

Syllabus

IN THE MATTER OF

ORGANIZATION SERVICE CORPORATION, HERBERT S.
BLAKE, THOMAS B. JORDAN, 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 4351. Complaint, Oct. 17, 1940—Decision, July 25, 1941

Where five corporations constituting the largest manufacturers in the United States of pins, metal paper clips, and fasteners used as office supplies, and occupying, together, a predominant position in the interstate sale and distribution thereof, and which were members of the Metal Paper Fasteners Institute and the Pin Manufacturers' Institute (membership of which in 1938 made and sold approximately 64.76 percent of all the paper clips manufactured and sold in the United States, 96.18 percent of the fasteners, and 100 percent of the pins used as office supplies), and made bids and secured orders from various governmental agencies, and were in competition among themselves and with other manufacturers of similar products except as below set forth;

Acting between and among themselves and by means of said so-called institutes of a corporation (1) which was engaged in the business of organizing such trade groups under the announced policy of improving the articles made by the members, improving use and consumption of such articles, and disseminating useful market and other legal information, (2) president and general counsel of which issued instructions to the secretaries of such institutes as to procedure to be followed by them, (3) vice president of which was secretary of the institutes in question, and (4) expenses of which corporation were paid by assessments levied against the members of the institutes, based on business done; and with the aid and cooperation of aforesaid individuals, acting individually and as president and vice president of said Organization Service Corporation, and with the latter acting also as secretary of the two institutes—

Entered into and carried out an understanding, agreement, or combination among themselves to fix and maintain, and to adhere to, uniform prices to be charged for the sale of said manufacturers' office pins, paper clips, and fasteners; and, pursuant thereto and in furtherance thereof—

- (a) Agreed to, and did, maintain and adhere to substantially uniform price lists on comparable pins, paper clips, and fasteners made by them, and to change, and did change, simultaneously, prices at which such products were sold or offered by themselves, directly, or as principals of their respective distributing agents;
- (b) Sponsored, called and held conferences of representatives of the members in question and of other members, at the time of the quarterly meetings of the institutes of said corporation, shortly after which they issued price lists containing substantially uniform prices for their products, to become effective on approximately the same dates for the following quarterly period, exchanged price lists freely as a common practice, and in the majority of instances sold their products at the prices stated therein; with intent and effect of carrying out and making effective such agreement, etc.; and

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- (c) Employed and made use of said institutes and secretary thereof, through practice of addressing to said secretary, on form prepared and furnished by said Organization Service Corporation, inquiry to ascertain whether or not a suspected low price which had come to the attention of the inquiring member as being not in conformity with the members' substantially uniform price lists, had in fact been quoted, and, if so, by whom, following which the various members were circularized on similarly prepared forms and inquiring member was advised as to results of the inquiry thus initiated by him; and

Where said corporation and its aforesaid officers, acting through its said institutes—

Aided and abetted aforesaid members of such institutes in the enforcement of such agreement, by having the members report to the corporation, which thereupon compiled and disseminated among them statistical information concerning prices charged by members on consummated sales, including information showing members' shipments for a specific period, and advising each member as to his relative position to the whole industry, and by making inquiries pertaining to prices, conditions or terms of completed sales, and also inquiries for members with respect to sales made at, or suspected as having been made at, unusually low prices;

Capacity, tendency, and effect of which acts and practices were to fix and maintain prices at, and conditions under which the products in question were sold or offered for sale throughout the United States; to unreasonably eliminate and restrain competition in said products, thus depriving the consuming public of advantages in price, service, and other considerations which they would receive under conditions of normal unobstructed and fair competition; and to interfere with the normal flow of trade and commerce in pins, paper clips, and fasteners used as office supplies:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and had a tendency to unduly hinder and prevent competition in the sale and distribution of such products in commerce, to place in said manufacturing members the power to control the prices at which they were thus sold, and to unduly restrict and restrain their sale and distribution therein, and constituted unfair methods of competition.

Mr. Fletcher G. Cohn for the Commission.

Tibbetts, Lewis, Lazo & Welch, of New York City, for Organization Service Corporation, Herbert S. Blake, Thomas B. Jordon, Noesting Pin Ticket Co., Inc., and Vail Manufacturing Co.

Mr. Francis T. Reeves and *Mr. Mark L. Sperry, 2d*, of Waterbury, Conn., for Scovill Manufacturing Co.

Davis, Polk, Wardwell, Gardiner & Reed, of New York City, for F. Kelly Co.

Mr. A. Lewis Spitzer, of New York City, for William Prym, Inc.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that the corporations,

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firms, and individuals hereinafter named, described and referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Organization Service Corporation is a corporation organized and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 74 Trinity Place, New York, N. Y.

Respondent Herbert S. Blake, an individual, is an attorney at law in whose offices, situated at 74 Trinity Place, New York, N. Y., is located the office and principal place of business of respondent Organization Service Corporation, of which respondent he is the president and counsel.

Respondent Thomas B. Jordan, an individual whose place of business is likewise located at 74 Trinity Place, New York, N. Y., is vice president of respondent Organization Service Corporation, and also is secretary of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, the nature and purpose of which institutes will be set forth more fully hereinafter.

Among the members of said respondent Organization Service Corporation, who are also members of either or both of the aforementioned "Institutes" of respondent Organization Service Corporation, and all of whom are engaged in the manufacture, sale, and distribution of pins, paper clips, and fasteners which are used as office supplies, are the following respondents:

Scovill Manufacturing Co., a corporation organized and existing under the laws of the State of Connecticut, with its principal office and place of business located at 109 Mill Street, Waterbury, Conn.; the said respondent operates as one of its divisions, The Oakville Co., which is located at Oakville, Conn., and which is engaged in the manufacture, sale, and distribution of pins, paper clips, and fasteners which are used as office supplies;

Noesting Pin Ticket Co., Inc., a corporation organized and existing by virtue of the laws of the State of New York, with its principal office and place of business being located at 728 East One Hundred and Thirty-sixth Street, New York, N. Y.;

Vail Manufacturing Co., a corporation existing and doing business by virtue of the laws of the State of Illinois, with its principal office and place of business being located at 900 East Ninety-fifth Street, Chicago, Ill.;

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F. Kelly Co., a corporation organized and existing by virtue of the laws of the State of Connecticut, with its principal office and place of business being located at Derby, Conn.;

William Prym, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business being located at 2102 Forty-fourth Street, Long Island City, N. Y.

The above-named respondents, Scovill Manufacturing Co., operating a division known as the Oakville Co., Noesting Pin Ticket Co., Inc., Vail Manufacturing Co., F. Kelly Co. and William Prym, Inc., hereinafter referred to as "respondent members," do not constitute the entire membership of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, but are the largest manufacturers of pins, paper clips, and fasteners used as office supplies, who are members of said respondent Organization Service Corporation, and dominate and control, in conjunction with respondents Herbert S. Blake and Thomas B. Jordan, the affairs and policies of said institutes.

PAR. 2. Respondent Organization Service Corporation is engaged in the business of organizing trade groups, which it calls "Institutes," with the announced policy of said respondent being to improve the articles manufactured by the members of said Institutes through the improving of the standards of said articles, etc., to improve the use and consumption of said articles and to disseminate useful market and other legal information.

The Metal Paper Fastener Institute of respondent Organization Service Corporation, to which respondent members belong, is comprised of manufacturers of paper clips and fasteners; the Pin Manufacturers' Institute of respondent Organization Service Corporation, to which respondent members belong, is comprised of manufacturers of pins. The members of these two Institutes of respondent Organization Service Corporation represent approximately 100 percent of all the pin manufacturers in the United States, 90 percent of the manufacturers of fasteners, and 70 percent of the manufacturers of clips.

PAR. 3. The salaries of Herbert S. Blake and Thomas B. Jordan and the expenses of respondent Organization Service Corporation are paid by means of assessments levied against the members of the Institutes comprising respondent Organization Service Corporation, based on the amount of business done by each manufacturing member of said Institutes, each such member, including respondent members of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, reports to said re-

spondent, the dollar value and the number of thousands of the different articles made by each of said respondent members.

PAR. 4. The Institutes of respondent Organization Service Corporation, to which respondent members belong, meet every 3 months, the meetings being held at either the Biltmore or Commodore Hotels of New York City in the winter and the Westchester Country Club of Rye, N. Y., in the summer.

PAR. 5. In the course and conduct of their respective businesses, each of the respondent members manufacture pins, paper clips, and fasteners, used as office supplies, and sells and distributes said products to the purchasers thereof located in the various States of the United States and in the District of Columbia, and as part of said sales, ships or causes to be shipped, said products to said purchasers thereof located in States of the United States other than the States of origin of said shipments, and in the District of Columbia. All of said respondent members have maintained, and still maintain, a current of trade and commerce in the said pins, paper clips, and fasteners manufactured by them, between and among the various States of the United States and in the District of Columbia.

PAR. 6. Respondent Organization Service Corporation, its officers and employees, and respondents Herbert S. Blake and Thomas B. Jordan aided, abetted, furthered, cooperated with, and were instrumentalities of and parties to the understanding, agreement, combination and conspiracy hereinafter set out, and actively participated in the performance of the acts and things set forth herein in paragraphs 10 and 11.

PAR. 7. All of said respondent members, in the course and conduct of their respective businesses, request, secure, and make bids and secure orders from various governmental agencies, national, State, and local, through and by means of distributing agents, for the pins, paper clips, and fasteners manufactured by said respondent members; the offers, for the sale of the pins, paper clips, and fasteners used as office supplies in compliance with the bids so received by said agents, are made by these distributing agents solely and entirely upon instructions received and given them by said respondent members concerning the prices to be offered in compliance with said bids, with the respondent members acting as the undisclosed principals of said agents.

PAR. 8. All of said respondent members are in competition between and among themselves and with other manufacturers of pins, paper clips, and fasteners used as office supplies in making, and seeking to make, sales of the pins, paper clips, and fasteners manufactured by

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said respondents to the purchasers thereof, either directly or through and by means of the aforementioned agents, except insofar as this competition has been hindered, lessened, restricted, restrained, or forestalled by their acts, practices, and methods hereinafter particularly described and set forth.

PAR. 9. Respondent members, acting between and among themselves, or through and by means of the Metal Paper Fastener Institute or the Pin Manufacturers' Institute of respondent Organization Service Corporation, and by other means and methods, have, since about 1936, entered into and thereafter carried out, and are still carrying out, an understanding, agreement, combination and conspiracy, for the purpose and intent, and with the effect, of unlawfully restricting, restraining, monopolizing and suppressing, and eliminating, competition in the sale and offers of sale, of pins, paper clips, and fasteners used as office supplies, in trade and commerce between and among the several States of the United States and in the District of Columbia.

PAR. 10. Pursuant to said understanding, agreement, combination, and conspiracy, and in furtherance thereof, said respondent members, acting in this manner and by the methods herein set out, have done and performed, and still do and perform, among other acts and things, the following:

1. Agreed to fix and maintain, and have fixed and maintained, uniform prices for the sale of pins, paper clips, and fasteners used as office supplies, which are manufactured by said respondent members;

2. Agreed to maintain, and have maintained, identical price lists on comparable pins, paper clips, and fasteners used as office supplies, which are manufactured by said respondent members;

3. Agreed to change, and have changed, simultaneously the prices at which comparable pins, paper clips, and fasteners used as office supplies, which are manufactured by said respondent members, are sold and are to be offered for sale, either by themselves directly, or as undisclosed principals through their respective distributing agents;

4. Agreed to submit, and have submitted, as undisclosed principals acting through their respective distributing agents, or by other means or methods, identical or uniform bids for the sale of pins, paper clips, and fasteners used as office supplies, to various governmental purchasing agencies including those of the United States Government;

5. Used, and are now using, other unlawful means and methods in restricting, suppressing, preventing, and eliminating competition in the sale, bids for the sale, and offers of sale of pins, paper clips, and fasteners used as office supplies, in commerce between and among the several States of the United States and in the District of Columbia.

PAR. 11. For the purpose of making effective the aforementioned understanding, agreement, combination, and conspiracy, and of requiring compliance therewith and observance thereof by all of the respondent members, the other members of the aforementioned Institutes of respondent Organization Service Corporation and other competitive manufacturers of pins, paper clips, and fasteners used as office supplies, said respondent members, among other acts and things, have done the following:

1. Investigated and consulted with each other, with other members of the aforesaid Institutes of respondent Organization Service Corporation and with other competitive manufacturers of pins, paper clips, and fasteners used as office supplies, through and by means of respondent Organization Service Corporation, the Pin Manufacturers' Institute, and Metal Paper Fastener Institute of respondent Organization Service Corporation, respondent Thomas B. Jordan or by other means or methods, for the purpose and intent, and with the result, of determining the prices charged or to be charged by said respondent members, acting either directly or as undisclosed principals of their distributing agents, by the other members and by other competing manufacturers, for the pins, paper clips, and fasteners used as office supplies, which are manufactured by said respondent members and their competitors;

2. Interchanged, through and by means of respondent Organization Service Corporation, Metal Paper Fastener Institute, and the Pin Manufacturers' Institute of said respondent, and through and by means of respondent Thomas B. Jordan and through other means and methods, monthly statistics showing the value of the shipments of pins, paper clips, and fasteners used as office supplies manufactured by members of said Institutes;

3. Supervised, through and by means of respondent Organization Service Corporation, Metal Paper Fastener Institute, and the Pin Manufacturers' Institute of said respondent, and through and by means of respondent Thomas B. Jordan and by other means and methods, the activities of the members of said Institutes and competing manufacturers of pins, paper clips, and fasteners used as office supplies, for the purpose and intent, and with the effect, of securing adherence by the respondent members and their competitors, to prices, terms, and conditions of sale agreed upon by said respondent members in the manner hereinbefore described, and more particularly to prevent and prohibit the quotation and sale by respondent members or their competitors, regardless of whether or not they are members of said Institutes, of lower competitive prices for the sale of pins, paper clips, and fasteners used as office supplies;

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4. Offered uniform bids to governmental agencies, including those of the United States Government, and to other prospective purchasers, either directly or as undisclosed principals through and by means of their distributing agents.

PAR. 12. Each of said respondent members has acted, and now acts, in concert and in cooperation with one or more of the other respondent members by means of and through respondent Organization Service Corporation, Metal Paper Fastener Institute, the Pin Manufacturers' Institute of respondent Organization Service Corporation, the officers, representatives, and agents of said respondent Organization Service Corporation, or by and through other means and methods, in doing and performing the acts and practices hereinabove alleged, in furtherance of said understanding, agreement, combination, and conspiracy.

PAR. 13. The capacity, tendency, and effect of said understanding, agreement, combination and conspiracy, and the acts and practices of respondents in pursuance thereof, are and have been:

1. To monopolize in respondent members and the other members of the aforementioned Institutes the business of selling and distributing pins, paper clips, and fasteners used as office supplies, throughout the United States;

2. To fix and maintain the prices at, and the conditions under, which said pins, paper clips, and fasteners are sold or offered for sale, either directly by the manufacturers thereof or by undisclosed distributing agents, throughout the United States;

3. To prevent competitive manufacturers of said pins, paper clips, and fasteners used as office supplies, who are not members of the aforementioned Institutes, from selling said products throughout the United States;

4. To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in the sale and offering for sale of said products throughout the United States, and thus deprive the purchasing and consuming public of the advantages in price, service, and other considerations which they would receive and enjoy under conditions of normal and unobstructed and free and fair competition in the sale and offering for sale of said products, and to otherwise operate as a restraint upon, obstruction and deterrent to, the freedom of fair and legitimate competition in such trade and industry;

5. To suppress, eliminate, and discriminate against competing manufacturers of said products who are not members of respondent Organization Service Corporation, but who are and have been engaged in, or desire to be engaged in, the selling of said products throughout the United States;

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6. To obstruct and prevent the establishment of new manufacturers of said products throughout the United States;

7. To suppress and eliminate price competition among distributing agents in the sale and offers for sale of said products throughout the United States;

8. To burden, hamper, and interfere with the normal and natural flow of trade and commerce in pins, paper clips, and fasteners used as office supplies, into, through and from the various States of the United States, and to injure the competitors of the members of the aforementioned Institutes by unfairly diverting business and trade from them, depriving them of trade, and otherwise oppressing them;

9. To prejudice and injure manufacturers of pins, paper clips, and fasteners used as office supplies, who do not conform to respondent members' program or those of respondent Organization Service Corporation and the Metal Paper Fastener Institute, and the Pin Manufacturers' Institute of said respondent Organization Service Corporation, or who do not desire to conform with them, but are compelled to do so by the concerted action of the respondents hereinabove alleged.

PAR. 14. The above alleged acts, practices, methods, and things done by respondents are all to the prejudice of the public; have a dangerous tendency to hinder and prevent, and have actually hindered and prevented price competition, between and among members of the aforesaid Institutes of respondent Organization Service Corporation and other manufacturers of pins, paper clips, and fasteners used as office supplies, in the sale of said products in commerce between and among the several States of the United States and in the District of Columbia; have placed in the members of the aforesaid Institutes the power to control and enhance prices for pins, paper clips, and fasteners used as office supplies; have unreasonably restrained said commerce in such products, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 17th day of October 1940, issued and served its complaint in this proceeding upon the respondents named in the caption hereof charging them with the use of unfair methods of competition in commerce, as "commerce" is defined in the Federal Trade Commission Act, in violation of the provisions of said act. All of said respondents have duly filed their answers in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts, signed and executed by the respective respondents, and W. T. Kelley,

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Chief Counsel of 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, the filing of briefs or the filing of a report on the evidence by a trial examiner for the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answers, and stipulation, said stipulation having been approved, accepted, and filed, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Organization Service Corporation is a corporation organized and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 74 Trinity Place, New York, N. Y.

Respondent Herbert S. Blake, an individual, is an attorney at law, whose offices, situated at 74 Trinity Place, New York, N. Y., are located in the office and principal place of business of respondent Organization Service Corporation, of which respondent, he is the president and counsel.

Respondent Thomas B. Jordan, an individual whose place of business is likewise located at 74 Trinity Place, New York, N. Y., is vice president of respondent Organization Service Corporation, and also is secretary of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, the nature and purpose of which Institutes will be set forth more fully hereinafter.

Among the members of either or both of the aforementioned "Institutes" of respondent Organization Service Corporation, and all of whom are engaged in the manufacture, sale, and distribution of pins, paper clips, and fasteners which are used as office supplies, as hereinafter set out in paragraph 7, are the following respondents:

Scovill Manufacturing Co., a corporation organized and existing under the laws of the State of Connecticut, with its principal office and place of business located at 99 Mill Street, Waterbury, Conn.; the said respondent operates as one of its divisions, The Oakville Co.,

which is located at Oakville, Conn., and which is engaged in the manufacture, sale, and distribution of pins, paper clips, and fasteners which are used as office supplies;

Noesting Pin Ticket Co., Inc., a corporation organized and existing by virtue of the laws of the State of New York, with its principal office and place of business being located at 728 East One Hundred and Thirty-sixth Street, New York, N. Y.;

Vail Manufacturing Co., a corporation existing and doing business by virtue of the laws of the State of Illinois, with its principal office and place of business being located at 900 East Ninety-fifth Street, Chicago, Ill.;

F. Kelly Co., a corporation organized and existing by virtue of the laws of the State of Connecticut, with its principal office and place of business being located at Derby, Conn.;

William Prym, Inc., a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business being located at 50 East Forty-second Street, New York, N. Y.

The above-named respondents, Scovill Manufacturing Co., hereinafter referred to as respondent "Scovill," operating a division known as the Oakville Co., hereinafter referred to as respondent "Oakville," Noesting Pin Ticket Co., Inc., hereinafter referred to as respondent "Noesting," Vail Manufacturing Co., hereinafter referred to as respondent "Vail," F. Kelly Co., hereinafter referred to as respondent "Kelly," and William Prym, Inc., hereinafter referred to as respondent "Prym," all of which respondents are hereinafter referred to as "respondent members," do not constitute the entire membership of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation.

Said respondent members are the largest manufacturers in the United States of pins, metal paper clips, and fasteners used as office supplies, and combined together, they occupy a predominant position in the sale and distribution of such products in commerce between and among the several States of the United States and in the District of Columbia.

The respondent members also are engaged in the manufacture and sale of products other than pins, paper clips, and fasteners used as office supplies.

PAR. 2. Respondent Organization Service Corporation is engaged in the business of organizing trade groups, which it calls "Institutes," with the announced policy of said respondent being to improve the articles manufactured by the members of said Institutes

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through the improving of the standards of said articles, etc., to improve the use and consumption of said articles and to disseminate useful market and other legal information.

The Metal Paper Fastener Institute of respondent Organization Service Corporation, to which respondent members belong, is comprised of manufacturers of paper clips and fasteners; the Pin Manufacturers' Institute of respondent Organization Service Corporation, to which respondent members belong, is comprised of manufacturers of pins.

In the year 1938 the members of the two Institutes manufactured and sold approximately 64.76 percent of all the paper clips manufactured and sold in the United States; 96.18 percent of the fasteners, and 100 percent of the pins, used as office supplies.

The said Metal Paper Fastener Institute and Pin Manufacturers' Institute were organized by respondent Organization Service Corporation. A form of the contract entered into and carried out by and between each and all of respondent members and respondent Organization Service Corporation reads as follows:

AGREEMENT, made in duplicate this 14th day of September, 1936, between:

OAKVILLE COMPANY DIVISION

SCOVILL MANUFACTURING COMPANY

a corporation, having its principal place of business at:

Waterbury, Connecticut

hereinafter called the Subscriber, and

ORGANIZATION SERVICE CORPORATION

a New York corporation, having its principal place of business at No. 74 Trinity Place, New York, N. Y., hereinafter called the Corporation.

WHEREAS, the Corporation is engaged in managing trade organizations; in serving industrial groups through collecting, compiling and furnishing to its Subscribers industrial statistics; in planning and supervising simplification and standardization of manufactured products; and in directing economic research, and

WHEREAS, the Subscriber is engaged in the business of manufacturing and selling one or more of the following products: Paper Clips and Paper Fasteners, and together with other manufacturers of similar products, is desirous of securing from the Corporation its services, as above described, in connection with the METAL PAPER FASTENER INDUSTRY,

Now, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto agree as follows:

(1) The Corporation will establish and maintain a department to collect, compile and furnish to the Subscriber such weekly and monthly statistical reports, tables and charts as may be desired by the Subscriber, pertaining to

the Subscriber's business as may be required by the Corporation for the compilation of such statistical reports.

(2) The Corporation will cause to be established an "Institute" to be constituted of the several Subscribers hereto, to be known as the "METAL PAPER FASTENER INSTITUTE," and will manage such Institute under the direction of its members.

(3) The Corporation will hold at designated times and places in New York City, meeting of such Institute for the purpose of discussing economic subjects, statistical tabulations and other matters of interest to the Subscribers, and will have its representative present at all such meetings.

(4) The Corporation will employ the services of MR. THOMAS B. JORDAN to serve as Secretary of the Institute, who will devote all required time and attention to the interests of the members of the Institute in connection with such office.

(5) The Charge of the Corporation to each of the Subscribers for its aforesaid services shall be on the basis of one-half ($\frac{1}{2}$) of 1 percent upon the Subscriber's total shipments, expressed in dollar value, of Paper Clips, Paper Fasteners and related products as reported to the Institute each calendar month during the life of this Agreement.

Within the first ten days of each month, the Subscriber shall pay to the Corporation the amount billed to the Subscriber in accordance with the foregoing, and the record of shipments for the second month previous to the date of each bill rendered, shall be used as the basis for billing. For initial billing, prior to the inauguration of a statistical reporting plan, the reports made on past sales shall be used.

It is understood, however, that the total monthly charge of the Corporation to all the Subscribers shall not be less than Four Hundred and Sixteen and $\frac{66}{100}$ (\$416.66) Dollars and the Corporation shall vary the base charge of one-half ($\frac{1}{2}$) of one (1) percent to the extent necessary to keep the total charge to all Subscribers within the aforesaid minimum limit.

(6) The service charge provided for in Paragraph 5 shall not cover extraordinary expenses of the Institute; such as, actual out-of-pocket disbursements of any of the Corporation's representatives when outside New York City on business for the Subscribers, long distance telephone calls, telegrams, luncheon expenses at meetings of the Institute, nor other special expenses that may be authorized or directed by a general meeting of the Members.

Such extraordinary expenses may be incurred by the Corporation only when authorized or directed at a general meeting of the Institute, and when so authorized or directed they shall be paid by the members ratably, to reported sales, upon presentation by the Corporation of proper bills of account.

(7) The term of the Agreement shall be one (1) year, commencing the first day of February 1936, and shall be extended automatically from year to year after January 31, 1937, unless thirty days prior to January 31, 1937 and/or each January 31st thereafter, the Subscriber shall give notice in writing to the Corporation of intention to terminate the agreement at the end of the then year of subscription.

It is agreed, however, that the Subscriber may resign from the Institute at any time, upon presentation in writing of good and sufficient reasons for such action, and from and after the date of such resignation, all obligations of the Subscriber hereunder shall cease, except the obligation to pay the Subscriber's proportionate part of the charges and expenses defined in this Agreement for the period ending January 31, 1937, or any extended period.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, this 14th day of September, 1936.

OAKVILLE COMPANY DIVISION

SCOVILL MANUFACTURING COMPANY

By: BENNETT BRONSON, *Vice Pres.*

ORGANIZATION SERVICE CORPORATION

By: HERBERT S. BLAKE, *Pres.*

PAR. 3. The Secretary of both the said Institutes, respondent Thomas B. Jordan, is also vice president of the respondent Organization Service Corporation. Respondent Herbert S. Blake, an individual, is an attorney at law, whose offices, situated at 74 Trinity Place, New York, N. Y., are located in the office and principal place of business of respondent Organization Service Corporation, of which respondent he is the president and counsel. The said Institutes have no separate and distinct letterheads so that letters from the said respondent Thomas B. Jordan, as Secretary of said Institutes, are written on the letterheads of respondent Organization Service Corporation. Respondent Herbert S. Blake as president and counsel of respondent Organization Service Corporation, issues instructions to the secretaries of the said Institutes regarding the procedure to be followed by them in the conduct of the operations of said Institutes of respondent Organization Service Corporation. Substantially all of the various forms used or employed by said Institutes are prepared and are furnished by said respondent Organization Service Corporation.

PAR. 4. The said Institutes are managed and directed by respondent Organization Service Corporation, acting through and by means of respondents Herbert S. Blake and Thomas B. Jordan, and said respondents, Organization Service Corporation, Herbert S. Blake, and Thomas B. Jordan are responsible for the acts and practices herein-after found, which were, and are, performed by said Institutes.

PAR. 5. Part of the salaries of respondents Herbert S. Blake and Thomas B. Jordan and the expenses of respondent Organization Service Corporation are paid by means of assessments levied against the members of the Institutes, based on the amount of business done by each member of said Institutes. The assessments levied against respondent members are based upon the business each does in the manufacture of pins, paper clips, and fasteners used as office supplies.

PAR. 6. The Institutes of respondent Organization Service Corporation, to which respondent members belong, meet every 3 months, the meetings being held at either the Biltmore or Commodore Hotels of New York City in the winter and the Westchester Country Club of Rye, N. Y., in the summer.

PAR. 7. In the course and conduct of their respective businesses, respondents Scovill, Vail, and Noesting manufacture pins, paper clips, and fasteners used as office supplies, respondent Prym manufactures such pins and paper clips, and respondent Kelly such fasteners, and each sells and distributes said products to the purchasers thereof located in the various States of the United States and in the District of Columbia, and as part of said sales, ships or causes to be shipped, said products to said purchasers thereof located in States of the United States other than the States of origin of said shipments, and in the District of Columbia. All of said respondent members have maintained, and still do maintain, a current of trade and commerce in the said pins, paper clips, and fasteners manufactured by them, between and among the various States of the United States and in the District of Columbia.

PAR. 8. All of said respondent members, in the course and conduct of their respective businesses, request, secure, and make bids and secure orders, from various governmental agencies, national, State, and local, through and by means of distributing agents, for the pins, paper clips, and fasteners manufactured by said respondent members; the offers, for the sale of the pins, paper clips, and fasteners used as office supplies, in compliance with the bids so received by said agents, are made by these distributing agents, in most instances, upon instructions received and given them by said respondent members concerning the prices to be offered in compliance with said bids, with the respondent members acting as the undisclosed principals of said agents.

Said respondent members have never presented bids to the United States Government through the medium of any agents, to the end and purpose that there should be no disclosure to the Government of the agency relationship existing between said respondent members and their respective agents.

PAR. 9. All of said respondent members are in competition between and among themselves and with other manufacturers of pins, paper clips, and fasteners used as office supplies, in making, and seeking to make, sales of said products manufactured by them to purchasers thereof, either directly or through and by means of their respective agents, except insofar as this competition has been hindered, lessened, restricted, restrained, or forestalled by the acts, practices, and methods hereinafter found.

PAR. 10. Since about the year 1936, representatives of respondent members have, during, or at the time of the quarterly meetings of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, discussed among

themselves and with representatives of other members of said Institutes, ways and means of stabilizing the prices for pins, paper clips, and fasteners used as office supplies, and in the course of said discussions, these representatives have exchanged information as to the prices, terms, and conditions of sales which have been made or were to be made by the members of said Institutes, for such products. Within a short time after such quarterly meetings of said Institutes, respondent members have issued price lists, containing substantially uniform prices for such products, which prices were to become effective in each instance approximately on the same dates, for the following quarterly period of the year. Respondent members have exchanged freely, as a common practice, their respective price lists for such products, and in a majority of instances, the respondent members have sold such products at the prices stated in their respective price lists.

PAR. 11. Since about the year 1936, respondent members, acting co-operatively and as members of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, have employed and used said Institutes and respondent Thomas B. Jordan, as the secretary of said Institutes for the performance of the following acts to aid them in carrying out and enforcing the agreement, understanding, and combination among them, hereinafter found in paragraph 12:

In many instances, when it comes to the attention of one of respondent members that pins, paper clips, or fasteners have been sold by a member of one of said Institutes at a price which such respondent member believes is not in conformity with the price lists of the members, which price lists in general are substantially uniform, the respondent member sends, on a form prepared and furnished by respondent Organization Service Corporation, to respondent Thomas B. Jordan, as the secretary of said Institutes, an inquiry to ascertain whether or not such a low price was quoted, and, if so, by whom; respondent Thomas B. Jordan, as secretary of the Institutes, then circularizes, on forms prepared and furnished by respondent Organization Service Corporation, the various manufacturers of such products who are members of the Institutes, including the other respondent members, for the purpose of securing this information and reporting it back, on a form prepared and furnished by respondent Organization Service Corporation, to the inquiring member. This same procedure was followed, in many instances, prior to 1939, when one of the respondent members learned of an unusually low price or prices having been paid by the various governmental agencies, and also, in many instances, prior to 1939, when a respondent

member learned that a bid has been accepted from an agent for such products whose principal was unknown which bid such respondent member believed was unusually low. In the latter instance, the various manufacturers of the particular product involved, who were members of the said Institutes, were circularized by respondent Thomas B. Jordan, as secretary of the said Institutes of respondent Organization Service Corporation, for the purpose of finding out the identity of the principal of said agent.

Respondent Organization Service Corporation collects, on forms furnished and prepared by said respondent, figures showing shipments made for a specific prior period by all members of the two Institutes, which enables the said respondent Organization Service Corporation to furnish each member of the said Institutes information as to the relative position of the particular member to the whole industry, but without telling the member of the relative positions of the other members of the industry.

PAR. 12. It follows from the foregoing facts, heretofore found in paragraphs 10 and 11, that respondent members, acting between and among themselves and through and by means of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, and with the aid and cooperation of respondents Herbert S. Blake and Thomas B. Jordan, acting both individually, and as president and vice president, respectively, of respondent Organization Service Corporation, and respondent Thomas B. Jordan, acting as secretary of the aforesaid Institutes, have, since about 1936, entered into, and thereafter carried out, and still are carrying out, an understanding, agreement or combination between and among themselves to fix and maintain and to adhere to, uniform prices to be charged for the sale of the pins, paper clips, and fasteners used as office supplies, which are manufactured by said respondent members; that pursuant to, and in furtherance of, such an agreement, understanding, or combination, said respondent members have agreed to maintain, and have maintained, and still do maintain and adhere to substantially uniform price lists on comparable pins, paper clips, and fasteners used as office supplies which are manufactured by them, and likewise have agreed to change, and have changed, and still do change simultaneously, the prices at which said products are sold, or offered for sale, by themselves directly or as principals of their respective distributing agents.

PAR. 13. Further, it follows from the foregoing facts, heretofore found in paragraphs 10 and 11, that, pursuant to, and in furtherance of the said agreement, understanding and combination heretofore found in paragraph 12, said respondent members, in conjunc-

tion, and in cooperation, with, and by means of, respondents, Organization Service Corporation, Herbert S. Blake and Thomas B. Jordan, acting as president and vice president, respectively, of respondent Organization Service Corporation, and respondent Thomas B. Jordan, acting as Secretary of the aforesaid Institutes, have sponsored, called and held, formal and informal meetings or conferences, during, or at the times of the quarterly meetings of the aforesaid Institutes of respondent Organization Service Corporation, at which there were discussions among the representatives of respondent members and those of other members of said Institutes, with the intent, purpose, and effect, of carrying out, and making effective, said agreement, understanding and combination.

PAR. 14. It still further follows from the foregoing facts, especially those heretofore found in paragraph 11, that respondents, Organization Service Corporation, Herbert S. Blake and Thomas B. Jordan, acting through and by means of the aforesaid Institutes of respondent Organization Service Corporation, aided and abetted, respondent members in the enforcement of, and in an effort to make effective, the said agreement, understanding and combination heretofore found in paragraph 12, by having respondent members report, as aforesaid to respondent Organization Service Corporation, and then having said respondent collect, audit, compile, disseminate and exchange among the members of said Institutes, statistical information or data concerning prices which had been charged by the members of these Institutes on consummated sales by said members of pins, paper clips, and fasteners used as office supplies, and also by making inquiries pertaining to prices, conditions, or terms of completed sales and by making the inquiries for members of said Institutes pertaining to prices, conditions or terms of completed sales, in the manner heretofore found in paragraph 11.

PAR. 15. The capacity, tendency, and effect of the acts and practices of all the respondents, as hereinbefore found and described, were, and are, to fix and maintain the prices at, and the conditions under which, pins, paper clips, and fasteners used as office supplies are sold, or are offered for sale, either directly by the manufacturers thereof or by the distributing agents of said manufacturers, throughout the United States; to unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in the sale, and offering for sale, of the said products throughout the United States, and thus deprive the purchasing and consuming public of the advantages in price, service, and other considerations which they would receive and enjoy under conditions of normal, unobstructed, free and fair competition in the sale, and offering for sale, of said products; and

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Order

to otherwise operate as a restraint upon, obstruction and deterrent to, the freedom of fair and legitimate competition in such trade and industry; and to burden, hamper, and interfere with the normal and natural flow of trade and commerce in pins, paper clips, and fasteners used as office supplies, into, through, and from, the various States of the United States and in the District of Columbia.

CONCLUSION

The acts and practices of the respondents as hereinabove found are all to the prejudice of the public; have a tendency to unduly hinder and prevent competition in the sale and distribution of pins, paper clips, and fasteners used as office supplies in commerce as "commerce" is defined in the Federal Trade Commission Act; to place in respondent members the power to control the prices at which said products are sold in said commerce; to unduly restrict and restrain the sale and distribution of said products in said commerce; 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 respondents and a stipulation entered into by and between the respondents herein and W. T. Kelley, Chief Counsel for the Federal Trade 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 respondents, Scovill Manufacturing Co., Noesting Pin Ticket Co., Inc., Vail Manufacturing Co., F. Kelly Co., and William Prym, Inc., separately and as members of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, and each of them, and their respective successors and assigns, officers, agents, directors, and employees, directly and indirectly, or through or by means of respondent, Organization Service Corporation, or any other association or organization of like purport, its officers, representatives, agents, and employees, or through or by means of respondents, Herbert S. Blake or Thomas B. Jordan, or any other party or parties, or through or by any other means or method, and respondent Organization Service Corporation

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its successors and assigns, officers, directors, agents, and employees, and respondent Herbert S. Blake, both individually and as president of respondent Organization Service Corporation, and respondent Thomas B. Jordan, both individually and as vice president of respondent Organization Service Corporation and as secretary of the Metal Paper Fastener Institute and the Pin Manufacturers' Institute of respondent Organization Service Corporation, shall all, and each of them in connection with the offering for sale, sale or distribution of pins, paper clips, or fasteners used as office supplies in commerce between and among the various States of the United States and in the District of Columbia, forthwith cease and desist, by agreement, combination, or understanding, express or implied, between or among themselves or with officers, or by concerted action which results from any such agreement, combination, or understanding:

1. From fixing, establishing, maintaining, or adhering to the prices to be charged for any or all of such products.

2. From changing simultaneously the prices to be charged for any or all of such products.

3. From sponsoring, calling, or holding any meeting or conference, formal or informal, or participating in any such meeting or conference when the intent, purpose, or effect of same is to fix, establish, maintain, or adhere to the prices to be charged for any or all of such products, or to engage in discussions to accomplish the same or similar results.

4. From reporting, collecting, auditing, compiling, disseminating, or exchanging statistical information or data concerning prices charged on consummated sales for any or all of such products, where the purpose or effect of same is to fix, establish, maintain, or adhere to, prices to be charged for any or all of such products.

5. From adopting, contributing to, or participating in, the dissemination of any information concerning, or relating to, prices charged or to be charged for any or all of such products when the purpose or effect of such dissemination is to effectuate the fixing, establishing, maintenance, or adherence to, prices to be charged for any or all of such products.

6. From employing, adopting, contributing to, or participating in, any inquiry or inquiries pertaining to prices, conditions, or terms of completed sales where the purpose, intent, or effect of same is to cause, or tend to cause, adherence to, or maintenance of, uniform prices to be charged by respondent members for any or all of such products.

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

Complaint

IN THE MATTER OF

EDWARD C. ROSE, INDIVIDUALLY AND TRADING AS
ROSSE PRODUCTS COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4428. Complaint, Dec. 20, 1940—Decision, July 25, 1941

Where an individual engaged in interstate advertisement, sale, and distribution of his "Rosse Rheuma Tabs" medicinal preparation; by means of advertisements disseminated through the mails and otherwise, including numerous purported quotations from testimonials—

Represented, directly and by implication, that his said product was a cure or remedy for rheumatism, rheumatic pains, and sensitive joints and constituted a competent and effective treatment therefor, and that it would relieve the pain attendant upon such conditions for a longer period of time than any other preparation;

Facts being it was nothing more than a laxative and diuretic with mild analgesic properties, had no therapeutic value in the treatment of said ailments and conditions, in excess of furnishing temporary relief from the symptoms of pain, and had no special properties which would permit it to relieve pain more quickly or for a longer period of time than many other similar preparations;

With effect of misleading and deceiving a substantial portion of the purchasing public into the erroneous belief that such false representations were true, and of inducing it, because of such belief, to purchase his said preparation:

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

Mr. John W. Carter, Jr. for the Commission.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that Edward C. Rose, individually and trading under the style and firm name of Rosse Products Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Edward C. Rose is an individual trading under the style and firm name of Rosse Products Co. with his principal place of business located at 2708 West Farwell Avenue, Chicago, Ill.