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IN THE MATTER OF

NATIONAL STANDARD PARTS ASSOCIATION, MOTOR & EQUIPMENT WHOLESALE ASSOCIATION, AUTOMOTIVE TRADES ASSOCIATION OF GREATER KANSAS CITY, MISSISSIPPI VALLEY AUTOMOTIVE JOBBERS ASSOCIATION, AND SOUTHWESTERN JOBBERS ASSOCIATION, 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 2942. Complaint, Oct. 14, 1936—Decision, Jan. 31, 1941

Where a voluntary unincorporated trade association engaged as National Standard Parts Association in activities below set forth, and members of which were manufacturers and jobbers of automobile parts and accessories, and business of which members constituted substantial volume of that in the fields concerned in the United States, and which (1) provided that its constitution, bylaws, and amendments thereof should be deemed a contract with it and among its members for the benefit of each and all, to which each member agreed to adhere; (2) fixed definite jobber membership qualifications with respect to operation of regularly established place of business, with stock sufficient to supply demands of trade, and including not less than 12 major lines purchased on regular distributor's basis direct from manufacturer, and similar manufacturer membership qualifications under which, among other things, a person must operate own factory and market product, other than to car manufacturers, "at wholesale only and to legitimate wholesalers," and (3) vested complete supervision of its affairs, between meetings of board of directors and subject at all times to its control, in executive vice president, and important trade ethics committee, to which, entrusted with handling "the dangerous subjects covered by trade ethics, complaints from members, etc., in exceedingly confidential manner," and charged with inviting "the filing of complaints of one member against another for violation of our code of ethics," were referred, with copies to said vice president, such complaints, as aforesaid, including those by jobber members "reporting demoralizing resale schedules by chain stores and mail order houses," etc., complaints against manufacturers charging sales to concerns who were not considered legitimate jobbers, or to jobbers who refused to maintain resale prices suggested by association's manufacturing members;

Acting through its officers, directors, and agents, and, more particularly, said executive vice president and the jobber member chairman of its trade ethics committee, who contacted by mail and in person parties complained against, promoted organization of local jobber groups, and maintenance of contact therewith, assumed initiative in eliminating and correcting difficulties due to price-cutting or price differences as respects action of manufacturer or jobber members, made use of persuasion, along with statement

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of association and member position and policy, directed to correction of dissension or difficulties over price-cutting sales to machine shops or others considered not entitled to receive prices quoted, emphasized benefits of "stabilization, standardization, and increased profits," and arranged meetings for reconciling differences and bringing about harmonious action with reference to subjects and objects indicated, and generally made use of their good offices and those of association, and influence thereof with reference thereto—

- (a) Attempted, pursuant to agreement with its members, to eliminate price competition among and between manufacturers and jobbers of automobile parts and accessories; to prevent the establishment of new and additional competitors of jobber members of said association; and to maintain retail prices suggested by the manufacturing members thereof by causing such manufacturing members (1) to agree among themselves as to the prices at which they would sell their respective products and the prices at which said products should be resold by jobbers; and (2) to confine the sale of their respective products to those jobbers who were designated by the association as the only jobbers to be sold in their respective trade areas by the manufacturing members because of their willingness to maintain the retail prices suggested by said manufacturing members;
- (b) Attempted, pursuant to agreement with its members, to prevent the establishment of new and additional competitors and to maintain retail prices suggested by said manufacturing members by causing its jobber members concertedly to refuse to buy from manufacturers who would not refrain from selling their products to jobbers or other outlets not designated by its members;
- (c) Held meetings of groups of its jobber members and other jobbers, for the purpose of threatening, influencing, and coercing manufacturers to confine their sales to those jobbers designated by it as the only jobbers to be sold in their respective trade areas by the manufacturing members because of their willingness to maintain in the retail prices suggested by said manufacturers; and
- (d) Held meetings of groups of manufacturing members and other manufacturers of automotive parts and accessories for the purpose of fixing prices at which they would sell their respective comparable products and at which said products should be resold by jobbers to retail trade; and

Where an Illinois not-for-profit corporation and general jobbers' association, engaged as Motor & Equipment Wholesale Association in activities below set forth and membership of which was composed wholly of jobbers in all parts of the United States, purchasing various automobile parts and items of equipment from manufacturers for interstate shipment and transportation to their warehouses and places of business, and business of the members of which represented a substantial volume of business concerned throughout the United States;

Acting through its officers, directors, and agents, and particularly its general manager, who had been such since its organization some 9 years theretofore, and through (1) establishment of contact with local associations of jobbers all over the United States, including assumption of initiative in forming such associations where none existed; (2) bulletins, addresses, and member meetings in which were developed and emphasized theme of their concerted strength and influence, and opposition to sale by manufac-

turers through other than established, recognized, and sanctioned channels; (3) the making available to such associations or their members, of charts planned and developed by said general manager to show particular jobbers handling particular lines and items of the various manufacturers, (4) discussion and exchange of information, under provision, as a part of association's "14-Point Program," of "Bureau of Interchange of Jobbers' Experiences on Lines Handled" for use by members; (5) protesting to manufacturers against their warehouse distribution system, under which the warehouse businesses, independently owned and functioning both as warehouse and jobbing house, received extra commission over and above usual jobber's commission, and under which, as asserted, there were new competitors or threats thereof; and (6) advising manufacturers and others of member attitude toward those who did not confine their distribution and sale to established and sanctioned channels—

- (e) Attempted, pursuant to agreement with its members and those of regional or local associations as hereinafter set forth, to prevent the establishment of new and additional competitors of their members by (1) causing their members concertedly to refuse to buy or threaten to refuse to buy such parts and accessories from manufacturers who would not refrain from selling their products to purchasers not designated by them and their associated regional associations; and (2) exchanging information, through questionnaires and reports circulated by secretary, general manager, or other agent, as to sales policy of manufacturers and jobbers, in order to assist members of their associations in their said concerted refusal to buy from manufacturers above described; and

Where an unincorporated trade association with principal place of business in Kansas City, Mo., and engaged under name Automotive Trades Association of Greater Kansas City in activities below set forth, and membership of which was composed of both manufacturers and jobbers of automobile parts and accessories, of whom many were also members of more than one of associations herein mentioned, and business of which members represented a substantial volume of business concerned; and

Activities and policies of which found expression through (1) reference to grievance committee of said National Association first referred to, of sales by manufacturer to machine shops at jobber prices; (2) provision in its warehouse code of ethics to effect that warehouses would sell only to jobbers who, as therein defined, sell at wholesale and stock line, and subject to various restrictions including written order from jobber stocking line or competitive line, and the billing of orders from factory and not warehouse; (3) cooperation of its former warehouse division with association below referred to and jobbers thereof for purpose of recognizing only legitimate jobbers as "distribution channels," and active opposition, along with that of other, to establishment of jobbing business by manufacturer's agent; (4) complaints to several manufacturers of sales made to said agent at jobbers' prices, with result that he was unable to procure from them requirements for jobbing business at jobbers' prices; and (5) similar opposition by the two associations to contemplated jobbing enterprise by certain machine shop or works which, as result thereof, was unable to obtain in interstate commerce its requirements for jobbing business—

- (f) Attempted, pursuant to agreement with its members, to prevent the establishment of new competitors of its members, by (1) causing them concertedly

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to refuse to buy or threaten to refuse to buy automobile parts and accessories from those manufacturers who would not refrain from selling their products to those not designated by it; and (2) exchanging information, through questionnaires and reports circulated by the secretary, or other agent, as to sales policy of manufacturers and jobbers, for the purpose of assisting members in their concerted refusal to buy from manufacturers above described; and

Where two regional or local associations, included among those with which aforesaid general or Motor & Equipment Wholesale Association of jobbers maintained contact, and made use of in seeking attainment of its objectives, namely, (I) unincorporated, voluntary association of jobbers, located and doing business in the State of Iowa and the southwestern portion of Illinois, and engaged under name Mississippi Valley Automotive Jobbers Association, in activities below set forth, and members of which were in competition with each other and nonmember jobbers; and (II) nonprofit, voluntary unincorporated association of from 17 to 23 jobbers of automotive parts and accessories, operating in Missouri, Kansas, Arkansas, and Oklahoma, or in one or more of said States, and engaged under name Southwestern Jobbers Association, in activities below set forth, and meetings of which were from time to time addressed by the general manager of aforesaid general association of jobbers, and which was frequently furnished with bulletins by said general association, of which some of its own member concerns were also members, and members of which, engaged in purchase of such parts and items of equipment from manufacturers, were engaged in commerce and in actual competition with each other and with nonmember jobbers; and

Activities of which two regional or local associations, as expressed, in case of former, through association secretary and members, and as variously expressed in case of latter, respectively—

(a) Included communications to certain manufacturers, together with advice as to members' position as opposed to patronizing any manufacturer directly or indirectly interested in jobbing business, with respect to proposed entry into jobbing business of agent of one of manufacturers addressed, and with respect to certain additional or preferential discounts given by one of manufacturers addressed to latter's warehouse agent, along with intimations or suggestions as to jobbers' attitude in such matters and possible consequences to addressees, by whom desired relief was finally accorded; and

(b) Included (1) adoption and maintenance of policy by some members of recognizing only so-called legitimate jobbers as desirable, with result that some manufacturers in other States confined their sales of aforesaid parts and items to such jobbers as were recognized as legitimate within members' territory; (2) opposition, made known to manufacturers concerned, of entry into jobbing business of manufacturer's agent on ground that discounts received by him as such would give him an undue advantage over jobbers not carrying on such dual business, with result that several manufacturers whom said individual had represented refused to sell him merchandise for new enterprise and discouraged his proposed undertaking; (3) adoption of resolutions condemning certain selling plan adopted by certain manufacturer as unfair to jobbers and sending same to said general jobber association

above referred to, and to said National Standard Parts Association, and (4) adoption of other resolutions of censure with respect to "manufacturers' retained warehouse stocks" and "consigned merchandise," to be sent to said general jobber association and regional association and National Standard Parts Association—

- (g) Attempted, pursuant to agreement with their members and those of aforesaid general or Motor Equipment Wholesale Association, to prevent the establishment of new competitors by (1) causing their members concertedly to refuse to buy or threaten to refuse to buy from those manufacturers who would not confine sales to concerns designated by them and their associated regional association; and (2) exchanging information through questionnaires and reports circulated by secretary, general manager, or other agent, as to sales policy of manufacturers and jobbers, to assist members in such concerted refusal to buy:

Held, That said acts and practices of aforesaid various associations, as above set forth, were to the prejudice of the public and had a dangerous tendency to and actually did hinder and prevent price competition between and among the members of said first-named or National Standard Parts Association in the sale of automobile parts and accessories in commerce, and tended to unreasonably restrain such commerce in said products, and constituted unfair methods of competition.

Mr. Daniel J. Murphy for the Commission.

Wilcox & VanAllen, of Buffalo, N. Y., for National Standard Parts Association, its officers, board of directors and members; together with *Mr. Grover Higgins*, of Jones, Day, Cockley & Reaves, of Cleveland, Ohio, who also represented various directors of said National Standard Parts Association.

Cassels, Potter & Bentley, of Chicago, Ill., for Motor and Equipment Wholesale Association, its officers, board of directors, and members.

Mr. C. R. Barnett, of Kansas City, Mo., for Automotive Trades Association of Greater Kansas City, its officers, board of directors, and members.

Ogren & Clark, of Chicago, Ill., for Mississippi Valley Automotive Jobbers Association, its officers, board of directors, and members.

Mr. Hugh C. Smith, of Washington, D. C., for Southwestern Automotive Jobbers Association, its officers, board of directors, and members.

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 National Standard Parts Association, Motor & Equipment Wholesale Association, Automotive Trades Association of Greater Kansas City, Mississippi Valley

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Automotive Jobbers Association, Southwestern Jobbers Association, and the officers, directors, and members of said association, hereinafter named and 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 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 Standard Parts Association, hereafter for convenience referred to as the "Parts Association" is a voluntary unincorporated association, of manufacturers and jobbers of automobile parts and accessories, with its principal place of business at 1420 United Artists Building, Bagley Avenue, Detroit, Mich. The officers and directors of said respondent Parts Association and the members of said association with which they are connected are or have been as follows:

Officers of association:

	Name of member concern with which connected
D. W. Rodger, president.....	The Federal Mogul Corp., Detroit, Mich.
J. B. Muller, senior vice president.	Fort Worth Wheel & Rim Co., Fort Worth, Tex.
Leo F. Hunderup, junior vice president.	Van Norman Machine Tool Co., Springfield, Mass.
Edward P. Chauffalt, executive vice president.	Piston Service Co., Inc., 4430 Cass Ave., Detroit, Mich.
Orville B. Gault, secretary, Wholesaler's Division.	
R. W. Proctor, secretary, Manufacturer's Division.	

Board of directors:

S. J. Levy.....	W. Bergman Co., Inc., Buffalo, N. Y.
G. F. Morrissey.....	Northwest Bearing & Parts Co., Seattle, Wash.
R. M. Allison.....	Warner Gear Co., Muncie, Ind.
B. Patterson.....	Thompson Products, Inc., Cleveland, Ohio.
L. F. Woolman.....	Allen Electric & Equip. Corp., Kalamazoo, Mich.
W. C. Bulette.....	Brandt-Warner Mfg. Co., York, Pa.
C. G. Keyes.....	Keyes Supply Co., Ltd., Ottawa, Ontario.
E. B. Conn.....	Central Electric Co., Hattiesburg, Miss.
V. C. Hosselman.....	Siferd-Hosselman Co., Lima, Ohio.
L. H. Phelps.....	Phelps-Roberts Corp., Washington, D. C.
F. S. Durham.....	Bonney Forge & Tool Works, Allentown, Pa.
L. G. Matthews.....	Sealed Power Corp., Muskegon, Mich.
W. H. Richardson.....	Timken Roller Bearing Service & Sales Co., Canton, Ohio.
J. Flischer.....	Auto Parts & Gear Co., Chicago, Ill.
R. H. Bachman.....	Bee, Incorporated, Allentown, Pa.
Wm. Christle.....	Christle & Thomson, Inc., Worcester, Mass.
H. B. Truslow.....	Richmond Auto Parts Co., Richmond, Va.
F. C. Kip.....	Automotive Trust Bearings Corp., Chicago, Ill.

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PAR. 2. The respondent Motor and Equipment Wholesale Association, hereafter for convenience referred to as the "Equipment Association" is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, and has a membership composed wholly of jobbers. It has its principal place of business at 400 West Madison Street, Chicago, in said State. The officers and members of the board of directors of said respondent Equipment Association and the members of said association with which they are connected are or have been as follows:

Officers of association:		Name of member concern with which connected
E. T. Satchell, president-----		E. T. Satchell Co., 1041 Hamilton St., Allentown, Pa.
E. R. Seagar, vice president-----		Pa. Rubber & Supply Co., Cleveland, Ohio.
R. C. Sparks, secretary-----		Sparks Auto Supply Co., Champaign, Ill.
George N. Lockridge, treasurer.	}	Kansas City Automobile Supply Co., Kansas City, Mo.
B. W. Ruark, general manager.		

Board of directors:

W. H. Metz-----	William A. Metz Co., Des Moines, Iowa.
David E. Levy-----	Lite Sales Corp., New York City, N. Y.
G. B. Shearer-----	Gual, Derr & Shearer Co., Philadelphia, Pa.
S. B. Deen-----	Nichols, Deen & Gregg Co.
L. T. Wait-----	Motor Bearings & Parts Co., Raleigh, N. C.
T. A. Walsh-----	Chanselor & Lyons Store, San Francisco, Calif.
W. R. Crow-----	Ozburn, Crow & Yantis, Little Rock, Ark.
W. E. Wissler-----	Wissler Co., Des Moines, Iowa.
G. P. Henderson-----	Auto Gear and Parts Co., Philadelphia, Pa.
F. H. Floyd-----	Ward, Floyd Co., Waka, Tex.

PAR. 3. Respondent Automotive Trades Association of Greater Kansas City, hereafter for convenience referred to as Automotive Trades Association is an unincorporated trade association with headquarters and principal office located at 206 East Sixteenth Street, Kansas City, Mo. Its membership is composed of both manufacturers and jobbers. The following are the officers and directors of said respondent Automotive Trades Association:

Officers:		Directors
Charles Berg, president-----		Harry Coverly.
Jesse Buster, vice president-----		J. C. Hellman.
Henry Woestemeyer, vice president-----		H. N. Johnson.
R. A. Welch, vice president-----		Howard Krimminger.
W. E. Booth, secretary-----		B. J. Oppenheimer.
Geo. W. Arnold, treasurer-----	}	George Tucker.
John Taylor, sergeant at arms-----		

PAR. 4. Respondent Mississippi Valley Automotive Jobbers Association is an unincorporated trade association and an affiliated regional

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group of the respondent Equipment Association. Its membership is composed entirely of jobbers. The officers of said respondent, Mississippi Valley Automotive Jobbers Association and the business concerns with which they are connected are or have been as follows:

W. E. Wissler, president----- Wissler Co., Des Moines, Iowa.

L. E. Graham, secretary----- Van Norman Machine Tool Co., Springfield, Mass.

PAR. 5. The respondent Southwestern Jobbers Association is an unincorporated trade association and an affiliated regional group of the said respondent, equipment association. Its membership is composed wholly of jobbers. The officers of said respondent, Southwestern Jobbers Association and the business concerns with which they are connected are or have been as follows:

L. E. Allman, president----- Ozark Motor & Supply Co., Springfield, Ill.

W. A. Dycke, secretary----- Herman-Brownlow Co., Springfield, Ill.

PAR. 6. The members of respondent associations and of their various affiliated regional groups consist of several hundred corporations, individuals, firms, and partnerships, their number and identity varying from time to time by the separation of some and the addition of others, so that it is impracticable at any given time to name as respondents and bring before the Commission each and all the members without manifest delay, confusion, and inconvenience. Therefore, the Commission names and includes as respondents in this proceeding, both separately and as representatives of all the members of the various respondent associations, the officers, directors, members, and associations set forth and identified in the foregoing paragraphs 1 to 5 inclusive. In many instances the same manufacturers and jobbers maintain membership in more than one of the respondent associations.

PAR. 7. The manufacturing members of said respondent associations in the course and conduct of their business make and sell, and the jobbing members thereof purchase, automobile parts and accessories in various States and cause such parts and accessories to be shipped and transported to warehouses and places of business and to customers of the respective purchasing members, in States other than the State where such commodities were made or originally sold by respondent members. In the course and conduct of such business, respondent members are and have been engaged in commerce among the several States of the United States and in the course of business in such commerce their organized activities have a direct effect upon interstate commerce in automobile parts and accessories. In the

course of such business the said members of respondent associations normally are in actual or potential competition with each other and with nonmembers, jobbers, and manufacturers who market or desire to market automobile parts and accessories.

PAR. 8. The practices and policies of said respondent associations relate to and the business of their members has represented and now represents a substantial part of the total volume of business of all manufacturers and jobbers of automobile parts and accessories throughout the United States. The respondent associations were organized and have continued to exist for the purpose of binding together the largest possible number of competing individuals, partnerships, and corporations, as members in their respective groups and of securing their concerted action for a common end. In the promotion of their common interests respondent manufacturers and jobbers have engaged in the furtherance of a common plan, scheme, and design of said respondent associations and their members to dominate and control the market in said automobile parts and accessories throughout the United States and particularly to control and fix the prices of said articles and to maintain the resale and retail prices of the same throughout the United States.

The respondent members of respondent association have assented to and abided by various policies, practices, rules, regulations, resolutions, agreements, and understandings hereinafter more particularly described and alleged.

PAR. 9. The respondent associations, their officers, directors, agents, and members, for a period of more than 3 years last past, have agreed, conspired, and combined together and with others, and have united in and pursued a common and concerted course of action and undertaking among themselves and with others, for the purpose of eliminating price competition among and between manufacturers and jobbers of automobile parts and accessories, of collusively controlling the price of automobile parts and accessories, of jointly preventing the establishment of new and additional competitors, and for other unlawful purposes. Through and by means of respondent associations, their officers and directors, the respondent members of said associations, with the aid and assistance of other manufacturers and jobbers, have carried out and are still carrying out said agreements, combinations, and conspiracies among themselves and with others, and have thereby fixed and maintained and still fix and maintain uniform prices to be exacted from their customers by the respective manufacturers and jobbers of automobile parts and accessories and

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have prevented and still prevent the establishment of new and additional competitors in the sale of said automobile parts and accessories.

PAR. 10. The respondent associations, their officers, directors, and members, pursuant to and for the purpose of carrying out the afore-said agreements, combinations, and conspiracies among themselves and with others, have done the following acts and things:

(a) Agreed that the members of respondent associations acting in concert with themselves and with others, should monopolize or try to monopolize, and they have monopolized or tried to monopolize, the distribution of automobile parts and accessories in the hands of so-called "legitimate jobbers," meaning those who have made known their willingness to maintain the resale prices suggested by the respective manufacturers.

(b) Agreed that competing manufacturing members of said associations and nonmember manufacturers concerting with them should from time to time fix, and they have from time to time fixed, uniform or substantially uniform sales prices to jobbers for comparable products, that said manufacturers would issue uniform or substantially uniform resale price lists for such products, and in fulfillment of such agreements they have issued resale price schedules with discounts.

(c) Agreed that the said manufacturing members and nonmember manufacturers concerting with them would not change and they have not changed said uniform or substantially uniform resale prices or discounts on comparable products without prior notice and opportunity for other manufacturers concerting with them to make similar changes simultaneously or at substantially the same time.

(d) Agreed that the jobber members of said associations and nonmember jobbers concerting with them should, in the selling of all automobile parts and accessories, use and abide by, and they have used and abided by, the uniform or substantially uniform resale prices on comparable products fixed by the respective manufacturers concerting with them.

(e) Agreed that the members of said associations and nonmembers concerting with them should suppress or try to suppress and they have suppressed or tried to suppress competition by reducing the number of competitors through the device of requiring a jobber to carry in stock a certain number of major lines of products to become entitled to recognition as a "legitimate jobber" and to the benefits which flow from that recognition, thereby hampering and obstructing or putting out of business a large number of small jobbers throughout the country.

(f) Agreed that the members of said associations should be bound and should abide by, and they have been bound and have abided by, the covenants of their application for membership, the bylaws, "codes of ethics," and other regulations and policies of said associations, particularly those designed or having the natural effect of fixing uniform or substantially uniform prices on comparable products, of maintaining uniform or substantially uniform resale prices thereon, and of restricting competition to channels determined by said respondents.

(g) Agreed that the policy of said associations in fixing uniform or substantially uniform prices on comparable products and in maintaining uniform or substantially uniform resale prices thereon should be effectuated, and such policy has been effectuated by local and regional group meetings, by association and organization committee meetings, by national shows and otherwise, and by oral agreements and understandings of which only meager and incomplete records should be and have been kept, in order to avoid providing evidence of such agreements and to make difficult their detection.

(h) Agreed that the manufacturer members of said respondent associations and nonmember manufacturers concerting with them would not sell and they have not sold their products to any jobber who does not maintain the respective manufacturers' resale price schedules or the suggested resale price on automobile parts and accessories.

(i) Agreed to limit the distribution by manufacturers of their products from warehouses maintained by said manufacturers for convenience in distribution, to five places designated by respondents as "warehouse points," and have limited, restrained, and prevented the establishment of such distribution warehouses at other places by threats of boycott and by boycott.

(j) Agreed to establish certain places designated by them as "jobbing points" and to recognize only such places as "jobbing points," have established and have recognized only such places as "jobbing points," and thereby have sought to prevent and have prevented by threats of boycott and by boycott, the establishment of jobber competitors at any places other than such jobbing points.

(k) Agreed that the jobber members of said associations and nonmember jobbers concerting with them should threaten to boycott and should boycott and they have boycotted individually and in groups acting concertedly those manufacturers of automobile parts and accessories who did not conform to the policies and purposes of respondents, as follows:

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Manufacturers who did not or would not refrain from selling their products to jobbers not classed by respondents as "legitimate jobbers" or sold their products to either "legitimate" or "illegitimate" jobbers at any discount greater than the published discount allowed by such manufacturers to the jobber members of said organizations and associations.

Manufacturers who did not or would not refrain from selling their products even at the currently prevailing prices to new or so-called illegitimate jobbers seeking to establish themselves in a territory in competition with the respondent jobbers already there established.

Manufacturers who did not or would not refrain from selling their products at the jobbing discounts contained in their price schedules to buyers classed by respondent jobbers as retailers and not jobbers.

Manufacturers who did not or would not refrain from selling their products to jobbers failing to maintain the manufacturers' suggested resale price schedules in selling automotive parts and accessories to retailers.

Manufacturers who did not or would not fix uniform or substantially uniform resale prices for their products and allow uniform or substantially uniform discounts to jobbers from such uniform or substantially uniform resale price lists on comparable products.

PAR. 11. Each of the respondent associations and the officers, directors, and members of each, as separately organized associations of manufacturers and/or jobbers, has constituted a separate combination and promoted a separate conspiracy for the purpose and with the effect of accomplishing the general objects alleged in paragraphs 8 and 9 hereof within each of such separately organized combinations and conspiracies and have done the acts and things alleged in paragraph 10 of this complaint from time to time independently of similar acts and things done by other respondent associations.

PAR. 12. The aforesaid alleged acts and practices of the respondent have had and still have the tendency and capacity to produce the following results:

To prevent manufacturers from competing among themselves in their prices to the jobbing trade and in their selection of jobbing distributors, to compete with the jobbing distributors of other manufacturers.

To constrain all jobbers of automobile parts and accessories doing business in both interstate and intrastate commerce and particularly the jobbing members of said respondent organizations and associ-

ations, to sell the aforesaid products to their dealer customers, garage owners, fleet owners, and others at uniform resale prices fixed as aforesaid by the respective manufacturers of said products.

To obstruct and prevent the establishment of new jobbers and of new distribution points.

To suppress all price competition in the jobbing of said products particularly among the jobbing members of said associations and further to hinder and restrain price competition on the part of and among all the retail dealer customers of jobbers in selling the ultimate consumer.

PAR. 13. The aforesaid alleged acts and practices thus tended and still tend unduly and unreasonably to hinder, obstruct, and restrain the free and natural flow of trade in the channels of interstate commerce, to enhance prices to the purchasing public and to otherwise deprive the public of the benefits of free and normal competition among and between respondents and their dealer customers and others.

PAR. 14. The above acts and practices are all to the prejudice of the public and of the competitors of respondents and are unfair methods of competition within the meaning and intent of section 5 of an act of Congress, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 14th day of October 1936, issued and served its complaint in this proceeding upon said respondents National Standard Parts Association, Motor & Equipment Wholesalers Association (referred to in the complaint as Motor & Equipment Wholesale Association), Automotive Trades Association of Greater Kansas City, Mississippi Valley Automotive Association (referred to in the complaint as Mississippi Valley Automotive Jobbers Association) and Southwestern Automotive Jobbers Association (referred to in the complaint as Southwestern Jobbers Association), and certain of their officers, directors, and members, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. On and between November 2, 1936 and December 16, 1936, the respondents filed their answers in this proceeding. Thereafter separate stipulations were entered into in behalf of each of the five respondent associations, whereby it was

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stipulated and agreed that statements of facts signed and executed by John W. VanAllen, as counsel for respondent National Standard Parts Association, William H. King, Jr., of Cassels, Potter & Bentley, as counsel for respondent Motor & Equipment Wholesalers Association, C. R. Barnett, as executive secretary for respondent Automotive Trades Association of Greater Kansas City, John W. Ogren, as counsel for respondent Mississippi Valley Automotive Jobbers Association, and Hugh C. Smith as counsel for Southwestern Automotive Jobbers Association, 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, answers, and stipulations, said stipulations having been approved, accepted, and filed, and the Commission having duly considered the same and being now fully advised in the premises finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

Part I

PARAGRAPH 1. Respondent, National Standard Parts Association, hereinafter referred to for convenience as N. S. P. A., is a voluntary, unincorporated trade association of manufacturers and jobbers of automobile parts and accessories, with its principal office at 1420 United Artists Building, Bagley Avenue, Detroit, Mich. The officers and directors of said respondent, N. S. P. A., for the years 1936 and 1940, and the members of said Association with which said officers and directors are connected are, or have been, as follows:

1936

Officers of association:

Name of member concern with
which connected

J. P. Muller, president----- Fort Worth Wheel & Rim Co.,
Fort Worth, Tex.

L. F. Hossellman, junior, vice president. Van Norman Machine Tool Co.,
Springfield, Mass.

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Officers of association—Continued. Name of member concern with
which connected

V. C. Hunderup, junior, vice president Siferd-Hossellman Co.,
Lima, Ohio.
Edward P. Chalfant, executive vice president (Referred to in complaint as Edward P. Chauffalt). 1420 United Artists Bldg.,
Detroit, Mich.

Board of Directors:

E. B. Conn----- Central Electric Co.,
Hattiesburg, Miss.
L. H. Phelps----- Phelps-Roberts Corp.,
Washington, D. C.
F. S. Durham----- Bonney Forge & Tool Works,
Allentown, Pa.
L. G. Matthews----- Sealed Power Corp.,
Muskegon, Mich.
W. H. Richardson----- Timken Roller Bearing Service & Sales Co.,
Canton, Ohio.
J. Fischer ----- Auto Parts & Gear Co.,
Chicago, Ill.
R. H. Bachman----- Bee, Incorporated,
Allentown, Pa.
H. B. Truslow----- Richmond Auto Parts Co.,
Richmond, Va.
C. C. Bradford----- Eaton Products, Inc.,
Cleveland, Ohio.
F. A. Miller----- U. S. Asbestos Div.,
Raybestos-Manhattan, Inc.,
Manheim, Pa.
R. D. Black----- Black & Decker Manufacturing Co.,
Towson, Md.
W. P. Nash----- Automotive Supply Co., Inc.,
Visalia, Calif.
V. C. Anderson----- Motor & Axle Parts Service, Inc.,
Chicago, Ill.
R. L. Terry----- United Wholesalers,
Sioux City, Iowa.
C. E. Prefontaine (honorary) United Auto Parts, Ltd.,
Montreal, Quebec.
H. A. Lightner----- De Luxe Products Corp.,
La Porte, Ind.
A. C. Darling----- Borg Warner Service Parts Co.,
Chicago, Ill.
L. F. Wollman----- Allen Electric & Equipment Co.,
Kalamazoo, Mich.

Officers of association:

V. C. Anderson, president---- Motor & Axle Parts Service, Inc.,
Chicago, Ill.
B. Patterson, senior vice president Thompson Products, Inc.,
Cleveland, Ohio.

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Officers of association—Continued.	Name of member concern with which connected	
R. L. Terry, junior vice president.	United Wholesalers, Sioux City, Iowa.	
C. D. McKim, executive vice president	1420 United Artists Bldg., Detroit, Mich.	
Board of Directors:		
R. L. Terry-----	United Wholesalers, Sioux City, Iowa.	
J. E. Adams-----	Toledo Steel Products Co., Toledo, Ohio.	
Franklin C. Bradley-----	Connecticut Bearings Co., Inc., New Haven, Conn.	
A. G. Drefs-----	McQuay-Norris Mfg. Co. St. Louis, Mo.	
Wm. J. Menghini-----	Springfield Auto Supply Co., Springfield, Ill.	
R. M. Meyers-----	Southern Parts & Bearing Co., Lynchburg, Va.	
Victor Allen-----	Automotive Maintenance Machinery Co., North Chicago, Ill.	
H. R. Askins-----	Phoenix Auto Supply Co., Phoenix, Ariz.	
Norman W. Devitt-----	National Automotive Parts, Ltd., Toronto, Ontario.	
W. C. Dodge, Jr.-----	Ferodo & Asbestos, Inc., New Brunswick, N. J.	
Wallace D. DuPre-----	Wallace D. DuPre, Spartanburg, S. C.	
C. C. Secrist-----	Victor Manufacturing & Gasket Co., Chicago, Ill.	
S. M. Prior-----	Fafnir Bearing Co., New Britain, Conn.	
George Scheufler-----	Scheufler Supply Co., Inc. Great Bend, Kans.	
George G. Korshin-----	South Shore Motive Parts Co., Inc., Lynbrook, L. I., N. Y.	
B. F. G. Keam-----	Monarch Auto Supply Co., Covington, Ky.	
W. B. Bradenbaugh-----	Keystone Reamer & Tool Co., Millersburg, Pa.	
Andrew Brown-----	Andrew Brown Co., Los Angeles, Cal.	
E. J. Tesdell-----	Gates Rubber Co. Denver, Colo.	

PAR. 2. The manufacturing members of said respondent association, National Standard Parts Association, in the course and conduct of their business, make and sell, various automobile parts and items of equipment in various States, and cause such parts and items

of equipment to be shipped and transported to warehouses and places of business and to customers, including jobber members, in States other than the State where such commodities were made or originally sold by respondent manufacturing members. Some manufacturers distributed such items through major oil companies, mail order houses, and retail chain stores. The jobber members of said respondent association purchase various automobile parts and items of equipment in various States from manufacturers, including respondent manufacturing members and the automobile parts and items of equipment, so purchased, are shipped and transported to warehouses and places of business in States other than the States where such commodities were manufactured. In the course and conduct of such business, respondent manufacturing members and certain respondent jobbing members are, and have been, engaged in commerce among the several States of the United States and in the course of business in such commerce, their respective operations have a direct effect upon interstate commerce in automobile parts and items of equipment. In the course of such business operations, certain manufacturing members are normally in actual competition with each other and with nonmember manufacturers and certain jobbing members are normally in actual competition with each other and with nonmember jobbers.

PAR. 3. The business of the members of said respondent association has represented, and now represents a substantial volume of business in the manufacture and jobbing of various automobile parts and items of equipment throughout the United States.

PAR. 4. The National Standard Parts Association, in 1933, had 295 jobber members and 194 manufacturing members; of the manufacturing members, 14 were tool manufacturers, 26 were equipment manufacturers and the remainder were replacement part manufacturers.

PAR. 5. The policies of the N. S. P. A. are set forth in a booklet entitled "Constitution, By-Laws, Code of Ethics and Warehousing Code of Ethics." Article IV of the constitution refers to the obligations of members as follows:

The constitution and by-laws and any amendments thereof hereafter made, shall be deemed a contract with the Association and among the members for the benefit of each and all of them and shall be observed and adhered to by each member; and each member of this Association, by virtue of his membership, covenants and agrees with the Association and with each and every member thereof to observe, adhere to and be bound by the same.

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Bylaw I sets forth the qualifications for membership and in part reads as follows:

(a) Service parts, jobbers, consisting of any reliable person, firm, or corporation engaged in the wholesale merchandising of standard brands of automotive service parts, tools, and shop equipment having a regularly established place of business in the United States or Canada, carrying a representative stock sufficient to supply the demands of the trade in the territory served (not less than 12 major lines which are being purchased on a regular distributor's basis direct from manufacturer through regular sales mediums), and having a financial responsibility sufficient to carry on their business successfully, and shall not be engaged in the sale of used parts in the same establishment.

(b) Any reliable person, firm, or corporation having a regularly established business in the United States or Canada, and having a financial responsibility sufficient to operate the business successfully, and operating his (its) own factory, engaged in the manufacture or finished assembly of one or more standard brands of automotive service parts and materials, tools or shop equipment, and who markets his (its) products, and may also market in the name of the membership which he (it) holds, the entire production of one or more standard trade marked articles not of his (its) own manufacture, but for which he (it) accepts full responsibility, said marketing (other than to car manufacturers) being at wholesale only and to legitimate wholesalers, either through his (its) own sales organization or through a separate sales and (or) service organization, which he (it) owns and controls.

Bylaw 9, entitled "Duties of Officers," is in part as follows:

(c) The executive vice president shall have complete supervision of the affairs of the Association between meetings of the Board of Directors, subject at all times to the control of the Board of Directors.

PAR. 6. Local groups have not been given a great amount of publicity by the National Standard Parts Association, however, the Association has always had one or more field men who attended some meetings of local jobbers including members and nonmembers and explained Association activities at various times. Representatives of the National Standard Parts Association at various times included Mr. Tom Duggan, Mr. E. P. Chalfant, and Mr. Orville Gault, who have made circle tours of the country and called together jobbers in the cities visited and outlined to them Association policies.

PAR. 7. An important committee of the N. S. P. A. is the Trade Ethics Committee which was under the chairmanship of H. N. Nigg, a jobber member. The purpose of the Trade Ethics Committee is set forth in a message from C. M. Burgess, the president of N. S. P. A., which message the executive vice president, E. P. Chalfant, on January 26, 1931, at the direction of the president, forwarded to each member of the committee. The aforesaid message is as follows:

It is the intention and recommendation that your Committee handle the dangerous subjects covered by Trade Ethics, complaints from members, etc., in an exceedingly confidential manner, and that you invite the filing of complaints of one member against another for violation of our Code of Ethics as well as violation of common business courtesy.

The Association headquarters as such has not been used enough in years past by its members for this purpose.

Mr. Nigg has discussed with me the plan of operating for your Committee and will explain it to you.

PAR. 8. A bulletin, dated December 18, 1930, issued by Executive Vice President Chalfant to the members of N. S. P. A., on December 18, 1930, refers to the Jobbers' Division which is apparently the name under which the Trade Ethics Committee has also functioned. The said bulletin reads as follows:

JOBBERS ONLY

INVESTIGATION

The chairman of the Jobbers' Division advises that he has received a considerable number of letters from jobber members reporting demoralizing resale schedules by chain stores and mail order houses, with particular reference to the resale of ring and pinion gears to the trade.

PAR. 9. Complaints were made by members and were referred to the Trade Ethics Committee. Copies of complaints were forwarded to the Executive Vice President Chalfant. Chairman Nigg of the Committee contacted, by mail and in person, the parties complained against. Many complaints were made against manufacturers charging that sales were made to concerns who were not considered legitimate jobbers according to the standards of a legitimate jobber as determined by N. S. P. A., or that sales were made to jobbers who refused to maintain the retail prices suggested by the manufacturing members of N. S. P. A.

The executive vice president in a communication to a complaining member, dated October 7, 1930, stated in part as follows:

Herb (Niggs) tackles these problems with the utmost determination, and I do not think he has failed in a single instance in having them satisfactorily cleaned up.

PAR. 10. On October 1930, a complaint was made that the Berkley Manufacturing Co., Inc., of New York City, a member of N. S. P. A., was selling drums to Western Auto Supply Co. of Bay City, Mich.

(a) Executive Vice President Chalfant in communications to Chairman Nigg stated in part as follows:

It seems to me, Herb, the real question at issue was Berkley's sale on any basis to the Western Auto Supply Company because our jobber members

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resent the competition of the Western Auto Supply Company and while there is no actual restriction against our manufacturer selling them it certainly is bad business for them to do so.

It should not be forgotten that we have kept two or three manufacturers from obtaining membership in the N. S. P. A. because of our prior knowledge that they were selling this chain store outfit and I venture the opinion that Ochrome, now Berkley, would not have been elected had we known at the time of their intention to sell to the Western Auto Supply Company.

(b) Chairman Nigg of the Trade Ethics Committee in a communication dated October 30, 1930, to the Berkley Manufacturing Co., Inc., copies of which were sent to Executive Vice President Chalfant and the president of N. S. P. A. in reference to the complaint, stated as follows:

I am in receipt of your communication of October 17th in reference to the protest of one of our Bay City members regarding your Company selling brake drums to the Western Auto Supply Company at Bay City.

I have carefully studied your remarks and you state that you do not know of an instance wherein the Western Auto Supply Company have cut prices to the same degree that the parts jobber sells to the garage and repair trade.

Naturally the garage and repair trade receive a discount to enable them to make a profit on the handling of the parts, and I do not believe that there is any comparison.

For your information I am attaching a sales slip from the Western Auto Supply Company, for one Pontiac 1927 drum, which they sell retail at \$1.18 each. Your list price is \$1.50, and with your suggested discount of 25%, would make \$1.13 to the repair man. If he sold this to his customer to meet competition of the Western Auto Supply at \$1.18, he certainly could not hope to make a profit, and in fact the margin there would not allow him to take the time to pick this up.

I wish to call your attention to the fact that at the present time there is an amendment being proposed to the Constitution covering the eligibility of members, and which states, "A manufacturer will be eligible for membership only when he markets his products at wholesale only, and to legitimate jobbers." The jobbing members of the N. S. P. A. have always objected to their manufacturers merchandising through other than the proper channels, and I believe, Mr. Miller, that you stated to the members of the Membership Committee recently when the writer was present, that it was your intention to keep your distribution along these lines.

While there is no machinery in our Association that would make the decisions of any of our Committee mandatory at the present time, I do believe that you will cause yourself more grief by selling concerns of this character, than by keeping your distribution through legitimate jobbing channels.

PAR. 11. Executive Vice President Chalfant and Tom Duggan, a field representative of N. S. P. A., were instrumental in organizing the Southeastern Parts Jobbers Association which consisted of seven local jobbers in Atlanta, Ga. The said Association met once a week

and the members have worked in cooperation and harmony in stabilizing and maintaining discounts to the shop trade and have worked to a considerable extent on cooperative deliveries.

In February 1930, Executive Vice President Chalfant while attending the Southeastern Parts Jobbers Association convention in Atlanta, with President Kiken of N. S. P. A., informed the members of said Association that if it was reported to him that manufacturing members of N. S. P. A. were selling direct to small machine shops in Atlanta, he would cooperate in stopping such a practice.

In March 1930, in response to Executive Vice President Chalfant's statement, five of the jobber members of the Southeastern Parts Jobbers Association, only two of whom were members of the N. S. P. A., complained to Executive Vice President Chalfant that the Logan Gear Co. of Toledo, Ohio, and the I. T. M. Gear Co. were selling the Ideal Machine Shop in Atlanta.

(a) Executive Vice President Chalfant in a letter to the Logan Gear Co. dated March 21, 1930, stated in part as follows:

The concern mentioned in their letter as handling your products is not rated by us as a jobber and is not listed as such by any of the jobber indexes, of which we have all in our possession. I have gone through these carefully to check up before making this statement.

It would seem therefore that the protest of the legitimate Atlanta jobbers has some basis for your consideration, bearing in mind that the foundation upon which the N. S. P. A. has been erected is jobber distribution upon a protected basis.

I should be glad to repeat any message you may authorize to the Atlanta group of whom five of the seven have signed the protest.

(b) The Logan Gear Co. in its reply dated March 31, 1930, stated in part as follows:

There is one thing that we would like to call to your attention regarding the Atlanta area conditions. These very jobbers who object to our distributing source in their city, altho not codified strictly in the sense of being a jobber, are the very ones who are supporting the localized trade conditions thru warehouses of other manufacturers.

* * * * *

We will, however, immediately look into the local situation in Atlanta and have a careful survey made of same and if we can make reasonably proper adjustments in that field, we certainly will discontinue selling other than regular distributing sources.

(c) Executive Vice President Chalfant, on April 9, 1930, in a further communication to the Logan Gear Co., stated in part as follows:

It may be true that you have not been afforded the opportunity heretofore of placing your line with one of the five or six representative jobbers in

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Atlanta, but I feel quite confident that an evidence of willingness upon your part to correct the condition referred to in the letter of protest, would result in one of the signers of that protest or one of the other members of the local group taking on your line and giving it representative distribution.

I would be quite willing to sound out the group in this respect if you authorize me to do so.

(d) Executive Vice President Chalfant, on April 9, 1930, wrote to J. C. Rogers of the Automobile Piston Co., a member of the South-eastern Parts Jobbers Association and signer of the letter of protest, and stated in part as follows:

I think it would be a good idea for you to read the Logan Gear letter at the next meeting of your local group and ascertain if one of the members would be willing to take on the Logan Gear line if they cut off their present distribution in your city.

(e) Mr. R. A. Kiken, president of the N. S. P. A., on June 11, 1930, wrote to Executive Vice President Chalfant as follows:

I note from your exchange of correspondence with John Rogers that John has finally become discouraged with any accomplishment in connection with the Logan gear policy at Atlanta, and I am disappointed that this could not be handled.

This is just one of the things that the jobbers complain about in our association, and if you can see any way of reviving this thing and actually handling it by personal conference with the Logan gear crowd, I think it would certainly be advisable to do so. You might even go so far as to tell them that the jobbers are going to have an informal meeting and considerable conversation is going to be built around these things, and certainly they would not want it known to the entire industry that their reputation does not stand in very hot with the Atlanta jobbers.

I hate the thought of using a whip, but I do think we should stay with this Atlanta situation until we lick it.

(f) Executive Vice President Chalfant, on June 19, 1930, wrote to President Kiken that he was sending the complete file to Chairman Nigg. His communication in part is as follows:

Herb (Nigg) certainly has done a fine job on the cases submitted to his committee, which has actually functioned as a committee of one because I do not think Herb has consulted the other members of his committee at all. That, however, is up to him.

Chairman Nigg, on June 26, 1930, wrote to F. B. Chester, sales manager of the Logan Gear Co., inviting him to come to Detroit to talk over the matter with Mr. Chalfant and himself suggesting that in this manner a great deal more can be accomplished.

(g) Mr. F. B. Chester of the Logan Gear Co., on July 15, 1930, replied to Chairman Nigg in part as follows:

This is just a situation in Atlanta of the kettle calling the pot black. They don't want us to sell anybody but them and they don't want to buy, so a manufacturer is supposedly in a position to exile himself on an island and stay out of their door-yard.

We have a satisfactory account in there that pays their bills and does very well, and if they hadn't been doing some business these old fellows wouldn't notice it. It has always been the writer's intention and thought to carry on with the established jobbing associate interests in all areas where it was possible to do so, but the jobbers in Atlanta want to sit still, take their stuff out of the warehouses of other manufacturers and then carry no stock themselves with which to operate, and keep the other manufacturers out who don't run that peanut stand arrangement in their locality.

It is the little fellow they are kicking about who buys direct from the manufacturer and anticipates his needs and gets them shipped from Toledo, Ohio to Atlanta, Georgia.

(h) Chairman Nigg in his reply to Logan Gear Co. on July 15, 1930, stated in part as follows:

While I appreciate, as a parts manufacturer your position in this matter, I cannot help but feel that perhaps your Company is starting a dangerous precedent which may tend to break down the legitimate jobbers' sales channels, and while in this particular case you may feel justified in your action, I do not believe that if you could be convinced that your action contains a great deal of danger to our jobbing structure, that you would not feel differently.

I know that it is the desire of the Association, and most jobbers, to co-operate with their manufacturers, and I also know that the same spirit prevails with the manufacturers. Don't you think that a personal conference between us on this subject would greatly strengthen this cooperation.

Think it over.

PAR. 12. The Central Sales Company of West Virginia, in a communication dated July 24, 1930, wrote to Chairman Nigg of the Trade Ethics Committee in part as follows:

You will recall having requested the writer to send in any grievance which he might have concerning N. S. P. A. activities.

We would like to register one against the Guaranteed Parts Company of New York who are quoting the Mullens Battery Company of this city, N. S. P. A. Jobber prices, and the Mullens Battery Company of this city is simply a battery service station.

We believe we are justified in registering this protest and trust that your committee will follow it up vigorously as we believe possible the quotation can be withdrawn yet without any material damage being done.

Chairman Nigg on July 30, 1930, communicated with the Guaranteed Parts Co., a manufacturer member of N. S. P. A. On August 7 the Guranteed Parts Co. informed Chairman Nigg that:

We have never sold the Mullen Battery Service Company of Charleston, W. Va. and do not intend to do so. If they were quoted prices it was a

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mistake but rest assured that the Guaranteed Parts Company sells only to legitimate jobbers.

We want to assure you it is our earnest desire to cooperate with you at all times, and thanking you for calling our attention to this again, we remain * * *

PAR. 13. W. T. Mills, president of Auto Parts Co. of St. Louis, Mo., a jobber member of N. S. P. A., complained to Chairman Nigg of the Grievance Committee of N. S. P. A. that the Greaves Machine Co. of Cincinnati, Ohio, was shipping flywheel ring gears at jobber prices to the Southeast Missouri Machine Shop at Cape Girardeau, Mo.; copy of said complaint was sent to Executive Vice President Chalfant.

(a) Executive Vice President Chalfant on July 3, 1930, replied to Auto Parts Co. in part as follows:

Greaves is not a member of the N. S. P. A. and we have not campaigned them in recent years because I have been told that they have been rather up against it financially and that their merchandising policies are unsound, which is quite evidently confirmed by your report.

If Greaves were a member of the N. S. P. A. I could bring considerable pressure to bear upon them to revise their policies, but under the circumstances I am inclined to think that if we wrote them about their merchandising ethics they would merely tell us where to go, and not supply the ticket.

For your information, however, I am glad to tell you that the legitimate manufacturers of flywheel gears are making a sincere and earnest effort to clean up competitive conditions at different points, particularly in respect to price competition.

Herb Nigg, Chairman of the Grievance Committee, has done an outstanding job in this respect and he is certainly to be congratulated.

Recently he brought Bates and Wohler of the Bates-Wohler Company of Lansing here to N. S. P. A. Headquarters for a meeting with Bob Paul, our jobber in that city, who were conducting a price war between them, and he not only brought them to a satisfactorily mutual understanding and cleaned up a very grievous condition in Lansing, but he also prevailed upon Bates and Wohler to readjust their distribution in Chicago, Des Moines and two or three other points from which complaints had come and I am glad to be able to tell you that they have made these corrections in each location, and they are now playing the game strictly according to the rules.

I am also glad to tell you that the Republic Gear Company has been taking a very active part in house-cleaning respecting local price competition in the installation of flywheel gears and with a marked degree of success.

John Dages and Jim Anderson of the Republic were in my office yesterday afternoon and told me what they have been doing and accomplishing in different localities. They had Ray Kauffman over in Chicago for a couple of weeks and now have that situation well in hand.

I know there is quite a bit of dissatisfaction on the part of the jobbers respecting recent changes that the flywheel gear manufacturers have made in their price, but thank heavens, I was not mixed up in that in any way and did not even know it was in the wind. You bet your life I have been keeping

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out of these manufacturer group meetings ever since the Eastern Jobbers accused me of the responsibility, about fifteen months ago, of getting the manufacturers of starting gears into a huddle to raise their prices. I did not have a thing in the world to do with that other than, at their request, I had acted as a neutral in getting them together over in Chicago, and very definitely telling them that they could not legally agree on net prices or discounts, and warned them that if they did anything of that kind, there would be "hell a poppin'" with the jobbers.

The following day they had a meeting at which I was not present and it was then that they went ahead with their price changes, but I got the blame for it, even though I had protected myself by warning them.

That concern is not listed in any of our records as a Jobber, and never has been. In fact, the only jobber that is listed in Cape Girardeau is the Auto Tire and Parts Company, and they are rated as such by Chilton, National Credit Office and Motor Maintenance.

(b) Chairman Nigg in his reply to Auto Parts Co. in relation to its complaint, stated in part as follows:

I would appreciate your advice immediately whether this Company have indicated the desire to cease selling machine shops direct, or if it is their intention to continue selling so.

You can appreciate that if they discontinue this practice, there is nothing further the Grievance Committee can do, but if they inform you that they will not do so, then it is immediately a matter for attention.

Please keep me in touch, and I assure you that whatever action is necessary, you will immediately get it.

(c) The Greaves Machine Co. on July 15, 1930, wrote to the Auto Parts Co. in part as follows:

At this point, we beg to advise that there is not a gear manufacturer in the United States who does not sell to the machine shops. At a meeting of the Flywheel Starter Manufacturers group, this matter was threshed out, and we find that in order to hold the proper volume of sales our plan of distribution must coincide with that of our competitors. In view of these facts, we are forced to sell to machine shops, however, it has been one of our strong policies to protect our jobber accounts that carry a large stock of gears on hand, and toward this point, we pledge to you or any jobber, the protection to which he is rightfully entitled.

PAR. 14. Executive Vice President Chalfant called together a group of time gear manufacturers.

With the knowledge that N. S. P. A. Headquarters has during the past three years sponsored a considerable number of successful group meetings of kindred manufacturers resulting in stabilization, standardization and increased profits to manufacturers and jobbers alike, two manufacturers of the timing gear group have requested that N. S. P. A. Headquarters invite its members to attend a meeting at some central point for the purpose of discussing the problems of your branch of the industry, and perhaps to standardize upon certain methods of manufacturing or merchandising.

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Invitations were sent by Executive Vice President Chalfant to the following manufacturers of timing gears to meet in Chicago on April 1, 1929, at the Stevens Hotel:

Dalton & Balch, Inc.....	Chicago, Ill.
Accurate Gear Company.....	Springfield, Ohio.
The Celeron Company.....	Bridgeport, Pa.
Perfection Gear Company.....	Chicago, Ill.
Timing Gears Corporation.....	Chicago, Ill.
General Electric Company.....	West Lynn, Mass.
John C. Hoof & Company.....	Chicago, Ill.
Cloyes Gear Works.....	Cleveland, Ohio.
Foot Bros. Gear & Machine Company.....	Chicago, Ill.
Colorado Gear Mfg. Corp.....	Denver, Colo.

In regard to the proposed meeting Executive Vice President Chalfant stated as follows:

"Such great good to the industry as the result of standardization and such outstanding benefits to the manufacturers have resulted from the group meetings that have been held during the past two years that the members of the Timing Gear group are urgently requested to attend this important meeting, which will in all probability write new pages in the history of your branch of the industry.

Executive Vice President Chalfant proposed a permanent page secretary for the timing gear group, in a letter dated April 3, 1929, to Mr. Dann Ohmer Taber, Piston Manufacturers Research Bureau as follows:

The eight manufacturers of the Timing Gear group met in Chicago on Monday and completed their organization, which comprises four N. S. P. A. members and four who are not members.

I recommended to them to negotiate with you to act as secretary of their group believing that you would have sufficient time to do this in connection with your other duties and Mr. R. T. Cloyes of the Cloyes Gear Company of Cleveland has been delegated to discuss the subject with you, and I am therefore sending him a copy of this letter.

* * * * *

We will be glad to give you any cooperation that we can from N. S. P. A. Headquarters.

The proposal of a page secretary was not carried out because the timing gear manufacturers thought it would be too expensive and that they would be able to handle the work themselves.

PAR. 15. Executive Vice President Chalfant again called the meeting of the timing gear group for June 4, 1929; the invitation issued was in part as follows:

This letter conveys a special request that the manufacturers belonging to the Timing Gear Group meet me for an important conference at the Stevens Hotel in Chicago on Tuesday morning, June 4th, at half past nine

The location of the room for the meeting will be posted on the Bulletin Board in the lobby as "N. S. P. A. Headquarters."

An acute situation has been created with the jobbers throughout the country, one which I am confident can be readily corrected at this meeting.

By request of the Eastern Automotive Parts Jobbers Association comprising 63 of the principal N. S. P. A. jobbers on the Eastern seaboard, I met with them yesterday, Sunday the 25th, at the Empire Hotel, New York, and listened attentively to the protests filed by the attending 35 members of the group, and their attitude of mind is best reflected by a letter which, by the unanimous vote of the group, their secretary wrote and placed in my hands, and I quote as follows:

"DEAR MR. CHALFANT:

The members of the Eastern Automotive Parts Jobbers Association desire you to act as their intermediary with the Timing Gear Group of manufacturers to restore the original schedule to jobbers.

F. S. ROBERTS, *Secretary,*
Eastern Automotive Parts Jobbers
Association, Inc."

This letter quite correctly voices the flood of protests that has been received at N. S. P. A. Headquarters from the jobbers in all sections of the country.

No protests have been filed against the revision or standardization of list prices, which are quite generally approved by the parts jobbers.

I have in good faith promised the Eastern Group that I will intercede for them and they have fortified me with facts and figures with which to support their request for the original schedule to be restored.

It is for the purpose of presenting the jobbers' side of the story to the members of your group that I am urging each of you to attend the meeting on June 4th if humanly possible, otherwise to write or wire me your willingness to concur in the majority decision.

Prompt acknowledgment of this letter is requested.

PAR. 16. Members of the timing gear Group cooperated with each other in determining sales policies, jobber prices, and discounts and resale prices.

(a) John C. Hoof Co. on May 1, 1929, wrote to Cloyes Gear Works in part as follows:

We have been informed that the Diamond State Fibre Company sold the original consignment of gears to the Brown-Cain Company of Kansas City, which the Brown-Cain Company were selling under the trade name of "Velvo."

We have also been informed that Diamond State have discontinued the sale of gears over six months ago to this organization and that we will have no further competition from this source.

(b) John C. Hoof Co. on May 3, 1929, wrote to the Cloyes Gear Works in part as follows:

If you will recall, the last time I was in Cleveland, I discussed with you the subject to the Star Products Company, Cleveland, selling the American Gear Associates on a special preferred discount basis. You called up the manager of

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this institution, and they informed you they would be glad to meet you and discuss this matter with you.

I am wondering if this has taken place, and if you were successful in getting them to withdraw these special discounts.

(c) Cloyes Gear Works, on May 9, 1929, wrote to the John C. Hoof Co. as follows:

Inasmuch as the Company mentioned are not in competition with us, we do not think that we should endeavor to influence their actions in any way.

If they come to us for information, we will be very glad to discuss the matter with them.

(d) John C. Hoof Co., on June 1, 1929, wrote to the N. S. P. A., attention E. P. Chalfant, in part as follows:

Replying to your letter of May 27th, and referring to our telephone conversation of Friday, the 31st, the Chicago group of manufacturers of replacement gears will meet with you at 9:30 Tuesday morning at the Stevens Hotel.

I am also writing a note to Mr. Cloyes, the Colorado Gear Company and the Timing Gears Corporation, Chicago, relative to this meeting, as per copy of letter enclosed.

As stated to you, Mr. Balch and Mr. Daskel, and the writer, worked on costs for a number of hours yesterday, and are firmly convinced that the new proposition is not a hardship on the jobber, and to make a change at this time, would mean the difference between no profit and a slight profit to the gear manufacturers.

However, we are going to be very open minded on our discussion with you, and we hope to arrive at some satisfactory basis.

PAR. 17. The meeting of the timing gear group and Executive Vice President Chalfant was held on June 4, 1929. Executive Vice President Chalfant on June 5, 1929, in a communication to R. T. Cloyes of the Cloyes Gear Works, stated as follows:

PERSONAL AND CONFIDENTIAL

For your personal file I am enclosing copy of statement prepared in Chicago on Tuesday, June 4th.

On the final sheet appears an authorized statement to be made verbally to the representatives of the Eastern Automotive Parts Jobbers Association.

A personal interview has been requested by the writer with the president, the secretary and the members of the Grievance Committee of the Eastern Automotive Parts Jobbers Association, to be held in Philadelphia on Friday, June 7th, at which time this report will be read.

(Copy)

Due to the increasing necessity to meet our manufacturers' list prices and the fact that a major part of timing gear replacement business is on a very low price basis established by certain car manufacturers, profits have dwindled to a van-

ishing point for all timing gear manufacturers and unless some additional return is possible, these manufacturers must go out of business.

A representative of the laminators who was present, stated that to his direct knowledge, prices had become so low that the business was unprofitable and undesirable and that there was no possible chance of further reduction in raw material costs.

The increase is very much less than the apparent 5% because of the freight allowance, the reduction of list prices on popular numbers to meet car manufacturers' lists and the elimination of service charges from branch stocks. It is calculated that the actual increase to the jobber is less than 2%.

It is estimated that not more than 20% of the volume of the average jobber is at the 40% discount, another 20% at the 35% discount, and the remaining 60% should be on the 25% basis. Based on these estimates, the average gross would be 31.6% or somewhat higher than the 30% which the jobbers have advised would be satisfactory.

It is also pointed out that in T. O. Duggan's booklet entitled "Merchandising Replacement Parts" timing gears and timing chains show a better rate of gross profit than any other line except fan belts. The chart shows timing gears are No. 16 in volume and No. 9 in rank as to gross profits.

The establishment of 25% to the independent repair shop and garage is feasible in any locality where good jobber cooperation exists. The following list shows that in most cases the independent shopman received no discount and in no case does he receive more than 25% from a car distributor or dealer:

Buick	Nothing to garage & repair trade (25% to Authorized Station Only).
Ford	Nothing on Model T. 15% on Model A.
Nash	No discount.
Chrysler	10% to 15%.
Chevrolet	25%.
Dodge	25%.
Marmon	No discount.
Overland	No discount.
Reo	No discount.
Studebaker	10% discount.

It is obvious that the car manufacturer with his larger volume and his elimination of jobber distribution, is plainly in a position to put the independent gear manufacturer and the independent jobber out of business on a price basis if he chooses to do so. Therefore, it is to the interest of the entire replacement industry to suppress any underselling of car manufacturers' established prices. It is believed that if thorough cooperation existed, the car manufacturers could in time be induced to raise their list prices.

While it is natural that a decrease in a garageman's discount will cause some complaint from him, it is obvious that he cannot do better elsewhere and that if the jobbers will stand firmly together it requires no more than a little courage to put this over.

Finally, the change of survival of this line is by full cooperation between the manufacturer and the jobber. Obviously if this business is to persist, both manufacturer and jobber must be paid for his service, plus a profit. Even with this small increase in prices, it is still a case of the survival of the fittest amongst the timing gear manufacturers.

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AUTHORIZED VERBAL STATEMENT TO JOBBERS

After serious and constructive consideration of the request of the jobbers for restoration of original schedule, and with a definite willingness to cooperate if it were possible, the timing gear manufacturers I have interviewed decide to give the new schedule a fair and impartial trial to establish its workability.

PAR. 18. (a) Cloyes Gear Works on July 5, 1929, wrote to Dalton & Balch, Inc., as follows:

We have your letter of June nineteenth, with reference to the price on your Nash Crank Shaft Gear.

Since you have given us an explanation of the way you furnish the gears, your price of \$5.00 would seem all right.

We wish to thank you for your cooperation, and any time we can be of assistance to you along these lines, we will be glad to hear from you.

(b) Cloyes Gear Works, on July 17, 1929, wrote to the Dalton & Balch, Inc., as follows:

So far, we have not heard that the Timing Gears Corporation were quoting a discount greater than 50 & 5%.

Inasmuch as the above Company uses Celoron material we believe it would be advisable for the Chicago Group to communicate direct with the Celoron Corporation. We do not anticipate there would be any difficulty in correcting the situation.

We are at present endeavoring to get the Westinghouse Electric & Manufacturing Company to correct the prices of one of the other Chicago manufacturers.

We will be very much interested in hearing from you further, as to just what has been accomplished.

(c) J. H. Balch of Dalton & Balch, Inc., on July 26, 1929, wrote in part the following to Cloyes Gear Works:

However, there is one thing that you mention I think ought to be cleared up. You say, "we do not propose to make any special prices on any gears in quantities of less than fifty."

This sort of practice, the writer believes, is entirely out of order. If you start off giving an extra or special on truck gears, or in fact any gears in quantities of fifty, it will only again lead to the disturbing and unsatisfactory unsettled condition that has always existed in the Timing Gear Market until a very few months ago.

(d) Cloyes Gear Works, on November 7, 1929, wrote to Dalton & Balch, Inc., as follows:

In reply to your letter of November 5th.

We are very pleased to learn that the Buda Factory are disposed to cooperate on the matter of list prices.

We believe all the Timing Gear Manufacturers should use the same list prices as the Buda Factory provided all Jobbers are able to buy the Gears on a comparable basis. It is our understanding that at the present time Buda is quoting their distributors a discount of 60%. Do you know whether or not this is a fact?

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We have just been advised by our New York Agent that Foote Bros. Gear & Machine Company are selling Buda CS6 Generator Gears at \$1.00 each in lots of 100 to any jobber. Have you received this same information?

The writer will be located in the Book-Cadillac Hotel at Detroit beginning next Sunday. We believe it would be a good thing to have a meeting early in the week of all the Timing Gear manufacturers to discuss our problems. Would it be possible for you to arrange a meeting on Monday Night?

PAR. 19. A situation arose in Denver about June 1930, relative to the prices of flywheel ring gears. Colorado Gear Co., a manufacturer, was accused by several manufacturers and jobbers of cutting prices.

(a) Gall Auto Specialty Co., on June 5, 1930, wrote to the Automotive Gear Works in part as follows:

* * * "I have talked with him about raising his prices as have a good many of the other jobbers in Denver, but he states that at some previous time he had an agreement with some of the Eastern Manufacturers who make Flywheel Ring Gears, and that they did not stick to their agreement, and he is not going to join in with them" * * *

(b) Bates Wohlert Co. on October 3, 1930, in a communication to Dirks and Trenam, stated in part as follows:

Regarding the Colorado Gear Company situation, we are confident that they will soon come in line, however, if they do not, all of the gear manufacturers will simply cut the prices to such that they will be forced to.

(c) E. W. Trenam of Dirks & Trenam, on December 2, 1930, wrote to Bates Wohlert Co. and replied as follows:

Mr. Bruhn, Mr. McGonagle and I have followed out the program suggested by Mr. Nims (Mr. Nigg)—with about the same results in each case. Mr. Rankin refuses to enter into any kind of agreement with local jobbers as to price, stating that he is running his business and intends to continue to do so. * * *

(d) The Springfield Manufacturing Co. on December 18, 1930, wrote to the Colorado Gear Manufacturing Co. in part as follows:

We trust that you will cooperate with us in the matter of stabilizing these prices as we feel sure all the jobbers in Denver will simply adopt these prices and this naturally means smaller profits for everybody concerned.

We feel sure that your good Company will go along with the balance of the Manufacturers on Flywheel Gears in the matter of stabilizing these prices.

(e) E. W. Trenam of Dirks & Trenam, on January 5, 1931, wrote to Bates Wohlert Co. in part as follows:

Both Mr. Bruhn and myself have talked turkey to Mr. Rankin of the Colorado Gear Company, with no results except to have him make a still greater cut in prices. Mr. Rankin has undoubtedly taken our talk as bluff, and Mr. Bruhn feels that it is necessary to make good the bluff by giving a few gears to a few of the Colorado Gear Company's best accounts. We both feel that an actual

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demonstration of this type will bring Mr. Rankin to terms very quickly and avoid a long-continued price war.

(f) Bates Wohlert Co., on January 5, 1931, wrote to Buda Engine Parts Co., Inc., the following letter:

Our Company will cooperate with you with pleasure, and are today sending 50 104-F and 50 100-F gears without cost.

PAR. 20. R. E. Bates, of Bates Wohlert Co., conferred in Denver early in February 1931, with representatives of the Buda Engine Parts Co., Inc. (H. B. Bruhn) and Colorado Gear Co.; at said conference prices were agreed upon.

On February 23, 1931, R. E. Bates of Bates Wohlert Co. forwarded to the Colorado Gear Co. a list of prices which list was not satisfactory to Colorado Gear Co. which stated that the prices forwarded were not the prices agreed upon.

PAR. 21. Frank P. Chester, sales manager of Logan Gear Co., and a manufacturer member of the N. S. P. A., wrote on April 17, 1931, in part as follows:

Now relative to Buda Engine Parts. They are the people who have caused all of the trouble in the Denver area on Flywheel Rings. They succeeded finally through the intervention of some other parties, whom I am not going to mention even confidentially, in getting the Bates Company to send them 200 Rings without charge in order to combat local conditions. A special trip was made to Denver by Bates and one of our other manufacturers to square away this situation. They had a meeting with all of the parties concerned, the different jobbers and every body showed up but the Buda people. They didn't have time or couldn't get there or the man had a lame foot or what have you. The meeting was delayed until the next morning, which he had promised faithfully that he would attend about ten o'clock. The next morning he did not attend and altho he had made promises direct to them on their visit that he would correct conditions promptly, and keep things properly in line, he did not do so.

PAR. 22. The N. S. P. A. in cooperation with certain manufacturers and jobbers undertook to "straighten out a situation" in Chicago, Ill., relative to prices on Flywheel Ring Gears certain jobbers were selling at what were considered low prices.

(a) Replacement Parts Factories in a communication dated August 6, 1930, to Bates Wohlert Co., stated in part as follows:

We have your letter of the 4th instant in reference to the gear price which you took up with the N. S. P. A., and as the writer talked with you yesterday, we do hope that some real pressure can be brought to bear on these people to get matters adjusted, and will be glad to hear from you as to what the results might be.

(b) Bates Wohlert Co. in a communication dated August 20, 1930, to the Replacement Parts Factories, stated in part as follows:

Regarding the Chicago proposition, will keep after it direct with the Republic Gear as well as the N. S. P. A. and are today writing Chalfant as per copy enclosed.

(c) Bates Wohler Co., again, on August 26, 1930, wrote to the Replacement Parts Factories in part as follows:

I am getting in touch with the other Starter Gear manufacturers regarding the price situation, and feel that we certainly should compete.

PAR. 23. Chairman, H. N. Nigg, of the Trade Ethics Committee of N. S. P. A., called a meeting of Flywheel Gear manufacturers for October 28, 1930, in Chicago. This meeting was postponed to a later date. The following notice was sent out to the Colorado Gear Co.:

(a) The Trade Ethics Committee of the National Standard Parts Association, of which the writer is Chairman, have had a number of protests from their jobber members regarding the starter flywheel situation.

We have attempted to amiably settle these differences by contact with our various jobber members and feel that we can come to a much better understanding if the writer, as Chairman of the Trade Ethics Committee, and Mr. R. A. Kiken, the President of the N. S. P. A., could meet with a representative of your company and discuss the various problems that are vital to both the manufacturer and jobber, thereby creating more cooperation between them.

You may be assured that at this meeting there will be nothing discussed that will in any way embarrass you, or that would tend to open either your Company or our Association to criticism.

The Meeting will be held on Tuesday afternoon, October 28th, at 2 P. M. in a parlor suite in the Stevens Hotel in Chicago, which will be registered under the writer's name.

(b) The Colorado Gear Co., on October 21, 1930, replied to the N. S. P. A. in part as follows:

We do not know how we can convince you of our sincere desire to get prices up, so we can make a legitimate profit and at the same time be reasonably assured that someone will not come into our territory and undersell us. That would be the finish of all the Flywheel Ring Gear Manufacturers. We could run our plant and have all we could do, if we were allowed to sell all the gears in our legitimate territory. Take Denver, for instance, a thousand miles from other gear Manufacturing centers, and yet we are not allowed to furnish only a part of the requirements.

We have withdrawn from practically all shipments over 500 miles. Our one ambition is to get the cheapest gear up to \$1.50 each, which is still the most reasonable priced thing on the market requiring so much work and accuracy that we know of. We know we cannot run counter to existing Federal Laws and don't intend to, but perhaps you can tell us how we can do this job without getting into any trouble. As we said before, our territory is limited and we are satisfied to remain in this territory. Now it looks easy to us for the others to serve their territory and let us serve ours, we will not molest them. But, we must get \$1.50 for the cheapest gears.

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(c) Chairman Nigg in his reply to Colorado Gear Co. of October 29, 1930, stated in part as follows:

We are in receipt of your communication of the 21st instant in answer to our letter, and regret very much that you were unable to attend the meeting in Chicago.

We are also in receipt of your communication of the 25th, wherein you suggest the possibility of organizing a selling company that would purchase all the flywheel gears from the manufacturers, and in this respect wish to advise that this is a matter that is for others to handle than our Association.

You can appreciate that we would open both the Association and the various companies to criticism, and accordingly we would not do anything of that nature.

While your idea appears to have merit, it naturally would have to be consummated by the manufacturers alone.

PAR. 24 (a). Replacement Parts Factories on October 29, 1930, wrote to Bates Wohlert Co., in part as follows:

Regarding the flywheel gear situation here in Chicago there has been a little trouble of late through a couple of jobbers quoting prices different to what were recommended at the meeting of the local N. S. P. A. sometime ago here. * * *

* * * * *

This we have heard nothing from you on except that you stated that you were going to put it up to the N. S. P. A. We understand that the local gear installers or machine shops here had a meeting the other night and Mr. Nigg of the N. S. P. A. Ethic's department was at the meeting. He and Vic Anderson, I understand, went to the "mat" on several occasions. Mr. Palmer also argued, I believe at this meeting for revision of the price which I feel, only as far as Chevrolet dealers, would be desirable and profitable to everyone connected with the gear business because if they can't sell them at a \$2.25 price they can't get the Chevrolet dealer's business and this means that the Chevrolet dealers will put on the 12 $\frac{1}{4}$ gear and retain that business for renewal, whereas if the part's jobbers get in on that business with the Chevrolet dealer they will recommend for use the 12 $\frac{1}{8}$ gears which will keep the renewals away from the Chevrolet distributor.

(b) Bates Wohlert Co. on October 30, 1930, replied to the Replacement Parts Factories in part as follows:

We are again taking up the flywheel price situation with the N. S. P. A. and are taking the liberty of quoting three paragraphs from your letter which will explain the situation to Mr. Chalfant in the best possible manner.

(c) Replacement Parts Factories in reply to Bates Wohlert Co., on November 3, 1930, stated in part as follows:

We have your letter of the 30th advising us that you are again taking up the flywheel price situation at the N. S. P. A. Since writing you on this we have bumped into a condition which we think is rather unfair.

This is in connection with the Perfection Gear Company. We find that Perfection Gear Company in Chicago or metropolitan Chicago is making store-door delivery on all of their deliveries, which includes fly-wheel gears.

We cannot do this and we believe that the Perfection Gear Company is violating its agreement with you by taking advantage of this situation.

(d) Chairman Nigg, on November 5, 1930, wrote to the Bates Wohlert Co., in part as follows:

Your communication of the 30th addressed to Mr. Chalfant, has been handed the writer for attention.

Your Chicago representative's statements regarding the Chicago flywheel situation have been carefully studied by the writer, and I believe that I am thoroughly familiar with the situation in Chicago due to my contact at my *two visits* with the Chicago jobbers.

For your information, I visited your account, The National Dealers Service, and saw their invoices wherein they were servicing Chevrolet flywheels at a price of \$2.25.

To intelligently explain the Chicago situation, it would take several pages of letter writing, and I believe that I can give you a more clear picture of the conditions prevailing there by talking to you personally. It was my intention to ask you to visit with me at Detroit, but in view of the fact that the Show at Cleveland is so near, I am planning to see you during Show week, and I hope that the result of our meeting will be satisfactory, and that I can clearly outline to you the conditions as they are existing at the present time in the Chicago territory.

PAR. 25. Springfield Manufacturing Co., on November 18, 1930, wrote to the Colorado Gear Co., in part as follows:

The writer advises that so far as he knows all manufacturers of Fly Wheel Gears today have one price on Fly Wheel Gears. It might be possible that one of the smaller manufacturers may not be adhering to this policy. However, we feel sure that any inside price quoting should be eliminated very shortly.

The writer has been in attendance at the N. S. P. A. show during the three days, the 13th, 14th, and 15th, and expects to be in attendance the last three days of the Show. As soon as he returns from the Show he should have some further information regarding prices on Fly Wheel Gears, and will immediately get in touch with you.

PAR. 26. (a) Bates Wohlert Co., on December 4, 1930, wrote to Replacement Parts Factories in part as follows:

Mr. Nigg of the National Standard Parts Association seems to feel that the National Dealer's Service is causing a lot of trouble in the Chicago gear situation, and the writer immediately informed them that if we discontinued selling this company, Double Diamond people would immediately step in and give him 70% off. However, Mr. Nigg claims that if we could bring this situation about that he could bring a tremendous pressure on Double Diamond through all members of the N. S. P. A., to the extent that they would be forced to cease selling machine shops at 70% off.

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If this could be brought about, it would be wonderful for the Starter Gear industry. Mr. Nigg claims that he wishes one case furnishing him with concrete proof, in order to bring this about. We ask that you get in touch with National Dealers Service, advising them to obtain a shipment or two of gears from Double Diamond at 70% off, also we suggest that we sell them temporarily at 60% off list, however, we will agree to reimburse National Dealers Service.

Part II

PARAGRAPH 1. The respondent, Motor & Equipment Wholesalers Association, referred to in the complaint as Motor & Equipment Wholesale Association, hereinafter referred to for convenience as M. E. W. A., is a corporation, not for pecuniary profit, organized and existing under and by virtue of the laws of the State of Illinois, and has a membership composed wholly of jobbers in all parts of the United States. It had its principal office in 1936 at 400 West Madison Street in Chicago, in said State, and now has its principal office at 309 West Jackson Boulevard, Chicago, in said State. The officers and directors of said Association for the years 1936 and 1940 and the members of said Association with which the said officers and directors are connected are, or have been, as follows:

1936

Officers of association:	Name of member concern with which connected
W. F. Wilkerson, president....	Wyoming Automotive Co., Caspar, Wyo.
G. N. Lockridge, vice-president.	Kansas City Automobile Supply Co., Kansas City, Mo.
S. O. Treland, secretary....	Grimm-Hansen-Treland, Inc., Chicago, Ill.
A. W. Kleinschmit, treasurer....	Automobile Equipment Co., Detroit, Mich.
B. W. Ruark, general manager.	Motor & Equipment Wholesalers Association, 400 W. Madison St., Chicago, Ill.
Board of directors:	
H. D. Vestal.....	Reinhard Bros. Co., Minneapolis, Minn.
R. C. Sparks.....	Sparks Auto Supply, Champaign, Ill.
A. A. Swank.....	Beard & Stone Electric Co., Houston, Tex.
K. R. Crookham.....	Wiggins Co., Inc., Portland, Oreg.
H. R. Rosen.....	Franklin Auto Supply Co., Providence, R. I.
R. T. Clapp.....	R. T. Clapp Co., Knoxville, Tenn.
P. J. Watson.....	Consolidated Automotive Co., Jacksonville, Fla.
E. O. Hunting.....	Auto Equipment Co., Denver, Colo.
G. W. Huston.....	Motor Equipment Co., Wichita, Kan.
G. E. Johnson.....	Auto Spring & Bearing Co., Roanoke, Va.
H. B. Miller.....	Lewis Motor Part, Dayton, Ohio.

1940

Officers of association:	
F. G. Stewart, president....	Standard Automotive Supply Co., 1835 14th St., NW., Washington, D. C.
H. J. Dinkmeyer, vice president.	Chicago Auto Parts, Inc., 3053 Lawrence Ave., Chicago, Ill.

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Officers of association—Continued.

T. C. Tonkin, secretary-----	Casper Supply Co., 444 S. Center St., Casper, Wyo.
H. D. Howard, treasurer-----	Williams Hardware Co., 100 Second Ave., N., Minneapolis, Minn.
B. W. Ruark, general manager.	Motor & Equipment Wholesalers Association, 309 W. Jackson Blvd., Chicago, Ill.
R. P. Greene-----	Littlefield-Greene Corp., 588 Commonwealth Ave., Boston, Mass.
R. J. Alexander-----	Alexander-Seewald Co., 410 W. Peachtree St. NW., Atlanta, Ga.
W. P. Barnes, Jr.-----	Barnes Motor Supply, 1205 Main St., Baton Rouge, La.
A. C. Johnson-----	Terre Haute Heavy Hardware Co., 545 N. 13th St., Terre Haute, Ind.
C. S. McClellan-----	Motor Supply Co., 602 N. Independence Ave., Enid, Okla.
T. R. Stewart-----	Glasgow-Stewart Co., 204 E. 5th St., Charlotte, N. C.
T. L. Hayes-----	Ozark Motor & Supply Co., 308 S. Jefferson St., Springfield, Mo.
Thos. I. Jenks-----	Cumings Brothers, 901 S. Saginaw St., Flint, Mich.
C. W. Hammond-----	Motor Hardware & Equipment Co., 1133 Columbia St., San Diego, Calif.
R. J. Looch-----	R. J. Looch Company, 343 N. Gay St., Baltimore, Md.
C. Olesen, Jr.-----	Farrar-Brown Co., Inc., 94 Forest Ave., Portland, Maine.
E. T. Ball-----	Joseph Strauss Co., 25 High St., Buffalo, N. Y.

Board of directors:

M. L. Yantis-----	Ozburn Crow & Yantis Co., 9 N. Second St., Fort Smith, Ark.
L. A. Cavanaugh-----	Motor Car Supply Co. of Canada, 317 Sixth Ave., W., Calgary, Alta., Canada.

PAR. 2. Respondent, Mississippi Valley Automotive Association, is one of the regional groups of respondent M. E. W. A. described in paragraph 8 hereof.

PAR. 3. Respondent, Southwestern Automotive Jobbers Association, is one of the regional groups of respondent M. E. W. A. described in paragraph 8 hereof.

PAR. 4. The members of this respondent association purchase various automobile parts and items of equipment in several States from manufacturers and the automobile parts and items of equipment so purchased are shipped and transported to warehouses and places of business in States other than the States where such commodities were manufactured. In the course and conduct of such business certain

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members of this respondent association are, and have been, engaged in commerce among the several States of the United States and in the course of business in such commerce their operations have had, and have, a direct effect upon interstate commerce in automobile parts and items of equipment. Certain members of this respondent association are normally in actual competition with each other and with nonmember jobbers.

PAR. 5. The business of members of this respondent association has represented, and now represents, a substantial volume of business in the jobbing of various automobile parts and items of equipment throughout the United States.

PAR. 6. This respondent association was incorporated under the laws of the State of Illinois; it received its charter on September 12, 1931. The M. E. W. A. was the result of the splitting up of the former Motor Equipment Association (M. E. A.) whose membership consisted both of manufacturers and jobbers; the manufacturers of the former M. E. A. went into the Motors & Equipment Manufacturers Association (M. E. M. A.) and the jobbers joined the Motor and Equipment Wholesalers Association (M. E. W. A.) which is an exclusively jobber organization. Mr. B. W. Ruark has been general manager of the M. E. W. A. since its organization.

PAR. 7. (a) At the very beginning of the association, its board of directors became interested in establishing contact with local associations all over the United States. These local associations were referred to as regional groups. In many instances, local associations were already in existence and meetings of these local associations were attended by the president or general manager or some other representative of M. E. W. A. In localities where no local association existed, the general manager of M. E. W. A. took the initiative in having a new association organized. The general bulletin issued September 13, 1932, reported that the entire United States had then been organized into regional groups. M. E. W. A. had no authority or control, legal or otherwise, over any of the regional groups. Through its president and general manager it did, however, endeavor to keep the various regional groups informed concerning problems of the industry which had arisen in other sections of the United States and how they had been dealt with there. On a few occasions, resolutions adopted by regional groups were forwarded to the board of directors of M. E. W. A. for approval. The regional groups at times forwarded the minutes of their meetings to the National Association. Many members of the regional groups were not members of M. E. W. A. Some were members of N. S. P. A.

In July of 1932 and 1933, M. E. W. A. initiated a conference of representatives of the various regional groups to be held in Chicago for discussion and consideration of various industry problems. These meetings were held and were arranged for by M. E. W. A. The board of directors of M. E. W. A. endeavored in this activity to come in contact with and arouse interest in nonmembers of M. E. W. A., who might join. At one time, the M. E. W. A. represented that there were about 700 automotive jobbing houses in the United States included in its membership and the various regional groups. General Manager Ruark, in a bulletin dated January 16, 1933, addressed to members and nonmembers who were members of regional groups, requested said members and nonmembers to fill in distribution charts which charts are discussed later under point 6 of the 14-Point Program of M. E. W. A.

(b) Relative to the respondent, Mississippi Valley Automotive Jobbers Association, the following quotation is taken from a letter from General Manager Ruark to W. E. Wissler dated January 6, 1932:

I have received from Mr. L. E. Seltzer, Secy., Mississippi Valley Automotive Jobbers Association, a report on recent meeting at Davenport and will be glad to present the resolutions drawn up at that meeting to the Directors of the Motor & Equipment Wholesalers Association, so that the cooperation of the national association with your group will be thorough and along the lines you desire.

We desire to maintain the closest possible contact with the regional groups and I will appreciate it very much if I may be accorded the privilege of attending your meetings in the future, simply for the purpose of being of the greatest possible assistance and of providing the close working arrangement between the Mississippi Valley group and the M. E. W. A.

(c) The following appears in M. E. W. A. General Bulletin No. 4, dated May 18, 1932:

JOBBERS EVERYWHERE RECOGNIZE VALUE OF M. E. W. A.

The dollar, we are told, is now worth \$1.52 as compared with its purchasing power in 1926. Values, tangible and intangible, of fundamental merit ARE worth more in times like these. Intelligence, factual knowledge, courage and the will to win are all at a premium under present conditions.

This applies with equal force to organized effort as represented by your trade association. The very conditions which might at times be discouraging give the jobbing industry its opportunity.

In the M. E. W. A., the industry has the means by which it is advancing its interests in a very material way. The organized influence of the more than 200 responsible jobbing concerns, who are the M. E. W. A., augmented by the cooperation of more than 100 others who are members of the several regional groups, is a thing of tremendous value.

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Jobbers everywhere know this to be true. They tell us so not only in words but in deeds.

This writer, in ten years' experience in trade association work, can truthfully state that he has never before seen such a widespread and genuine interest in any trade association's activities.

Our correspondence with members has increased enormously, and we are successfully handling many matters of great importance to jobbers which had to be side-tracked or soft-pedaled in the former dual-type association.

PAR. 8. The following appeared in a form letter of the M. E. W. A. Directors to jobbers:

THE 14-POINT PROGRAM of our Association is of very definite value to you. It is designed to protect and promote your business by fighting for clean distribution in the battle between competitive channels. The jobbing industry needs the M. E. W. A. to bring the full power of organized jobber opinion into play for fair play in distribution. The 14-POINT PROGRAM is our method of accomplishing this. It is working and will continue to work in the interests of jobbers and jobber distribution.

General Manager B. W. Ruark of M. E. W. A. delivered an address at an open meeting December 6, 1932, on the M. E. W. A.'s 14-point program; the speech is entitled "The Tall Timbers."

The 14-point program is briefly set forth in an official M. E. W. A. communication, copy of which is as follows:

The M. E. W. A. 14-Point Program for the advancement of jobber distribution, is described as follows:

1. Constant demand that unsound trade practices be eliminated, backed by unified jobber opinion—a powerful influence.
2. Continuous contacts with other trade elements, such as car manufacturers, oil companies, tire companies, etc., to bring about a better appreciation and understanding of jobber distribution.
3. Contacts with manufacturers distributing through jobbers to interpret to them jobber opinion on sales policies and practices.
4. Maintain at high efficiency operations of the 21 Regional Groups, the working units of the national body.
5. Campaign of publicity to keep jobber distribution to the forefront.
6. M. E. W. A. Key-Line Distribution Charts for Regional Groups, through which jobbers may know "Who else is Handling the Line?", which information is being utilized by jobbers to great advantage.
7. Campaign to customers of the jobber emphasizing how the jobber assists them in operating profitably.
8. Establishment of M. E. W. A. Bureau of Interchange of Jobbers' Experiences on Lines Handled for use by members.
9. General Monthly Bulletin serving the two-fold purpose of supplying members with valuable information and of bringing about unified jobber opinion on matters of trade interest.
10. General and special surveys on various phases of management in the wholesale automotive field, e. g., methods of compensating salesmen, budgetary

control, operation of branch establishments, machine shop operations, increasing the unit of sales, etc.

11. Merchandise Exchange Department, facilitating the sale of slow-moving items, overstocks and discontinued lines.

12. M. E. W. A. Purchasing Information Questionnaire, a first-rate device to assist jobbers to obtain accurate data, the first essential to efficient buying upon which depends profitable selling.

13. M. E. W. A. Collection Service which puts the prestige of the National Association back of the jobbers' efforts to collect past due accounts.

14. M. E. W. A. Adjustment Service through which matters in dispute between jobbers and manufacturers and others are successfully handled.

Point 3. "Contacts with manufacturers distributing through jobbers to interpret to them jobber opinion on sales policies and practices."

(a) M. E. W. A. General Bulletin dated June 27, 1932, is in part as follows:

HIGH SPOTS OF M. E. W. A.
CONFERENCE OF REGIONAL
ASSOCIATION REPRESENTATIVES
ETC.

It is the sense of this meeting that automotive jobbers will best serve their interests by handling lines of equipment sold solely through regular jobbing channels for distribution.

(b) The following quotation is taken from "The Tall Timbers," an address by General Manager Ruark:

Sometimes the M. E. W. A. has found it necessary in the interest of clean merchandising to be vigorous in its representations to a certain type of manufacturer and jobber, whose operations are destructive to jobber distribution, and at times we are compelled in justice to our jobbers, as well as to the manufacturers involved, to take advantage of all proper means at our disposal to protect the investments of our members.

The following appears in M. E. W. A. General Bulletin dated September 13, 1932:

Association officials are continuously contacting manufacturers endeavoring to interpret to them jobber opinions as manifested through the M. E. W. A. on various matters of importance to jobbers.

(c) On March 19, 1932, General Manager Ruark distributed to the directors a tentative program for the Board of Directors' meeting for March 28, 1932, which, among other things, included the following matters which were referred to the General Manager by regional groups and members:

8. (a) Reported Policy of Buick Motor Co. to insist that certain merchandise be bought only from Buick distributors.

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- (b) Dupont Policy of Selling direct to Certain Types of Dealers.
- (c) New Trico Products Plan of Distribution.
- (d) Reported change in Policy of Russell Mfg. Co.
- (e) Ford Motor Co. competition principally on lamps and spark plugs.
- (f) International Harvester Plan of handling equipment orders.
- (g) Champion Spark Plug Co. distribution through Atlas, Goodyear, et al.
- (h) Wayne Company distribution through oil companies.
- (i) Weaver Mfg. Co. distribution through Goodyear Tire & Rubber Co. at reported discount of 35% off list.
- (l) Great Lakes resolution re: Mail Order Houses selling below Manufacturers suggested resale.
- (n) Texas and Southwestern Jobbers discussion on "New Departure Discounts."
- (o) Different discounts for various trade classifications among dealers creates expense for jobbers.
- 9. (a) Letter from Chanslor & Lyon regarding manufacturers permitting car manufacturers to undersell the jobber.
- (d) Continental Resource Corporation.
- (f) List of Greenfield Tap & Dye Products in Mail Order Catalogues.
- (h) Apparent preferentials given by Delco, Lyon Metal Products and New Departure Bearings, et al., to Chevrolet.

The minutes of the directors' meeting for March 28, 1932, indicate consideration of only items (c) and (l) above.

Point 4. "Maintain at high efficiency operations of the regional groups, the working units of the national body."

(a) The following quotation is taken from "The Tall Timbers":

The regional groups are effective instruments in cementing the interests of jobbers in local and regional areas, and they are accomplishing some very worthwhile results. They serve as organized units available for cooperation with manufacturers and with the national body.

Point 6. "M. E. W. A. distribution charts for regional groups, through which jobbers may know who else is handling the line."

This distribution chart was a chart ruled into squares on which the names of manufacturers were shown on the horizontal lines and the names of jobbers in the vertical columns. An "X" inserted in a square on the chart indicated that the jobber shown in that vertical column was a distributor of the products of the manufacturer shown on the horizontal line. The "X's" appearing in the column of any particular jobber indicated the manufacturers for whom he distributed. The "X's" appearing on the horizontal line opposite a manufacturer's name indicated the jobbers who were distributing his products.

(a) The following is taken from "The Tall Timbers" (the M. E. W. A. 14-point program and address by General Manager B. W. Ruark):

As indicated, these Charts tell "who else is handling the line." They are used by jobbers in the following ways:

(a) If a jobber is giving consideration to a new line, he can by reference to the Chart find out those in his particular regional group who are handling the line and he may, if he wishes, call upon them to ascertain their experience with the line under consideration.

(b) If a jobber has an overstock of a certain line, he may offer said overstock to those carrying that line as shown by the Distribution Chart.

(c) A jobber may, through exchange of certain items in a line, balance his stock and at the same time assist a fellow jobber in doing the same.

(d) If a jobber is having difficulty in profitably merchandising a line, he may, if he wishes by reference to the Chart, inquire of fellow jobbers if they are facing or have faced a similar situation and how they may have met the difficulty.

This Distribution Chart Service is a device for developing facts as indicated in the uses to which they are put by jobbers. We believe—and we are backed in that belief by the judgment of some leading manufacturers—that this activity is a thoroughly proper one and that it has elements of real value for manufacturers. It enables jobbers to get facts about various lines in which they may be interested. Any manufacturer whose program is sound and whose line is profitable must of necessity be benefited by the interchange of information resulting from use of the Charts. Those whose programs are not sound and whose lines are not profitable are already headed into a blind alley, regardless of what facts may be developed or the method of their development.

The last issue of the Distribution Chart was issued in 1936.

(b) General Manager Ruark, in a bulletin dated May 27, 1932, entitled "M. E. W. A. Regional Group Keyline Distribution Charts," stated in part as follows:

It is planned to supply all M. E. W. A. members and those nonmember jobbers cooperating with us in regional groups a copy of the chart for every regional group. In that way a pretty accurate picture of distribution of various lines on a national scale can be had.

There will be need for weeding out some lines appearing on the chart and the addition of others not now on it. Some way will be developed to distinguish between lines of various manufacturers' make. Quite probably other refinements not now occurring to us will be necessary.

(c) In another bulletin in March, 1932, to members, General Manager Ruark stated in part as follows:

* * * He (the jobber) will be able, by reference to these several charts to ascertain what jobbers affiliated with the regional groups and the national organization throughout the country are handling a given line.

Point 8. "M. E. W. A. bureau of interchange of jobbers' experiences on lines handled for use by members."

(a) Approximately 90 percent of the members of M. E. W. A. took this service. Those taking the service agreed to furnish information, when requested from time to time, on any and all manufacturers with whom the members have had any experience and consent that

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the information so furnished shall be used in the compilation of reports to be supplied members of the Association. All reports furnished to members taking the service were to be strictly confidential and if a member did not hold in confidence any such reports, no further reports were to be furnished him. The reports bore the following legend—"Only those members who apply for this service on the printed application form are entitled to the service."

(d) The following is taken from M. E. W. A. General Bulletin No. 8, December 13, 1932:

APPROVAL OF 14-POINT PROGRAM

One high-light in the Convention was the unanimous approval by Jobbers of the M. E. W. A. 14-POINT PROGRAM, particularly the "GOLD STAR POINT" of that program.

This "Gold Star Point"—or "The Interchange of Jobbers' Experiences on Lines Handled" was stated by many of our manufacturing friends to be very definitely in the interest of the manufacturer, as well as the jobber.

This service will be developed to the greatest point of efficiency as soon as it possibly can be, and we hope within a short while to have our files complete so that members may obtain on short notice reports of experiences of jobbers on any and all lines of automotive merchandise. * * *

Point 12. "M. E. W. A. purchasing information questionnaire. A first rate device to assist jobbers to certain accurate data, the first essential to efficient buying upon which depends profitable selling."

(a) The following is taken from "The Tall Timbers":

The jobber has a right to know what his competition is.

Third. Sales, and on what price basis, to channels competing with jobbers, such as chain stores, mail order houses, department stores, oil companies, tire companies, car manufacturers or distributors for resales, etc.

Since the price at which the manufacturer supplies merchandise to channels competing with jobbers is a most important factor determining the nature of the competition which these channels may give the jobber, it seems to us that there is no really good reason for withholding this information.

(b) The form of questionnaire under this point was sold to members at a nominal cost to those requesting same and were used by the jobber members and submitted to factory salesmen.

PAR. 9. The board of directors directed the general manager to issue a questionnaire to members on the subject "Should jobbers patronize Competing Manufacturers."

In the bulletin dated September 13, 1932, distributed to members, the general manager (Ruark) stated:

In our general letter eliciting opinions of members on this subject, we stated "uncontrolled outlets are taken to mean any and all channels of distribution competing with jobbers who either have a resale schedule lower than the resale

suggested for jobbers, or who handle manufacturers lines without regard to their suggested resales."

The inquiry was directed to 211 jobbers resulting in 142 responses.

The returns indicate an almost universal consensus of opinion that jobbers are not serving their own best interest by patronizing competing manufacturers whether such competition is direct through sales through their own outlets to jobber customers, or whether through other channels of distribution who are granted preferential treatment or are allowed to operate without regard to the manufacturer's suggested resale.

There is in all the responses not one single expression in support of the manufacturer who contributes to the breaking down of his own policies—that is, those suggested by him for the jobbing industry. There is, however, discernible in all the replies the general opinion that jobbers should either not patronize the manufacturer who competes with them, or in cases where it does not seem advisable to put that practice in effect, to buy as little as possible from such competing manufacturer.

Extracts from several of the members' answers were sent out in bulletin form to members by the general secretary, one of which is as follows:

(4) Jobbers should not patronize manufacturers with a sales policy that is discriminating in any way, shape or form, and such manufacturers should have that practice published in the M. E. W. A. bulletins.

One of the subjects discussed at the M. E. W. A. summer conference of the jobbers held in Chicago June 20-24, 1932, was "Should Jobbers Buy From Competing Manufacturers—Result of M. E. W. A. Questionnaire Covering this Subject and an Analysis of Forms which Said Competition Assumes."

PAR. 10. (a) National Automotive Parts Association (N. A. P. A.) was incorporated under the laws of Michigan, May 4, 1925. The Association had 38 main affiliated warehouses. These warehouses were all independently owned, and many of them had one or more branches. The Association had connection with 21 manufacturers. These manufacturers for the most part distributed 100 percent through the N. A. P. A. warehouses.

(b) Nearly all manufacturers have some kind of warehouse connections in various parts of the country. Usually, these warehouses are under the 100 percent control of the factory. The man in charge of the warehouse usually works on a commission. The maximum compensation paid to the warehouse agent is 20 percent. There is evidence that the minimum commission is 5 percent. However, in the case of the minimum commission the warehouse agent usually carries no stock in the warehouse and is no more than a factory representative taking orders.

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(c) The warehouses of the N. A. P. A. organization function both as a warehouse and as a jobbing house. The warehouses receive an extra commission over and above usual jobber's commission as compensation for the warehouse facilities furnished.

(d) There is evidence that the N. A. P. A. warehouses were originally organized by the Continental Motors Corporation as supply depôts for motor parts. Additional lines were added from time to time until the warehouse now carries a complete line of replacement parts and some accessory items.

(e) Some of the manufacturers affiliated with this group are members of the M. E. M. A.

(f) Some M. E. W. A. members objected to the system of distribution of N. A. P. A. One objection was that where an extra commission was granted to a jobber for warehousing, it was contended by some M. E. W. A. members that this extra commission was in fact a discrimination in price in favor of N. A. P. A. warehouse jobbers. Another objection by some of them was that N. A. P. A. warehouse jobbers sold at jobber prices to persons whom some M. E. W. A. jobbers claimed were not performing a jobbing function. Some of the members of the M. E. W. A. have sometimes written to their officials relative to the conduct of the N. A. P. A. distributors.

(g) E. Englehardt, a member of the Policy Committee of M. E. W. A. in a letter dated June 12, 1932, wrote to the Continental Diamond Fibre Co., in part, as follows:

Replying to your circular letter of the 15th inst., one of the reasons the old line jobber does not take kindly to your product, is the fact that you give N. A. P. A. a preferential of 20% or 25%.

This enables these people to go out and sell the little fellow and create a lot of competition in a field that is already too crowded, and we all agree that it is a situation that should not exist, and any honest-to-goodness jobber is foolish to buy your product thru your N. A. P. A. set-up, thus creating an additional profit for somebody that is entirely unnecessary.

Quite a number of manufacturers have discontinued this and are passing the full price on to old line jobbers who are able to give them satisfactory distribution.

(h) Under date of August 4, 1932, Mr. Englehardt wrote the M. E. W. A. as follows:

I was able today to obtain a list of names of concerns that are being set up as competition to us throughout the country because of price preference given by certain manufacturers to N. A. P. A. warehouses.

In this particular instance it covers Cable only, and I think the offender is the Beldon Company, manufacturers of Cables of all kinds.

The average jobber, such as ourselves, pays 60% -off for Cable. Beldon gives the N. A. P. A. warehouse 60 & 20% and they in turn sell the little fellows that are listed as N. A. P. A. jobbers at 60% off, or our cost.

I think this should be brought to the attention of all of our members who are handling Beldon Cable. We certainly are entitled to 60 & 20% if the N. A. P. A. fellow is. At any rate, these people are demoralizing the whole jobbing industry by putting in jobbers' stock at jobbers' cost at every little crossroads.

We understand the Victor Gasket & Mfg. Co. have recently discontinued selling the concern at Des Moines. These people have a few lines on which they get a 20% preferential and we certainly ought to make a strong fight to have this sort of thing discontinued, and I think concerted effort on the part of our Association can accomplish this very thing.

(i) Mr. Englehardt, on June 25, 1932, in a letter for the attention of General Manager Ruark, stated:

A few days ago I sent you copy of letter that I had written to the Continental Diamond Fibre Company. I enclose herewith their reply.

I think we might be able to bring pressure enough to bear on these people to show them the unfairness of their selling an N. A. P. A. concern on a lower basis than they do us. At any rate, I think we ought to try to show our members the inconsistency of buying from an N. A. P. A. jobber. It certainly isn't good business for us to patronize a concern that is in direct competition with us, and whose one aim in life is to set up concerns who can take business away from us.

The reply of the Continental-Diamond Fibre Co., referred to in the foregoing letter is as follows:

Thank you very much for your letter of June 18th and your suggestion regarding our present distribution set-up.

We have found, however, that over the last three years the N. A. P. A. set-up which is based on the need of the replacement market for nearby warehouse service, has really been beneficial to the big jobber as well as the small jobber.

In your case, for example, you can purchase Celoran Timing Gears from our warehouse in Des Moines at the same discount for which you buy any other line direct from the factory or from some warehouse not nearly so conveniently located. This enables you to keep your own stock at a minimum and get a turn-over which will show you a desirable profit.

PAR. 11. General Manager Ruark, of the M. E. W. A., wrote a letter to the Alemite Co., under date of September 21, 1932, as follows:

Our member, the Sieg Company of Davenport, Iowa, has sent me copy of letter to Stewart-Warner Speedometer Corporation, regarding the Alemite Corporation of Iowa, going into competition with jobbers.

I attach copy of said letter so you may know the view point of our member at first hand. I have heard reports of two or three other instances in which alemite distributors are alleged to be preparing to compete with jobbers handling your line.

It is only natural that jobbers would prefer not to have competition from manufacturers whom they are doing business with. This has been manifested in a number of ways; and I am calling it to your attention as a matter of information.

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You undoubtedly will want to analyze the probable results of the activities of any of your representatives as they may affect Alemite interests.

Will you please note particularly our member's comments on Mr. Clarke's alleged activities in disrupting the sales organization of our member.

This letter is written to you as a matter of information and with a desire to cooperate with you in any matters of mutual interest.

We like to be well informed on any and all matters pertaining to our members, which is the reason I am coming to headquarters, and meanwhile I thank you for any comments on the matter in hand.

Under date of September 22, 1932, Alemite Corporation replied as follows:

Acknowledging your letter of September 21, I might tell you that just yesterday we heard of the rumors that are circulating about our Davenport distributor going into the parts jobbing business, and are writing Mr. Clarke today for a complete report as to just exactly what he is doing in this connection.

While we are inclined to believe that these rumors may not be entirely true or that they are at least greatly exaggerated, we are, nevertheless, getting to the bottom of this whole thing, and as soon as we have completed our investigation, I will be glad to write you again.

Mr. Engelhardt of the Sieg Co. of Davenport, was on two committees of the M. E. W. A. Mr. Wissler of Herring-Wissler Co., Des Moines, was on the Board of Directors of M. E. W. A.

Part III

PARAGRAPH 1. Respondent Automotive Trades Association of Greater Kansas City, hereinafter for convenience referred to as Automotive Trades Association, is an unincorporated trade association with headquarters and principal place of business formerly located at 206 East Sixteenth Street, Kansas City, Mo., and now located at 901 Davidson Building, 10 East Seventeenth Street, Kansas City, Mo. Its membership is composed of both manufacturers and jobbers of automobile parts and accessories. The following are the officers and directors of said respondent Automotive Trades Association for the years 1936 and 1940.

1936

Officers of association:

George W. Arnold, president
(deceased)

Name of member concern with which connected

Board of directors:

Joe Myers----- Pickwick Garage, 307 E. 9th, Kansas City, Mo.

Fred Lodde ----- Lodde Bros. Tire Service, 3756 Broadway, Kansas City, Mo.

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Officers of association—Continued.

Geo. Lockridge-----	K. C. Auto Supply, 1818 McGee, Kansas City, Mo.
L. H. Courreger-----	24 Hour Service, 300 W. 20th, Kansas City, Mo.
A. H. Herzmark-----	Herzmark Auto Service, 3308 Troost, Kansas City, Mo.
Joe Butler-----	Federal Garage, 753 Central, Kansas City, Kans.
J. G. Craig-----	Craig Tire & Sales Co., 1837 Grand, Kansas City, Mo.
O. B. Gault-----	General Auto Parts Co., 1930 McGee, Kansas City, Mo.
Geo. Winters-----	Winters Service, 1233 Central, Kansas City, Kans.
V. E. Mott-----	Dayton Auto Parts Co., 1623 McGee, Kansas City, Mo.

Officers:

C. B. Berg, president-----	1025 Oak, Kansas City, Mo.
Edward T. Leahy, vice-president--	1532 Baltimore, Kansas City, Mo.
Harry A. Rubin, vice-president--	1025 Wyandotte St., Kansas City, Mo.
Joe Butler, vice-president-----	753 Central, Kansas City, Kans.
L. F. Naughton, vice-president--	2103 Grand, Kansas City, Mo.
C. T. Falk, secretary-----	312 E. 17th, Kansas City, Mo.
O. V. Snook, treasurer-----	3014 Independence, Kansas City, Mo.
Robert Carr, sergeant-at-arms---	1300 McGee, Kansas City, Mo.

Directors:

J. E. Barr-----	1931 McGee, Kansas City, Mo.
James Burleson-----	2744 Prospect, Kansas City, Mo.
Arthur H. Herzmark-----	3308 Troost, Kansas City, Mo.
Joe F. Myers-----	307 East 9th St., Kansas City, Mo.
L. L. Morgan-----	2012 Grand, Kansas City, Mo.

PAR. 2. The members of respondent association consist of several corporations, individuals, firms, and partnerships, their number and identity varying from time to time by the separation of some and the addition of others, so that it is impracticable at any given time to name each and all the members without manifest delay and inconvenience. The officers, directors, and members set forth and identified in the foregoing paragraphs are representative of all the members of the respective respondent associations. In many instances the members maintain membership in more than one of the respondent associations.

PAR. 3. The manufacturing members of said respondent association in the course and conduct of their business, make and sell various automobile parts and items of equipment in various States, and cause such parts and items of equipment to be shipped and transported to warehouses and places of business and to customers, includ-

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ing jobber members, in States other than the State where such commodities were made or originally sold by respondent manufacturing members. The jobber members of said respondent association purchase various automobile parts and items of equipment in various States from manufacturers, including respondent manufacturing members and the automobile parts and items of equipment, so purchased, are shipped and transported to warehouses and places of business in States other than the States where such commodities were manufactured. In the course and conduct of such business, respondent manufacturing members and certain respondent jobbing members are, and have been, engaged in commerce among the several States of the United States and in the course of business in such commerce, their respective operations have a direct effect upon interstate commerce in automobile parts and items of equipment. In the course of such business operations, certain manufacturing members are normally in actual competition with each other and with nonmember manufacturers and certain jobbing members are normally in actual competition with each other and with nonmember jobbers.

PAR. 4. The business of the members of said respondent association has represented, and now represents a substantial volume of business in the manufacture and jobbing of various automobile parts and items of equipment.

PAR. 5. The respondent, Automotive Trades Association, was originally an organization of independent garages, not authorized car distributors. Later the said Association membership broadened to include all firms engaged in the automotive trades, which included the automotive jobbers. The said Association had a Jobbers' Division and a Manufacturers' and Miscellaneous Wholesalers' Division. The Manufacturers' Division does not now actively function. At the present time the Association has 12 manufacturing members who are classified as Associate members. The manufacturing members do not have a voice in the affairs of the Association. A list of services performed by the A. T. A. (Automotive Trades Association) contained the following:

7. Furnish simplified localized flat rate service.
12. Give you a wealth of valuable information on all departments of your business—this through regular and special meetings.
10. Do everything possible to improve trade practices and stabilize your business.
19. Identify you as a member of an established and progressive trade association.

PAR. 6. The respondent Association has facilities for time payment of automobile repairs, credit information, collection facilities. Secretary Barnett claimed that minutes of the meetings and special sessions are not kept. Under the provision of point 19 all members were furnished an identification card. The Association also published a directory or buying guide. The A. T. A. directory, with its membership lists of its various divisions, was sent to all members with the following:

Your Board of Directors felt that your members should support members, insofar as possible by purchasing supplies from members only. If all members will cooperate in that respect, much can be accomplished toward increasing the strength of our organization.

It has always been the policy of most member wholesalers to give special attention and consideration to business from A. T. A. retail establishments.

PAR. 7. The respondent Association has a jobbers' division and formerly had a warehouse division. After the organization meeting of the warehouse division, Mr. Mott of Dayton Auto Parts, spoke for the jobbers, December 13, 1930. Mr. Orville Gault, who originally organized the A. T. A., subsequently was taken to Detroit and employed by N. S. P. A. Some time after the meeting above referred to, Mr. Mott referred the matter of the Arrowhead Co., a manufacturer, selling to a machine shop in Kansas City at jobber's prices, to the Grievance Committee of the N. S. P. A. The warehouse Code of Ethics of the A. T. A. was as follows:

1. Warehouses will sell to jobbers who are selling at wholesale and are stocking a line.
2. No merchandise will be delivered from warehouse without written order from a jobber stocking the line or a competitive line.
3. All merchandise delivered from warehouse on jobber bona fide order must be billed from factory and not the warehouse.
4. No deliveries will be made to any jobber not stocking the line for which order is made, or a competitive line, unless on order of jobber stocking the line.

PAR. 8. The warehouse division of the A. T. A. cooperated with the respondent, Southwestern Jobbers Association and its jobbers outside of Kansas City, for the purpose of recognizing only legitimate jobbers as "distribution channels."

PAR. 9. Respondent, Automotive Trades Association and respondent Southwestern Jobbers Association were active in their opposition to F. T. Reuter of Chillicothe, Mo., being established as a jobber in Chillicothe, Mo. F. T. Reuter had been for several years established as a manufacturer's agent in Kansas City, Mo. In 1932 he began the

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establishment of a jobbing business in Chillicothe, Mo., intending to retire gradually from his business as a manufacturer's agent. The two said respondent associations, through their officers and representatives, complained to several manufacturers because of sales being made to Reuter at jobbers' prices. As a result of this opposition to Reuter being established as a jobber, he was unable to procure from several manufacturers located in several States the requirements for the jobbing business at jobbers' prices. The said respondent associations organized similar opposition to the Brown Machine Works, Kansas City, Mo., engaging in jobbing business, as a result of which opposition said Brown Company was unable to obtain in interstate commerce its requirements for a jobbing business.

Part IV

PARAGRAPH 1. Respondent, Mississippi Valley Automotive Association, referred to in the complaint as Mississippi Valley Automotive Jobbers Association, was an unincorporated voluntary association of jobbers located and doing business in the State of Iowa and the western portion of the State of Illinois. Its members purchased various automobile parts and items of equipment in several States from manufacturers and sold, shipped, and transported them to buyers in States other than the States where such commodities were manufactured. In the course and conduct of such business such members were engaged in commerce among the several States of the United States, and in the course of such business in such commerce their operations had a direct effect upon interstate commerce and were thereby in competition with each other and with nonmember jobbers.

Said respondent has not held any meeting or engaged in any activity since March 1936.

W. E. Wissler of Wissler Co., Des Moines, Iowa, and L. E. Graham of G. Seltzer Co., Inc., Peoria, Ill., were formerly the president and secretary, respectively, of said respondent but were succeeded by G. J. Timmerman of Midwest Timmerman Co., Dubuque, Iowa, and E. J. McKee of Sieg Co., Davenport, Iowa, as president and secretary, respectively, in 1935. Said Timmerman and McKee were the last elected officials of said respondent.

PAR. 2. On September 17, 1932, L. S. Graham, as secretary of said respondent association, wrote to The Stewart-Warner Speedometer Corporation as follows:

At a meeting of the Mississippi Valley Automotive Association, composed of thirty of the legitimate automotive jobbers throughout the States of Iowa

and Illinois, held at Davenport on last Wednesday, the statement was made by one of the members that a B. F. Clark is figuring on going into the parts business in Davenport and that it is his idea to establish parts branches throughout the State.

In view of your connection with Mr. Clark, I was requested to write you a letter stating that it is the consensus of opinion of this group that it is not to the best interests of the wholesaler to patronize any manufacturer who is directly or indirectly interested in the jobbing business. We believe that such a move on your part might tend to affect your business nationally, as Mr. Clark's connection with you would be bound to become known.

I am simply communicating this thought to you, in order that you might know the general feeling of automotive jobbers at the present time with reference to manufacture competition directly or indirectly.

Furthermore, we believe that the present is a very inopportune time for any one to attempt to engage in this sort of business, as there is not sufficient business to be had to pay the expenses of those now engaged in it. I will be pleased to receive an expression from you, at your convenience, on this matter.

PAR. 3. On September 23, 1932, F. A. Hiter, on behalf of Alemite Corporation, wrote to L. E. Graham, Mississippi Valley Automotive Association, as follows:

Referring to your letter of September 17th, addressed to the Stewart-Warner Speedometer Corporation, which has been turned over to me for reply, I am inclined to believe that you have perhaps been misinformed as to Mr. Clarke, of the Alemite Company, of Davenport, activities in the parts business. Nevertheless, we are glad you brought it to our attention and will make a very thorough investigation to determine what truth there is to the story you have heard.

I can appreciate the viewpoint of your association in passing a resolution to the effect that it would not be to the best interest of wholesalers to patronize any manufacturer who is interested in the jobbing business, and from a selfish standpoint realize that Mr. Clarke going into the parts business in his territory might not be to our advantage.

As we have already said, however, we will immediately investigate this matter and as soon as we have a report on it will be glad to write you again.

PAR. 4. On September 17, 1932, C. J. Shaw, on behalf of Barrett Hardware Co., then a member of said respondent association, wrote Stewart-Warner Corporation, as follows:

While in Davenport the other day I heard a rumor that Mr. B. F. Clarke, of the Alemite Company, expected to go into the parts business in Davenport in the immediate future, and he expected to get branches started throughout the State.

As I am somewhat familiar with the jobber setup in Iowa, and being mindful of the fact that the M. E. W. A. have recently passed a resolution stating that it is not to the best interest of the wholesalers to patronize any manufacturer who is directly or indirectly interested in the jobbing business, I should like to call your attention to the fact that distribution nationally may be affected by such a move on the part of the Alemite Company.

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I simply bring this matter to your attention for what it is worth, as I feel that the automotive equipment business is at the present time very well represented in the Middle West, and if anything, there is too much overlapping of territories for the best interest of all concerned.

PAR. 5. On September 22, 1932, Mr. F. A. Hiter, on behalf of Alemite Corporation, wrote to Mr. C. J. Shaw of Barrett Hardware Co. of Joliet, as follows:

Referring to your letter of September 17th addressed to the Stewart-Warner Speedometer Corporation, which has been turned over to me for reply, I am inclined to believe that you have perhaps been misinformed as to Mr. Clarke, of the Alemite Company of Davenport, activities in the parts business. Nevertheless, we are glad you brought it to our attention and will make a very thorough investigation to determine what truth there is to the story you have heard.

I can appreciate the viewpoint of the M. E. W. A. in passing a resolution to the effect that it would not be to the best interest of wholesalers to patronize any manufacturer who is interested in the jobbing business, and from a selfish standpoint realize that Mr. Clarke going into the parts business in his territory might not be to our advantage.

As we have already said, however, we will immediately investigate this matter and as soon as we have a report on it will be glad to write you again.

PAR. 6. On September 20, 1932, Mr. R. R. Englehart, as manager of Sieg Co. of Davenport, Iowa, then a member of said respondent association and also a member of respondent Motor and Equipment Wholesalers Association, wrote to Stewart-Warner Speedometer Corporation, a copy of which communication was sent to General Manager Ruark of Motor and Equipment Wholesalers Association, as follows:

In this morning's mail, I received from the Alemite Corporation of Chicago what they term an important announcement, in which they announce the reduction of discount on Alemite fittings.

This brought to my mind the fact that the Alemite Corporation of Iowa, B. F. Clarke, proprietor, is going into the automotive jobbing business in Davenport and other points in Iowa, and while we recognize his right to engage in business anywhere at any time, we also recognize the fact that any man who puts money in the jobbing business at this time, is either over-enthusiastic or not posted on conditions. All of us are losing plenty of money—Davenport and the Tri-Cities are especially over jobbered in our line, besides I think that a move of this sort by any of your representatives is bound to effect you nationally, as this no doubt will be made a national issue, and the average jobber is going to be very careful about buying the product of a manufacturer who is directly or indirectly engaged in the jobbing business.

The above matters are incidental, but I do want to register a very serious complaint about this man Clark trying to disturb or disrupt conditions—he is making overtures to our salesmen offering them more money than we pay them. We had the matter quieted down and last night he telephoned one of our boys

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advising him that he just must have his services, and has an appointment with this man tonight. We have no fear that he is going to get this salesman, but I think you will agree that this is not a nice thing for any man to do. I talked to Clark's manager about it and he advised me that they were not doing anything of the sort, but in the face of this statement, they go ahead and do it anyhow.

It would seem to me that you could save Clark a lot of money by keeping him out of this venture and at the same time maintain your good standing with the jobbing trade throughout the country.

I will be very pleased to hear from you and with kind regards, beg to remain.

PAR. 7. On September 24, 1932, Mr. R. R. Englehart of Sieg Co., aforesaid wrote to Alemite Corporation, as follows:

Replying to yours of the 23rd inst., beg to say that there is no question about Mr. Clarke being the principal behind the concern that expects to go into the Parts business here in Davenport.

The first information that came to us was that the Iowa Auto Market had sent out letters to manufacturers advising they were opening up a parts branch in Davenport. At the same time, it was rumored that Clarke was the man behind the gun.

A manufacturer's salesman telephoned the Iowa Auto Market from my office asking what their connection with this move was, and they flatly denied any responsibility—that they had written these letters to manufacturers with a view of helping Clarke get lines that he could not get on his own account. They stated they were in no way interested, that Clarke was the sole proprietor.

I then telephoned Clarke at Des Moines and told him that I understood he was going into the parts business in Davenport and he assured me that he was and I asked him if he would come into my office and talk matters over with me as I had some ideas that might be of benefit to both of us. He agreed to come in the following Friday. However, on Friday morning I received a telephone call from a man by the name of Bohn who said that Mr. Clarke was unable to get here and had authorized him to come up and talk in his stead, and in a few minutes he came into my office and we talked the matter over at some length and he stated that he was going to manage the business for Clarke, and that Clarke was the sole proprietor and owner of the business.

A few days later I learned that there had been some misunderstanding between Clarke and the Iowa Auto Market and that he (Clarke) was now depending on Standard Motor Parts Company, which is a N. A. P. A. connection, for help in getting the lines that he felt were necessary. It was then reported that the Standard Motor Parts Company had taken the matter over and were going to operate the branch here.

I again talked the matter over with Bohn and he assured me that the Standard Motor Parts Company had nothing to do with it, except as a source of supply for Clarke.

It is my opinion that if you raise serious objection with Clarke about this, he is going to tell you that Standard Motor Parts Company are the people who are running this business, but the fact remains that it is Clarke, or if Clarke has had to get out of it, he is responsible for this condition in Davenport, and every jobber in this country knows it, and we think it is a bad move on the

part of Clarke and that if it is allowed to go through, it is going to create a bad impression.

You can depend on the information I have given you as being absolutely accurate, and I don't believe that Clarke would attempt to dispute it.

P. S.—In my conversation with Bohn, I explained to him that I thought the reaction against the Alemite Corporation would be bad, that jobbers were discussing Clarke's moves and had the impression that he expected to put in other branches through this part of the country. This seemed to bother Bohn somewhat.

PAR. 8. On September 26, 1932, H. E. Wissler, as vice president of Herring-Wissler Co., then a member of respondent association, wrote to Alemite Corporation, as follows:

Our attention has been directed to the fact that Mr. B. F. Clarke, of your Des Moines office, is opening a parts jobbing business in the city of Davenport.

No one can deny the right of any individual or firm to go into business when, as and if they so desire, but the members of our jobbers' association do not feel that the manufacturers whom we support should become competitors of ours. Therefore, if the Alemite Corporation has any part or interest in the Davenport venture, we want to lodge a very serious protest against it and to express the thought that your company cannot well hope to secure the support of our members if you insist on becoming one of their competitors.

PAR. 9. On October 20, 1932, Alemite Corporation wrote to Mr. W. E. Wissler, aforesaid, as follows:

We did not acknowledge your letter of September 26 when it was received, because we were at that time in the midst of investigating the report that Mr. Clarke was contemplating going into the parts jobbing business in the city of Davenport.

Since then, our Mr. Dalrymple and Mr. Clarke called on you; and you, of course, know that Mr. Clarke has decided not to go into the parts jobbing business.

PAR. 10. On October 20, 1932, Alemite Corporation wrote to F. J. Tenk of Tenk Hardware Co. of Quincy, Ill., then a member of the respondent association, as follows:

Your letter of September 23, addressed to the Stewart-Warner Speedometer Corporation, was referred to me; but I did not reply to it immediately because of the fact that at that time we were in the midst of investigating the report that Mr. Clarke was contemplating going into the parts jobbing business, at Davenport, Iowa.

Our investigation did reveal that Mr. Clarke had thought about going into the parts jobbing business; but we have prevailed upon him to refrain from doing so.

PAR. 11. On May 20, 1932, Victor Manufacturing & Gasket Co. wrote to Sieg Co., aforesaid, as follows:

May we refer to your letter of May 19th pertaining to quotations being made by the Standard Motor Parts Company of Des Moines.

There is positively nothing to the statement attributed to them to the effect that they have a special inside discount which permits them to quote 60% off the list. We shall take this subject up right away to find out if such quotations are being made. If they are, it would be a loss equal to the amount of their cost of handling. I believe there are two or three lines that the N. A. P. A. organization has on an exclusive basis with special discounts, and if there is anything at all to the report I would imagine that it applies to one of their controlled lines.

As we see it, your letter indicates what probably would happen if we extended special discounts to certain companies based on volume, or for other reasons. Possibly a company like yours would refrain from passing on a special discount, but I think you would be the exception rather than the rule.

We will let you hear from us as soon as we can run down this report.

P. S.—Mr. Beach will not be in Des Moines until the latter part of next month. We propose to inquire about this by correspondence pending the time Mr. Beach can make an investigation. If you have any reason to feel that taking this up by correspondence might not be satisfactory, will you please advise by return mail. We will hold our letter for two days.

PAR. 12. On May 21, 1932, said Sieg Co. wrote Victor Manufacturing & Gasket Co., as follows:

Replying to yours of the 20th instant regarding the Des Moines matter, it is perfectly all right with us if you want to take this up by correspondence, however, we would ask that you do not mention our name. I have just finished a law suit, which shows me that anything can happen.

At the same time I do think it very, very necessary that this matter be straightened out so that the difficulty will not grow. When you are selling this class of people, you are sure very apt to create trouble for your good jobbing friends and yourselves.

Kind regards.

PAR. 13. On June 17, 1932, Sieg Co., aforesaid, wrote to Victor Manufacturing & Gasket Co., as follows:

We are quite concerned over the arrangement you have made with the Des Moines concern that we wrote you about sometime ago.

They, of course, spread the propaganda that they are getting a confidential price and for that reason are able to give an inside price, but that isn't all the harm that is being done—they are putting in stocks at every little town including your gaskets and other items, and you can see what is happening to the honest-to-goodness jobber.

My opinion is, that they are going to do you, as well as us, a lot of damage. You have a perfect right to sell them, but we are rather of the opinion that we do not want to handle the line if they are permitted to do as they have been doing. We believe it would be better for us to not handle lines that carry that sort of competition.

The writer will be in Chicago on Tuesday at the Edgewater Beach Hotel, and will be glad to talk to some one in authority, either Mr. Secrist or Mr. Victor—this is quite important to both of us, and I suggest that you be prepared to give us a definite answer.

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The Victor Manufacturing & Gasket Co. notified Standard Motor Parts Co. on June 29, 1932, as follows:

Effective July 15, 1932, we wish to discontinue quotations to your company at prices in our wholesalers Price List.

Part V

PARAGRAPH 1. Respondent, Southwestern Automotive Jobbers Association, referred to in the complaint as Southwestern Jobbers Association, was organized in October 1926. The said respondent association is a nonprofit voluntary unincorporated association of from 17 to 23 jobbers of automotive parts and accessories operating in Missouri, Kansas, Arkansas, and Oklahoma, or in one or more of said States. Meetings of Southwestern Automotive Jobbers Association were from time to time addressed by the general manager of the Motor and Equipment Wholesalers Association on subjects pertaining to jobbing policies. The respondent association was frequently furnished with bulletins by the said Motor and Equipment Wholesalers Association. Some of the member concerns of respondent Southwestern Association are members of the respondent Motor and Equipment Wholesalers Association. The Southwestern Automotive Jobbers Association meets three times a year. It has a confidential credit exchange for its members and furnishes its membership with a memorandum of merchandise which any of its members desire to discontinue.

The officers of said respondent, Southwestern Automotive Jobbers Association, as of 1936, and the member business concerns with which they are connected are, or have been, as follows:

Officers:	Name of member concern with which connected
L. E. Allman, president-----	Ozark Motor & Supply Co., Springfield, Mo.
W. A. Dycke, secretary-----	Herman-Brownlow Co., Springfield, Mo.

The officers of 1940 are as follows:

Claude L. Severin, president, 714 North Broadway, Oklahoma City, Okla.
Walter M. Padget, secretary, 1216 Filmore Street, Topeka, Kans.

PAR. 2. The members of respondent association consist of from 17 to 22 corporations, individuals, firms, and partnerships, their number and identity varying from time to time by the separation of some and the addition of others, so that it is impracticable at any given time to name each and all the members without manifest delay and inconvenience. The officers and members set forth and identified in the foregoing paragraph are representative of all the members of the respective respondent association.

PAR. 3. The members of said respondent association purchase various automobile parts and items of equipment in several States from manufacturers, and the automobile parts and items of equipment so purchased are shipped and transported to warehouses and places of business in States other than the States where such commodities were manufactured. In the course and conduct of such business the members are, and have been, engaged in commerce among the several States of the United States. The said members are in actual competition with each other and with nonmember jobbers.

PAR. 4. There are and have been for the last 9 years approximately 266 jobbers of automotive and replacement parts in the States of Oklahoma, Arkansas, Kansas, and Missouri (see Irving-Cloud list for 1939-40), of which about 17 belong to Southwestern Automotive Jobbers. The number has varied only slightly. On March 13, 1939, there were 23 members. Some members of the Southwestern Jobbers Association adopted and maintained a policy of recognizing only so-called legitimate jobbers as desirable channels. This had the effect of causing some manufacturers located in States other than those in which such members were located to confine their sale of automobile parts and items of equipment to such jobbers as were recognized as legitimate within the territory in which such members did business.

PAR. 5. Some members of the Southwestern Jobbers Association and some members of the Automotive Trades Association of Greater Kansas City were active in their opposition to F. T. Reuter, of Chillicothe, Mo., in his endeavor to establish a jobbing business in Chillicothe, Mo., on the grounds that it was unfair to other jobbers to have a manufacturer's agent, receiving discounts as such, engaging in the jobbing business, as this would give him an undue advantage over those jobbers not carrying on such dual business. Said Reuter was for several years established as a manufacturer's agent in Kansas City, Mo. In 1932, Reuter intended gradually to retire from his business as a manufacturer's agent and to establish a jobbing business. The Reuter situation was discussed by some of the members attending the meeting of Southwestern Jobbers Association at Fort Smith, Ark., in October 1932. Some of the members of the respondent association complained to various manufacturers in several States relative to Reuter's desire to operate a jobbing establishment, because at the same time Reuter was receiving discounts or commissions as a manufacturer's agent, and on that account protested against manufacturers making sales of auto parts and equipment at jobber prices to the said Reuter for his jobbing business. Several complaints were made by

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some of the members of respondent association to manufacturers whom Reuter represented, who either had sold to Reuter or were contemplating sales to Reuter. Clawson and Bals, Inc., of Chicago, Ill., which Reuter represented as a manufacturer's agent, at first favored Reuter's jobbing venture, and then after complaints from members of the Southwestern Jobbers Association, the company turned against it. Because of this activity several manufacturers whom Reuter represented as a manufacturer's agent in Kansas City, refused to sell him merchandise for the store in Chillicothe. The following communication was received by F. T. Reuter of Chillicothe, Mo., from G. E. Spencer, sales manager of the Joplin Supply Co.:

While attending the Southwestern Jobbers Associational Meeting in Fort Smith, Arkansas, last week, we heard many stories of your recent actions and forecasts of your future actions. We would like to have from you promptly a letter outlining frankly what you expect to do in the future and how this will affect the Clawson and Bals line.

PAR. 6. F. T. Reuter, in a communication to G. E. Spencer of the Joplin Supply Co., Joplin, Mo., a member of the respondent association, stated that in the near future his sales agency would have no connection with the jobbing business.

PAR. 7. F. T. Reuter contacted several manufacturers for the purpose of obtaining catalogs, prices, and sales information in reference to his jobber business. Some replies Reuter received are as follows:

JULY 21, 1932.

Attention: F. T. Reuter

F. T. REUTER CO., INC.,

211 E. 14th Street, Kansas City, Mo.

DEAR MR. REUTER: We are in receipt of your favor of the 16th inst., and note with interest that you are planning to job automobile parts. As you know we have established a very strict jobbing policy and last fall we joined the N. S. P. A. and for some years we have been members of the M. E. A. It would seem that this would not work in with your plan, especially so since from all indications you are planning to continue to represent the firms listed on your letterhead.

It would seem to the writer at first glance that the jobbing trade will not approve your policy and if they do not both you and ourselves would be embarrassed if we filled your orders.

I would suggest that you make a very careful canvass with some of the outstanding jobbers of your locality and then advise us if you plan to proceed and on what basis.

With kindest regards,

Sincerely,

THE SIMMONS MANUFACTURING COMPANY,
(S) C. F. GROTH, *President.*

C. F. Groth: K.

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SEPTEMBER 7, 1932.

Subj: Chillicothe Auto Supply Co., Chillicothe, Ohio.

F. T. REUTER COMPANY, INC.,

211 E. Fourteenth St., Kansas City, Missouri.

GENTLEMEN: We appreciate your letter of the 3rd and your interest in the Simmons line. However, we have to advise that the distribution of our parts in your section of the country is being confined almost exclusively to members of the South-Western Jobbers Association.

Will you be kind enough to advise whether your organization is a member of this association.

Yours very truly,

THE SIMMONS MANUFACTURING COMPANY,
(S) R. T. LECLERCQ, Sales Department.

R. T. Leclercq-J.

PAR. 8. J. A. Tumbler Laboratories, of Baltimore, Md., in a communication to Myers Motor Supply Co., Joplin, Mo., a member of the Southwestern Jobbers Association, with reference to a sale made to a competitor of the Myers Co. at Joplin, under date of July 8, 1932, stated in part as follows:

* * * With a view of carrying out what I understand to be unified action of jobbers throughout your territory in fearlessly and frankly withdrawing effort from those lines who are offering wholesale discounts indiscriminately. If this situation has caused Mr. Spencer's action that he genuinely wanted to sell a line with a policy like Tumbler, our refusal to sell him would be embarrassing indeed.

PAR. 9. The following resolutions were adopted by Southwestern Jobbers Association and sent to respondents Motor and Equipment Wholesalers Association and National Standard Parts Association:

RESOLUTION REGARDING THE BLACK & DECKER MFG. COMPANY'S TIME-PAYMENT
SELLING PLAN

Passed by the Southwestern Jobbers
Association at its meeting in
Oklahoma City, Okla., October
19th and 20th, 1931

WHEREAS The Black and Decker Manufacturing Company has adopted a time-payment selling plan which is a radical change from the plan now being used by members of the Association;

AND WHEREAS The Black and Decker Company has broadcasted this plan to the jobbers as well as the dealers of the United States without even consulting any of the members of this Association;

AND WHEREAS we are of the opinion that only a few jobbers in the United States were consulted before this plan was arranged by the Black & Decker Company thereby showing a lack of cooperation on the part of the Black and Decker Manufacturing Company;

AND WHEREAS we are of the opinion that this plan is selfish and can be profitable only to the Black and Decker Manufacturing Company;

THEREFORE, BE IT RESOLVED that we greatly disapprove of this credit plan.

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BE IT FURTHER RESOLVED that a copy of this resolution be supplied to the Motor and Equipment Wholesalers Association, the several regional jobbers associations and the Motor and Equipment Association and the National Standard Parts Association so that they may be advised of the well-considered opinion of the Southwestern Jobbers Association.

FURTHER BE IT RESOLVED that copy of this resolution be sent to the Black and Decker Manufacturing Company.

RESOLUTION RE: MANUFACTURERS RETAINING WAREHOUSE STOCKS

Passed by the Southwestern Jobbers
Association at its meeting in
Oklahoma City, Okla., October
19th and 20th, 1931

WHEREAS it has become the practice of certain manufacturers to retain warehouse stocks in various cities, thereby taking over, or attempting to take over, some of the principal functions of the jobber;

AND WHEREAS, in our opinion said warehouse stocks place an unnecessary burden of expense upon the manufacturer, with no adequate return to him with detriment to the Automotive Jobbing business;

AND WHEREAS, the members of the Southwestern Jobbers Association at its meeting in October 19th and 20th, unanimously expressed their disapproval of said manufacturing warehouse stocks with their attendant trade abuses;

THEREFORE BE IT RESOLVED that manufacturers maintaining warehouse stocks be requested to discontinue same both as a matter of eliminating needless expense and of bringing about better conditions in the Automotive Jobbing Industry;

BE IT THEREFORE RESOLVED that a copy of this resolution be supplied to the Motor and Equipment Wholesalers Association; the several regional jobber associations, the Motor and Equipment Manufacturers Association and the National Standard Parts Association, with the request that they endeavor by lawful means to bring about the discontinuance of the practice.

RESOLUTION RE: "CONSIGNEE MERCHANDISE"

Passed by the Southwestern Jobbers Association
at its meeting in Oklahoma City, Okla.,
October 19th and 20th, 1931

WHEREAS it is the policy of certain manufacturers of automotive parts and supplies to consign their merchandise rather than sell it;

AND WHEREAS the members of this Association believe that such a policy causes many of these manufacturers to consign to jobbers, or alleged jobbers whose financial condition is not such that they could be sold on open account;

AND WHEREAS it is our opinion that such policy is detrimental to the best interest of our members;

NOW THEREFORE BE IT RESOLVED that it is the unanimous opinion of the members of the Southwestern Jobbers Association that we are opposed to the consignment of merchandise and that said manufacturers should sell their merchandise with a guarantee against obsolescence, rather than consign same.

BE IT FURTHER RESOLVED that a copy of this resolution be supplied to the Motor and Equipment Wholesalers Association, the several regional jobber associations, the Motor and Equipment Manufacturers Association, and the

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National Standard Parts Association, with the request that they endeavor by lawful means to bring about the discontinuance of this practice.

CONCLUSION

Acts and practices of the respondent associations, to wit, National Standard Parts Association, Motor and Equipment Wholesalers Association, Automotive Trades Association of Greater Kansas City, Mississippi Valley Automotive Association, and Southwestern Automotive Jobbers Association, as disclosed herein are to the prejudice of the public; have a dangerous tendency to and have actually hindered and prevented price competition between and among the members of respondent National Standard Parts Association in the sale of automobile parts and accessories in commerce within the intent and meaning of the Federal Trade Commission Act; have tended to unreasonably restrain such commerce in automobile parts and accessories, 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 complaint of the Commission, the answers of the respondents, National Standard Parts Association, Motor and Equipment Wholesalers Association (referred to in the complaint as Motor and Equipment Wholesale Association), Automotive Trades Association of Greater Kansas City, Mississippi Valley Automotive Association (referred to in the complaint as Mississippi Valley Automotive Jobbers Association), and Southwestern Automotive Jobbers Association (referred to in the complaint as Southwestern Jobbers Association), and stipulations as to the facts entered into between 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 respondent, National Standard Parts Association, acting through its officers, directors, and agents, in connection with the offering for sale, sale, and distribution of automobile parts and accessories in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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1. Attempting, pursuant to agreement with its members, to eliminate price competition among and between manufacturers and jobbers of automobile parts and accessories; to prevent the establishment of new and additional competitors of jobber members of said respondent association; and to maintain retail prices suggested by the manufacturing members of said respondent association by—

(a) Causing said manufacturing members to agree among themselves as to the prices at which they would sell their respective products and the prices at which said products should be resold by jobbers; and

(b) Causing said manufacturing members to confine the sale of their respective products to those jobbers who are designated by the respondent Association as the only jobbers to be sold in their respective trade areas by the manufacturing members of said respondent Association because of their willingness to maintain the retail prices suggested by said manufacturing members of respondent Association.

2. Attempting, pursuant to agreement with its members, to prevent the establishment of new and additional competitors and to maintain retail prices suggested by said manufacturing members of said respondent association by causing its jobber members concertedly to refuse to buy automobile parts and accessories from those manufacturers who do not or will not refrain from selling their products to jobbers or other outlets not designated by the members of said respondent association.

3. Holding meetings of groups of jobber members of respondent Association and other automotive parts and accessory jobbers, at any place within the United States, for the purpose of threatening, influencing and coercing manufacturers of automotive parts and accessories to compel them to confine their sales of their respective products to those jobbers designated by the respondent Association as the only jobbers to be sold in their respective trade areas by the manufacturing members of respondent Association because of their willingness to maintain the retail prices suggested by the said manufacturers.

4. Holding meetings of groups of manufacturing members of said respondent Association and other manufacturers of automotive parts and accessories for the purpose of fixing prices at which said manufacturers would sell their respective comparable products and at which said products should be resold by jobbers to retail trade.

It is further ordered, That respondents, Motor and Equipment Wholesalers Association (referred to in the complaint as Motor and Equipment Wholesale Association), Mississippi Valley Automotive Association (referred to in the complaint as Mississippi Valley Auto-

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motive Jobbers Association), and Southwestern Automotive Jobbers Association (referred to in the complaint as Southwestern Jobbers Association), acting through their officers, directors, and agents, in connection with the offering for sale, sale, and distribution of automobile parts and accessories in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Attempting, pursuant to agreement with their members, to prevent the establishment of new and additional competitors of their members in the sale of automobile parts and accessories at wholesale by—

(a) Causing their members concertedly to refuse to buy or threaten to refuse to buy automobile parts and accessories from those manufacturers who did not or would not refrain from selling their products to persons or corporations not designated by said respondents; and

(b) Exchanging information, through questionnaires and reports circulated by a secretary, general manager, or any other agent, as to sales policy of manufacturers and jobbers, for the purpose of assisting the members of respondent associations in their concerted refusal to buy automobile parts and accessories from manufacturers described in subparagraph (a) herein.

It is further ordered, That respondent, Automotive Trades Association of Greater Kansas City, acting through its officers, directors, and agents in connection with the offering for sale, sale, and distribution of automobile parts and accessories in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Attempting, pursuant to agreement with its members, to prevent the establishment of new and additional competitors of its members, in the sale of automobile parts and accessories at wholesale by—

(a) Causing its members concertedly to refuse to buy or threaten to refuse to buy automobile parts and accessories from those manufacturers who did not or would not refrain from selling their products to persons or corporations not designated by said respondent; and

(b) Exchanging information, through questionnaires and reports circulated by the secretary, or any other agent, as to the sales policy of manufacturers and jobbers, for the purpose of assisting the members of respondent association in their concerted refusal to buy automobile parts and accessories from manufacturers described in subparagraph (a) herein.

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

IN THE MATTER OF

H & D SALES COMPANY, AND NATHAN J. HUBBARD AND
ARTHUR EASTON DAVIS

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

Docket 3956. Complaint, Nov. 22, 1939—Decision, Feb. 5, 1941

Where a corporation and two individuals, who were general officers, stockholders, and directors thereof and formed, controlled, and directed its practices and policies, engaged in competitive, interstate sale and distribution of knives, fountain pens, pen and pencil sets, cigarette lighters, flashlights, watches, and other articles of merchandise, and, as aforesaid engaged, in selling certain assortments of merchandise which were so packed or assembled as to involve use of games of chance, gift enterprises, or lottery schemes when sold and distributed to consumers, and including (1) as illustrative, various articles, together with punchboard, for use in sale or distribution of such articles, value of each of which was in excess of 2 cents, to consuming public under a plan in accordance with which, and said board's explanatory legend, customer or purchaser received, for 2 cents paid, and depending on success or failure in selecting certain lucky numbers, one of said articles, and purchaser who did not qualify by obtaining one of lucky numbers, received nothing for his money other than privilege of punching number from board, and (2) various other assortments, along with punchboards, involving lot or chance feature similar to that above described and varying therefrom in detail only; acting together and in cooperation with each other—

Sold said assortments, together with such punchboards, to wholesalers, to jobbers, and to retailers by whom, as direct or indirect purchasers thereof, said assortments were exposed and sold to purchasing public in accordance with sales plan aforesaid, involving game of chance or sale of a chance to procure one of said articles of merchandise at price much less than normal retail price thereof, and thereby supplied to and placed in the hands of others means of conducting lotteries in sale of their merchandise in accordance with such sales plan, contrary to an established public policy of the United States Government and in violation of the criminal laws, and in competition with many who are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win something by chance, or any method contrary to public policy and refrain therefrom;

With the result that many persons were attracted by said sales plan or method employed by them and by element of chance involved therein, and were thereby induced to buy and sell their said merchandise in preference to that offered and sold by their competitors, who do not use same or equivalent method, and with result, through use of said method and because of said game of chance, of unfairly diverting trade in commerce to them from their said competitors who do not use such method:

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