, for which he paid cash, before receiving so-called free demonstrator; and

- (e) Made such statements or representations as "Now here's the special offer I spoke about at the beginning of this letter," facts being so-called special offer and price, purportedly made only to a few of said representatives, was not in fact a special offer but, with slight and immaterial variations, was made to all prospective distributors, and price at which he offered said heater was not a special or reduced one, but usual and customary price at which product was offered and sold by him in normal and regular course of business;

With capacity and tendency to mislead and deceive substantial portion of purchasing public into erroneous belief that such representations were true, and to cause them to purchase his said product as result of such erroneous belief engendered as above set forth, and with result that trade was diverted unfairly to him from his competitors who do not use same or similar misrepresentations in connection with sale of their respective products in commerce; to the injury of said competitors and the public:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce, and unfair and deceptive acts and practices therein.

Before *Mr. Randolph Preston*, trial examiner.

Mr. Donovan R. Divet for the Commission.

Bussian & DeBolt, of Chicago, Ill., for respondent.

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 L. B. Patterson, an individual trading as Nu-Way Manufacturing Co., hereinafter referred to as respondent, has 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. Respondent, L. B. Patterson, is an individual trading as Nu-Way Manufacturing Co., with his office and principal place of business in the Walnut Building, Des Moines, Iowa.

Respondent is now and for several years last past has been engaged in the sale and distribution of an electric water heater sold under the name of Speed King Water Heater. Respondent's heater consists essentially of a small aluminum disk combined with a wire-heating element designed for use in home, shop, or office for the purpose of

Complaint

32 F. T. C.

heating water. The respondent causes the said water heater when sold to be transported from his aforesaid place of business in the State of Iowa or from the point or origin of the shipment thereof to the purchasers thereof at their respective points of location in the various States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in said water heater in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business the respondent is now and has been during all times mentioned herein in substantial competition in commerce among and between the various States of the United States and in the District of Columbia with corporations and with persons, firms, and partnerships engaged in the sale and distribution of small electric water heaters designed and used for the purpose for which respondent recommends and sells his said water heater.

PAR. 3. In the course and conduct of his said business respondent employs representatives to sell and distribute his said water heater throughout the various States of the United States and in the District of Columbia. Said representatives operate under two plans. Under the provisions of one of said plans, some of the said representatives take orders for said heaters, which orders are transmitted to and filled by the respondent. Under the provisions of the other plan, other representatives purchase said heaters from respondent and resell them to the public. For the purpose of securing the services of both types of representatives, respondent publishes advertisements in newspapers, periodicals, and magazines, soliciting agents to sell its product. Such advertisements emphasize and stress the claimed money-making possibilities for representatives selling respondent's product.

Among the advertisements so published by respondent and typical of its representations, are the following:

A big money clean-up for agents.

Up to 218% profit on your sales.

Make up to \$20 day.

Up to \$10 to \$25 a day, easy, and full protection on exclusive territory puts you in a big-income business right away.

Sixty-second demonstration amazes housewives.

Daring free-sample offer.

Heats boiling water hot in 60 magic seconds.

I give you the demonstrator if you are honest with me and will send in orders for Speed King.

Cut out this coupon, and mail it now before you turn the page—and mail it quick, for my free offer of pocket demonstrator.

PAR. 4. When an inquiry is received from a prospective representative who has read one of respondent's said advertisements and has indicated an interest in becoming a representative for the sale of respondent's product, respondent sends to such person "follow-up" literature, letters, pamphlets, and order blanks, containing, among others, representations as follows:

With this plan you ought to be able to place 36 a day and sell at least 30 of them at a profit of \$1.20 each to yourself. How would it feel to put \$36 in your pocket for one day's work?

You can sit at home every morning and take orders and money out of envelopes that the postman brings you.

Pays 141% to 218% cash profit—up to \$2 on every sale. Good for \$10 to \$30.

You've already lost almost two weeks of Speed King profits! Suppose you had started the day you received my first letter. By now you might have \$75, \$100, or more clear profits. Give me a chance to show you how to make \$100 or more a week.

* * * thereby making the big money—up to 318% profit on every sale.

* * * thousands of dollars have been made by Speed King agents.

As a Speed King agent or distributor you can get a swell new 1937 car.

* * * big money, up to \$75 to \$100 per week.

Amazing disk boils water almost instantly.

* * * the new amazing water heater * * * that heats water boiling hot in 60 magic seconds.

Speed King is an electric water heater the fastest method known of heating water.

Although it is the fastest way known of heating water, Speed King actually saves users up to 50% on gas and fuel bills too.

It does the work of a \$50 water heater except that it is faster and more economical than gas, oil, coal or coke.

Here's a device that does the job of heaters costing 40 or 50 times as much and does it much quicker too.

Now here's the special offer I spoke about at the beginning of this letter.

Respondent also, as part of his advertising, disseminates or causes to be disseminated pictorial representations of one of said Speed King Heaters with cord attached. In said representation an arrow points to the heater. Said arrow points to the heater from the words "Underwriters Laboratories' seal of approval." The said pictorial representation in its entirety is designed to and does give the impression that the said heater, as well as the attached cord, has received the seal of approval of the Underwriters Laboratories, whereas in truth and in fact said heater has never been approved as represented.

PAR. 5. Through the use of the above statements and representations, and other statements and representations similar thereto but not herein set out, the respondent represents and implies to the purchasing public and to prospective representatives:

Complaint

32 F. T. C.

1. That said Speed King Heater is the fastest way known of heating water; that it boils water almost instantly, heats water to the boiling point in 60 seconds, saves up to 50 percent of gas and fuel bills, and does the work of a \$50 heater or heaters costing 40 to 50 times as much.

2. That said Speed King Heater has been approved by an accredited and recognized testing laboratory.

3. That respondent's representatives can and do earn \$36 a day and more and make profits ranging from 141 percent to 218 percent, and can and do earn and make the other sums and percentages of profit set forth in said advertisements as aforesaid.

4. That the offer made to each prospective representative is a special offer and more advantageous than the offer made to other prospective representatives.

5. That one of said heaters will be furnished free and without cost or condition to each representative for use as a demonstrator in offering for sale and selling such heaters.

The aforesaid representations and implications so used and disseminated by the respondent are false, misleading, and deceptive, for in truth and in fact the Speed King Heater is not the fastest way known of boiling or heating water; will not heat any appreciable amount of water to the boiling point instantly or in 60 seconds; save up to 50 percent or any substantial percentage of gas or other fuel bills; and it does not do the work of a \$50 water heater. Said heater has not been tested or approved by an accredited or recognized testing laboratory. It does not do the work of heaters costing 40 to 50 times as much, nor does it do it more quickly and it does not save money on fuel when compared with more expensive gas or oil burner heaters.

In truth and in fact respondent's representatives cannot and do not normally earn \$36 a day or more or make profits of 141 percent to 218 percent, and cannot and do not normally earn or make the other sums and percentages of profit mentioned in said advertising matter; and respondent's representations as to the earnings and percentages of profit earned and made by his representatives are clearly in excess of the average earnings made by respondent's full-time representatives under normal conditions and in the usual course of business. Very few, if any, of respondent's representatives are full-time employees or have given the respondent "repeat" orders. Only a very small percentage of respondent's customers actually work as representatives of the respondent or make any further purchase of respondent's heaters other than the original small order, and respondent in his sales methods and efforts contemplates and accomplishes in general

only the initial sale to a customer rather than continuous and numerous "repeat" sales to agents, representatives, and salesmen.

The offer made by the respondent to a prospective representative is not a special offer made solely to such representative or to a special group of prospective representatives and more advantageous than the offer generally made to all other prospective representatives, but is the same offer in substance as is made to all prospective representatives. The respondent does not furnish representatives a "free" demonstrator for use in connection with the sale of said heaters but requires each representative to pay for the heater used as a demonstrator and does not return the money received for such heater unless and until each representative has sold a number of heaters prescribed by the respondent.

The claims of the respondent as shown by the aforesaid representations and implications as to the efficacy of said heater and as to the earnings and percentages of profit earned and made by representatives of the respondent grossly exceed those which might truthfully be made both with respect to the efficacy of the heater and the earnings and profits of representatives.

PAR. 6. The use by the respondent of the foregoing false, misleading, and deceptive representations and implications in connection with the offering for sale, sale, and distribution of said water heater have had and now have the capacity and tendency to and do mislead and deceive purchasers and prospective purchasers of respondent's product into the erroneous and mistaken belief that all of said representations are true and cause a substantial number of the purchasing public, because of said erroneous and mistaken belief, to purchase respondent's said product, thereby unfairly diverting trade to the respondent from his competitors in said commerce who do not in any wise misrepresent their products, to the injury of said competitors and to the injury of the public.

PAR. 7. The aforesaid acts and practices of the respondent, as herein alleged, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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 July 15, 1939, issued its complaint and thereafter caused it to be served upon respondent, L. B. Patterson,

Findings

32 F. T. C.

charging him with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto on August 21, 1939, testimony and other evidence in support of the allegations of said complaint were introduced by Donovan R. Divet, attorney for the Commission, and in opposition to the allegations of the complaint by John A. Bussian, attorney for the respondent, before Randolph Preston, an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto (oral argument not having been requested), 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, L. B. Patterson, is an individual trading as Nu-Way Manufacturing Co., with his office and principal place of business in the Walnut Building, Des Moines, Iowa. Respondent is now, and for more than 2 years last past has been, engaged in the sale and distribution of an electric water heater sold under the name of "Speed King Water Heater." This heater consists of a small aluminum disk perforated with several holes of approximately one-fourth of an inch in diameter, which is wired with an electric cord. When attached to an ordinary electric fixture outlet and placed in a vessel containing water its purpose is to heat, and it does heat, the said water in the said vessel.

PAR. 2. Respondent causes said heater, when sold, to be shipped or transported from his place of business in the State of Iowa to purchasers in various States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in the sale and distribution of said heaters in said commerce.

In the course and conduct of his business, respondent now is, and at all times mentioned herein has been, in substantial competition with individuals, firms and corporations engaged in the sale of similar apparatus or heaters in said commerce.

PAR. 3. Respondent's method of conducting the aforesaid business comprises two sales plans. Under the provisions of the first plan the respondent's representative or distributor takes orders for the heaters. Such orders are thereafter transmitted to and filled by the respondent who ships the heaters directly to the purchasers who have given the said orders. The said distributor retains as his commission a certain amount of the deposit made by said purchaser. Under the other plan the distributor purchases the heaters from the respondent and resells same to the public for whatever price can be obtained therefor. For the purpose of securing the services of such representatives or distributors located in various States, respondent has published advertisements in newspapers, magazines, and other periodicals of general circulation. Among and typical of such advertisements are the following:

A big money clean-up for agents.

Up to 218% profit on your sales.

Make up to \$20 a day.

Up to \$10 to \$25 a day, easy, and full protection on exclusive territory puts you in a big-income business right away.

Sixty-second demonstration amazes housewives.

Daring free-sample offer.

Pays 141% to 218% cash profit—up to \$2 on every sale. Good for \$10 to \$30.

You've already lost almost two weeks of Speed-King profits! Suppose you had started the day you received my first letter. By now you might have \$75, \$100, or more clear profits. Give me a chance to show you how to make \$100 or more a week.

* * * thereby making the big money—up to 218% on every sale.

* * * thousand of dollars have been made by Speed King agents.

As a Speed King agent or distributor you can get a swell new 1937 car.

* * * big money, up to \$75 to \$100 per week.

Amazing disk boils water almost instantly.

* * * the new amazing water heater * * * that heats water boiling hot in 60 magic seconds.

Speed King is an electric water heater, the fastest method known of heating water.

Although it is the fastest way known of heating water, Speed King actually saves users up to 50% on gas and fuel bills too.

It does the work of a \$50 water heater except that it is faster and more economical than gas, oil, coal or coke.

Here's a device that does the job of heaters costing 40 or 50 times as much and does it much quicker too.

Now here's the special offer I spoke about at the beginning of this letter.

I give you the demonstrator if you are honest with me and will send in orders for Speed King.

Cut out this coupon, and mail it now before you turn the page—and mail it quick for my free offer of pocket demonstrator.

Findings

32 F. T. C.

With this plan you ought to be able to place 36 a day and sell at least 30 of them at a profit of \$1.20 each to yourself. How would it feel to put \$36 in your pocket for one day's work?

You can sit at home every morning and take orders and money out of envelopes that the postman brings you.

PAR. 4. The Commission finds that said advertisements, as above set out, were and are false, misleading, and deceptive. The said "Speed King Water Heater" has not saved, and will not save, to the owners thereof 50 percent or any substantial percentage of the said owners' total household gas and fuel bills. The heater has not been, and cannot be, used for cooking purposes, except insofar as the boiling of small quantities of water may be considered cooking. Said "Speed King" heater is not the fastest way known of heating water, does not boil water almost instantly, and does not boil in 60 seconds any quantity of water sufficient to be of practical use in connection with the purposes for which this heater is designed. Said heater does not do the work of a heater which would cost \$50 or more; or of heaters costing 40 or 50 times as much as the said "Speed King" heater. No representative or distributor of respondent has ever earned \$36 a day and respondent's agents or representatives do not, except in very unusual cases, if ever, earn from \$10 to \$25 a day, nor make profits ranging from 141 percent to 218 percent. The so-called "special offer" of the respondent, purportedly made only to a few of respondent's representatives, is not in fact a special offer but, with slight and immaterial variations, is made to all prospective distributors. Respondent does not furnish a demonstrator free to said distributors or representatives but the price of the said so-called "free" demonstrator is paid for or included in the price charged for the total number of demonstrators sold to any individual distributor or representative, and the person obtaining the so-called "free" demonstrator is obliged to purchase or to sell for respondent a specified number of heaters for which he pays cash before receiving the so-called "free" demonstrator.

Respondent, as a part of his advertising, has also disseminated certain pictorial representations of one of the "Speed King" heaters with cord attached. In and upon said representation there is an arrow pointing to the heater itself and printed in such advertisement is the legend "Underwriters Laboratory Seal of Approval." The Commission finds that said pictorial representations in its entirety has given, and does give, the impression that said heater, as well as the cord attached thereto, has received the approval of the

526

Order

Underwriters Laboratory and that such representation and impression are untrue and misleading.

PAR. 5. The use by the respondent of the representations set forth herein has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were and are true, and has caused, and causes, them to purchase respondent's said product as a result of such erroneous belief engendered as above set forth. Through respondent's use of the aforesaid misrepresentations in the manner set forth, trade has been diverted unfairly to respondent from respondent's competitors who do not use the same or similar misrepresentations in connection with the sale of their respective products in commerce between and among the various States of the United States and in the District of Columbia, to the injury of said competitors and of the public.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and unfair and deceptive 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 answer of respondent, testimony, and other evidence taken before Randolph Preston, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein (no request for oral argument having been made), and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, L. B. Patterson, an individual, trading as Nu-Way Manufacturing Co., or trading under any other name, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of the water heater, known as and sold under the name Speed King Water Heater, or any other heater of substantially the same construction, whether sold under that name or any other name, do forthwith cease and desist:

1. From representing that said water heater comprises or embodies the fastest way known of heating water or boils water instantly or in 60 seconds or in any other specified period of time, unless there is stated in connection with each such representation in equally prominent manner the amount or quantity of water that may be boiled within the period of time specified; that said heater saves 50 percent or any other percentage of fuel bills; or that it does the work of a \$50 heater or of a heater costing 40 to 50 times as much or of any heater costing substantially more than respondent's said water heater.

2. From representing, by pictorial representations or otherwise, that respondent's said product has been approved or tested by "Underwriters Laboratories," or any similar organization, unless said product has been so approved or tested, and when only a portion or part of said product has been so approved or tested such fact must be clearly and unequivocally stated or indicated so as to inform the public as to which part or parts have been so approved or tested.

3. From representing that any specified sum of money is the actual or possible earnings or profits of agents, salesmen, representatives, or distributors of said product for any given period of time unless said representation is a true statement of the average earnings or profits consistently made by active full-time agents, salesmen, representatives, or distributors in the ordinary course of business under normal conditions and circumstances.

4. From representing as a possible percentage of profit to agents, salesmen, representatives, or distributors selling said heater any percentage other than the percentage of profit consistently made by respondent's agents, salesmen, representatives, or distributors in the ordinary course of business under normal conditions and circumstances.

5. From using the word "free," or any other word or words of similar import or meaning to designate, describe, or refer to products offered purchasers of other products, when such so-called "free" products are not delivered to purchasers of such other products without cost and unconditionally but only for a consideration, either in money or services.

6. From representing that the price at which respondent's said product is offered for sale is a special or reduced price or offer, when such price is in fact the usual and customary price at which said product is offered for sale and sold by respondent in the normal and regular course of business.

7. From representing that any offer to prospective agents, salesmen, representatives, or distributors of respondent's said product is

526

Order

a special offer by use of the phrase "special offer," or by the use of any term or phrase of similar import or meaning, or in any other manner, when the same or substantially the same offer is made to all or to a substantial portion of the prospective agents, salesmen, representatives, or distributors of respondent's said product.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
THE ROBINSON CLAY PRODUCT COMPANY ET AL.

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

Docket 4034. Complaint, Feb. 16, 1940—Decision, Jan. 29, 1941

Where a number of corporations, firms, and individuals, namely—

I. Two concerns, to wit (a) a New York corporation which had a branch office and yard at Rochester and was a wholly owned subsidiary of a concern engaged, among other things, in manufacture and sale of vitrified sewer pipe, with plants and factories at various points in Ohio and Pennsylvania, and with office and principal place of business in Akron, Ohio, and (b) a Rochester firm or partnership which served as sales outlet at said point for another concern also engaged, among other things, in manufacture and sale of such pipe and with various factories for fabrication thereof and of kindred products in Ohio, Michigan, Indiana, and Pennsylvania, and with office and principal place of business in Cleveland, which actively participated either in the wholesale or retail transactions relating to sale of building materials, including vitrified pipe, in said city and vicinity and manufactured or caused to be manufactured or sold the greater part of such commodities used in said sales area; and

II. Some 25 or more corporations, firms and individuals, engaged in purchase and sale of builders' supply materials, including such pipe, in city aforesaid and sales area adjacent thereto, and, as thus engaged, in purchasing their supply of such materials and pipe from aforesaid manufacturers thereof or their sales subsidiaries, as above set forth, in other States, and in maintaining yards for temporary storage of products in question until sold or delivered to customers in or near said city (excepting carload or truckload quantities regularly shipped direct from place of manufacture to ultimate consumers at or near Rochester), and, as thus engaged, and except to extent to which competition in purchase and sale of such products had been restrained, lessened, injured, or suppressed by understanding, agreement, combination, and conspiracy below set forth, in active and substantial competition with each other and with other wholesalers, jobbers, dealers, and contractors in such materials, in purchase and sale of materials in question and in conduct of their respective businesses in said city and State; to purchasers in which city many other sellers of building materials, and including vitrified sewer pipe, with places of business located without said State, sold large quantities of such materials in commerce, in active and substantial competition, except to extent to which competition between them had been restrained, lessened, etc., by understanding, agreement, combination, and conspiracy above referred to, with each other in such sale and in sale of said products to Rochester dealers above referred to and to competitors of such dealers—

Cooperated, both acting directly and through their various representatives, with each other, beginning in 1936 or thereabouts, and continuing thereafter and for a long period of time, entered into and carried out understanding, agreement, combination, and conspiracy to restrict, restrain, suppress, and elim-