

Syllabus

IN THE MATTER OF
DETROIT CANDY & TOBACCO JOBBERS ASSOCIATION,
INC., 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 4321. Complaint, Sept. 19, 1940—Decision, Aug. 27, 1941

Where an association which had as its members most of the wholesalers or jobbers of candies, tobaccos, and groceries in Detroit and the surrounding area, consisting of about 30 "regular" members who bought direct from the manufacturers, and 125 "associate" members who bought from the "regular" members—

- (a) Cooperatively coerced, induced, and persuaded jobbers, wholesalers, manufacturers, and suppliers of candies, tobaccos, and groceries located in States other than Michigan to refrain from selling or offering to sell direct to competitors or prospective competitors of its members, or upon the same terms and conditions as they sold to members, by indicating to said suppliers and their sales representatives that it disapproved of sales to such competitors and prospective competitors, and that its members were opposed to such sales, and by various other means and methods, for the purpose and with the effect of unduly suppressing competition; and

Where said members—

- (b) Used said association, its officers and directors, as a vehicle and implement for the furtherance of their cooperative activities as above set forth; and

Where said association, its officers and directors—

- (c) Cooperated with said members in the carrying out and furtherance of the aforesaid cooperative efforts, joint purposes and activities;

Dangerous tendency and effect of which acts and practices were to suppress and lessen competition between and among said members in the purchase of candies, tobaccos, and groceries in commerce, and to place in them the power to determine who in Detroit and the surrounding trade area should buy candies, tobaccos, and groceries direct from suppliers thereof located in States other than Michigan, and to unreasonably restrain interstate commerce in said products and deprive the purchasing public of the benefit of full and free competition between and among said members and their competitors:

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

Mr. Lynn C. Paulson for the Commission.

Mr. J. Thomas Smith, of Detroit, Mich., for respondents, with the exception of Jacob Starkstein, Morris Starkstein, and William Starkstein, who were represented by *Butzel, Eaman, Long, Gust & Bills*, of Detroit, Mich.

Complaint

33 F. T. C.

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 persons, partnerships and corporations named or included by reference in the caption hereof and hereinafter 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, Detroit Candy & Tobacco Jobbers Association, Inc., hereinafter referred to as respondent association, is an incorporated voluntary trade association organized, not for profit, under the laws of the State of Michigan. It has about 30 regular members and 125 associate members. The regular members are persons, partnerships, and corporations engaged in the business of buying and selling candies and tobaccos (some also handle groceries) in wholesale quantities in Detroit, Mich., and the surrounding trade area. The associate members are persons, partnerships, and corporations engaged in the same type of business as the regular members, except that they are subjobbers or subwholesalers. The first group in general buy from manufacturers and resell to the second group and to retailers. The second group in general buy from the first group and resell to retailers. Each person, partnership, or corporation belonging to the second group is sponsored for membership by one of the first group. The said respondent association has its principal office at 921 Fox Theatre Building, Detroit, Mich. Respondents Calvin J. Gauss, Vene G. Perry, Jacob Starkstein, Archie Cherrin, Harry T. Bump, and Joseph Bianco, are president, first vice president, second vice president, secretary, secretary, and treasurer, respectively, of said respondent Association, Inc., and respondents Charles Nalbandian, B. J. Mendel, Joel Levy, and V. H. Nalbandian are directors of said respondent association.

PAR. 2. Respondents, Morris Starkstein, William Starkstein and Jacob Starkstein, are individuals trading jointly as the General Tobacco & Grocery Co. They have their office and principal place of business at 5280 Fourteenth Street, Detroit, Mich.

Respondent, Archie Cherrin, is an individual trading as Joseph Kohn & Co., with his office and principal place of business at 1365 Gratiot Avenue, Detroit, Mich.

Respondent, Joseph Bianco, is an individual trading as B. & G. Candy Co., with his office and principal place of business at 444 East Jefferson Street, Detroit, Mich.

Respondent, Charles Nalbandian, is an individual trading as N. Nalbandian with his office and principal place of business at 9111 Joseph Campau Avenue, Detroit, Mich.

Respondent, Joel Levy, is an individual trading and doing business as Auto City Candy Co., with his principal office and place of business at 2937 St. Aubin Street, Detroit, Mich.

Respondent, V. H. Nalbandian, is an individual trading as Chaffee & Co., Inc., with his principal office and place of business at 11736 East Jefferson Street, Detroit, Mich.

Respondent, Vene G. Perry, is an individual trading as Detroit Candy Co., with his office and principal place of business at 1528 Gratiot Avenue, Detroit, Mich.

Respondent, Calvin J. Gauss, is an individual trading as Charles Gauss Co., with his principal office and place of business at 2155 Grand River Avenue, Detroit, Mich.

The above named respondents do not constitute the entire membership of respondent association, but are representative members thereof. All members of respondent association are made parties respondent herein as a class of which those specifically named are representative of the whole. For convenience the above named respondents and the other members of the respondent association of whom those named are representative, will hereinafter be referred to as member respondents.

PAR. 3. The membership of respondent association, comprises a majority of the persons, partnerships and corporations engaged in buying and selling candies and tobaccos in wholesale quantities in Detroit, Mich., and the surrounding trade area, and a majority of the persons, partnerships, and corporations engaged in buying and selling such commodities on a subjobbing or subwholesaling basis are associate members. Together, these members and associate members do an annual volume of business with approximately 12,000 retail stores averaging approximately \$30,000,000 at wholesale prices.

In the course and conduct of their respective businesses, member respondents and associate members purchase substantial quantities of candies, tobaccos, and groceries from manufacturers, producers, and suppliers thereof located in the States of New York, Ohio, Pennsylvania, and other States of the United States, and ship or cause to be shipped such commodities into the city of Detroit, Mich., and the surrounding trade area for resale and distribution. For several

Complaint

33 F. T. C.

years last past and at all times specified or referred to in this complaint, they have been and are engaged in commerce in candies and tobaccos (and some have been engaged in commerce in groceries) between and among the various States of the United States.

Respondent association, its officers and directors, promote the mutual interests of its members and aids them in the doing and carrying out of their individual and joint purposes and plans.

PAR. 4. For more than 4 years last past respondents have maintained and now have in effect an understanding, combination, and agreement among themselves to hinder, lessen, restrict, and restrain competition and trade in the sale and distribution of candies, tobaccos and groceries in commerce among and between the several States of the United States and to monopolize to themselves the business in commerce among and between the several States of the United States, of buying and selling in wholesale quantities candies, tobaccos, and groceries for resale and distribution in Detroit, Mich., and the surrounding trade area.

Pursuant to, and in furtherance of, said understanding, combination, and agreement, respondents have done and are now doing many acts and things and have used and are now using many methods of competition among which are the following:

1. Member respondents attempt to, and do, limit the number of persons, partnerships and corporations engaged in the business of purchasing, in wholesale quantities, candies, tobaccos, and groceries from the manufacturers and suppliers thereof, many of whom are located in the States other than the State of Michigan, and selling said products in Detroit, Mich., and the surrounding area by:

- (a) Determining and agreeing among themselves as to who shall enter or remain in said business.

- (b) Interfering with the sources of supply of those whom they determine should not enter or remain in the said business, by boycotting, intimidating, and threatening to boycott said manufacturers and suppliers, and persuading them not to sell or offer to sell to such concerns.

- (c) Refusing to sell to persons, firms and corporations not selected by said member respondents to enter or remain in the aforesaid business; and

- (d) Coercing and persuading jobbers, wholesalers, and suppliers of candies, tobaccos, and groceries located in cities adjacent to Detroit and in States other than the State of Michigan, to refrain from making or soliciting sales in Detroit, Mich., and the surrounding trade area.

2. Member respondents concertedly classify customers, allocate business, fix discounts and enter into numerous understandings and agreements regarding their respective business and sales problems and have sought to and have concertedly enforced adherence to agreements and understandings which they have from time to time made.

3. Member respondents have harassed competitors and interfered with the conduct of their businesses by spying on their shipments, sent or received, upon their truck deliveries and other business operations.

4. Member respondents have used respondent association, together with its officers and directors as a vehicle or implement for the furtherance of their joint purposes, plans and activities hereinbefore described, and in furtherance of the aforesaid understanding, combination and agreement.

5. Respondent association, its officers and directors, have cooperated with member respondents in the carrying out and furtherance of the said understanding, combination, and agreement and have classified members, nonmembers, competitors of members, customers and prospective customers, held meetings, printed customer cards, written letters, delivered messages, made contacts with manufacturers and suppliers of candies, tobaccos, and groceries in aid of the said understanding, combination and agreement and in the furtherance of the acts and things done by member respondents hereinbefore described, and have in other ways helped and aided in making effective the said understanding, combination and agreement.

PAR. 5. The said understanding, combination, and agreement and the doing and performing of the acts and things and the use of the methods set forth in the preceding paragraphs hereof, tend to have, have had and now have the effect of unduly and unlawfully restricting and restraining interstate trade and commerce in candies, tobaccos, and groceries between, among and in the several States of the United States; of preventing, hindering, and restraining other persons, firms, corporations, and partnerships than the respondents engaged in trade and commerce in such commodities in the United States in the conduct of their respective businesses; of substantially reducing, lessening, stifling, and eliminating competition in candies, tobaccos and groceries between and among member respondents and between and among themselves and the firms, partnerships, corporations, and individuals in the same or similar lines of business in Detroit, Mich., and the surrounding trade area; of stabilizing prices and maintaining discounts and commissions received by themselves in the conduct of their business at levels and amounts inconsonant with

levels and amounts that would exist in the presence of full and free competition; and of destroying, eliminating and causing to be diminished the competition to which the consuming public and retailers of candy, tobacco and groceries are entitled to expect in conformance with the public policy and the laws of the United States.

PAR. 6. The acts and practices and methods of respondents, as herein alleged, are all to the prejudice of the public; have a dangerous tendency to, and have, actually hindered and prevented competition in the sale and distribution of candies, tobaccos, and groceries in commerce within the intent and meaning of the Federal Trade Commission Act; and have unreasonably restrained such commerce in candies, tobaccos, and groceries, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 19th day of September 1940, issued and served its complaint in this proceeding upon respondents named in the caption hereof, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. On October 10, 1940, respondent Detroit Candy & Tobacco Jobbers Association, Inc., its officers: president, Archie Cherrin, first vice president, Vene G. Perry, secretary, V. H. Nalbandian, secretary, Harry T. Bump; its directors: Calvin Gauss, Vene G. Perry, Archie Cherrin, Joseph Bianco, V. H. Nalbandian, Charles Nalbandian, Budd Mendel, Joel Levy, filed their answer in this proceeding by their attorney, Harrison T. Watson. On October 9, 1940, respondents Morris Starkstein, William Starkstein and Jacob Starkstein filed their answer in this proceeding by their attorneys Butzel, Eamon, Long, Gust & Bills. On February 14, 1941, Attorney J. Thomas Smith entered his appearance for respondent Detroit Candy & Tobacco Jobbers Association, Inc., and its aforesaid officers and directors, and Attorney Harrison T. Watson consented to the substitution. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and their attorneys aforesaid and William 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, solely for the purpose of this proceeding, the enforcement or review thereof in the circuit courts of appeal and for any review in the Supreme Court of the United States or for any other court pro-

ceeding which may be brought or instituted by virtue of authority contained in the Federal Trade Commission Act as amended and approved March 21, 1938, and for no other purpose whatsoever, 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 other intervening procedure. 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, Detroit Candy & Tobacco Jobbers Association, Inc., hereinafter referred to as respondent Association, is an incorporated association organized under the laws of the State of Michigan, not for profit, having as its members most of the individuals, partnerships, and corporations located in the city of Detroit, engaged in the business of wholesaling or jobbing candies, tobaccos, and groceries in the city of Detroit and the surrounding area, some of which members buy direct from manufacturers and are designated as "regular" members, and others of whom buy from the so-called regular members, and are designated as "associate" members. Respondent Association has approximately 30 "regular" members and 125 "associate" members. Its principal purpose and function is to promote the mutual interests of its members.

The said respondent Association has its principal office at 921 Fox Theatre Building, Detroit, Mich. Its principal offices are those of president, first vice president, second vice president, secretary, and treasurer. It has a board of directors, consisting of eight members. Different members have held different offices or served on the board of directors at different times during the period of time embraced by the complaint in this proceeding. At the time of the issuance of the complaint, the officers were as follows: president, Archie Cherrin; first vice president, Vene G. Perry; secretary, V. H. Nalbandian; secretary, Harry T. Bump; its directors were as follows: Calvin J. Gauss, Vene G. Perry, Archie Cherrin, Joseph Bianco, V. H. Nalbandian, Charles Nalbandian, Budd Mendel (an employee of Lee &

Findings

33 F. T. C.

Cady, a corporation), and Joel Levy. Among those who had, within the period of time embraced by this complaint, previously served as officers is respondent Jacob Starkstein, who served as second vice president for a period of time ending February 2, 1940.

PAR. 2. The "regular" members, both present and past of respondent association, all of whom are respondents in this action, are as follows:

Atlas Candy Co., having its office and principal place of business at 4155 St. Aubin Street, Detroit, Mich.

Ben Schebches, trading as Advance Candy & Tobacco Co., having its office and principal place of business at 8740 West Vernor Highway, Detroit, Mich.

Auto City Candy Co., a corporation, having its office and principal place of business at 2937 St. Aubin Street, Detroit, Mich.

B. & G. Candy Co., a corporation, having its office and principal place of business at 110 West Woodbridge Street, Detroit, Mich.

Charles F. Becker, trading and doing business as Becker Cigar Co., having his office and place of business at 439 East Congress Street, Detroit, Mich.

Bunte Bros., a corporation, having its office and principal place of business at 226 West Larned Street, Detroit, Mich.

Cecil Chocolate Co., a corporation, having its office and principal place of business at 4800 St. Aubin Street, Detroit, Mich.

Chaffee & Co., Inc., a corporation, having its office and principal place of business at 11736 East Jefferson Avenue, Detroit, Mich.

Andrew Condiky, trading as Andrew Condiky, having his office and principal place of business at 358 East Larned Street, Detroit, Mich.

A. C. Courville Co., a corporation, having its office and principal place of business at 4541 Grand River Avenue, Detroit, Mich.

Herman Dekosky, trading as Detroit Agents Supply Co., having its office and principal place of business at 3405 St. Aubin Street, Detroit, Mich.

Detroit Candy Co., a corporation, having its office and principal place of business at 1528 Gratiot Avenue, Detroit, Mich.

Charles Gauss Co., a corporation, having its office and principal place of business at 2159 Grand River Avenue, Detroit, Mich.

Morris Starkstein, doing business as General Tobacco & Grocery Co., having his principal office and place of business at 5280 Fourteenth Street, Detroit, Mich. On or about February 2, 1940, the said business was incorporated and became the General Tobacco & Grocery Co., a Michigan corporation. However, said corporation was never a member of the aforesaid association and Morris Starkstein has not been a member thereof since February 2, 1940. Jacob

Starkstein was an employee of Morris Starkstein prior to February 2, 1940, and thereafter was an employee of the General Tobacco & Grocery Co., a corporation.

B. L. Howes and Cole Shoemaker, a partnership, trading as Howes Shoemaker Co., having its office and principal place of business at 2373 Seventeenth Street, Detroit, Mich.

Abram Haig, trading as Highland Park Tobacco & Candy Co., having its office and principal place of business at 15 Victor Street, Highland Park, Mich.

Joseph Kohn, trading as Joseph Kohn, having his office and principal place of business at 2448 Market Street, Detroit, Mich.

Budd Mendel, an employee of Lee & Cady, a corporation, having his office and principal place of business at 1778 West Fort Street, Detroit, Mich.

Lee & Cady, a Michigan corporation, having its office and principal place of business at 1778 West Fort Street, Detroit, Mich.

National Tobacco & Grocery Co., a corporation, having its office and principal place of business at 3749 Woodward Avenue, Detroit, Mich.

Charles Feucht, trading as Motor City Tobacco Co., having its office and principal place of business at 4728 Chene Street, Detroit, Mich.

Nishan Nalbandian, trading as N. Nalbandian Co., having its office and principal place of business at 9111 Jos. Campau Avenue, Detroit, Mich.

Harry Ernstine and Abe Ernstine, partners, trading as Northway Tobacco Co., having its office and principal place of business at 4628 Michigan Avenue, Detroit, Mich.

Ray Yoogabian, trading as Ray's Tobacco & Candy Co., having its office and principal place of business at 3927 Fenkell, Detroit, Mich.

L. Schiappaccasse, trading as L. Schiappaccasse Co., having its office and principal place of business at 322 Woodward Avenue, Detroit, Mich.

Manuel Michaels and George Michaels, partners, trading as James Seraph Co., having its office and principal place of business at 134 East Jefferson Avenue, Detroit, Mich.

I. D. Sheplow, an individual, trading as I. D. Sheplow, having his office and principal place of business at 8709 Oakland, Detroit, Mich.

Andrew Shezas, an individual, trading as Andrew Shezas, having his office and principal place of business at 112 Monroe Street, Detroit, Mich.

William Fiedler and Charles Fiedler, partners, trading as Standard Candy Co., having its office and principal place of business at 3138 St. Aubin Street, Detroit, Mich.

Jacob Harvith, trading as Wolverine Cigar Co., having its office and principal place of business at 2686 Eighteenth Street, Detroit, Mich.

Woodhouse Cigar Co., a corporation, having its office and principal place of business at 37 West Jefferson Avenue, Detroit, Mich.

Jack Welsh, trading as Dearborn Candy & Tobacco Co., having its office and principal place of business at 14346 West Warren Avenue, Dearborn, Mich.

Whitfield Water & Dawon, a corporation, having its office and principal place of business at Pontiac, Mich.

In addition to the "regular" members aforesaid, there are some 125 other persons, partnerships, and corporations who are now or have been "associate" members of respondent Association.

PAR. 3. In the course and conduct of their respective businesses, respondents, with the exception of respondent association, have purchased and do purchase substantial quantities of candies and tobaccos and groceries from manufacturers, producers, and suppliers thereof located in States other than the State of Michigan, and have shipped or caused such commodities to be shipped into the city of Detroit and the surrounding trade area.

PAR. 4. In the course and conduct of their aforesaid businesses, respondent association and the members thereof, all of whom are respondents herein (all of which members are hereafter referred to as member respondents) for more than 4 years last past have cooperatively, coerced, induced, and persuaded jobbers, wholesalers, manufacturers, and suppliers of candies, tobaccos, and groceries located in States other than the State of Michigan to refrain from selling or offering to sell to competitors or prospective competitors of member respondents, direct or upon the same terms and conditions as they sell to the member respondents, by indicating to the sales representatives of said jobbers, wholesalers, manufacturers, and suppliers that they disapprove of sales to said competitors and prospective competitors, and by bringing home to such manufacturers, wholesalers, jobbers, and suppliers that member respondents are opposed to such sales, and by various other means and methods for the purpose and with the effect of unduly suppressing competition.

Said member respondents have used respondent association, together with its officers and directors, as a vehicle and implement for the furtherance of their said cooperative efforts, joint purposes, and activities as hereinbefore referred to.

Respondent association, its officers and directors, have cooperated with member respondents in the carrying out and furtherance of the aforesaid cooperative efforts, joint purposes, and activities.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice of the public; have a dangerous tendency to and have actually hindered, prevented, suppressed and lessened competition between and among respondents in the purchase of candies, tobaccos and groceries in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in respondents the power to determine what persons, partnerships and corporations in the city of Detroit and the surrounding trade area shall buy candies, tobaccos and groceries direct from jobbers, wholesalers, manufacturers and suppliers thereof located in States other than the State of Michigan; have unreasonably restrained interstate commerce in candies, tobaccos and groceries; have deprived the purchasing public of the benefit of full and free competition between and among the respondents and competitors and prospective competitors of the respondents, 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 answer of certain respondents, and stipulation as to the facts entered into between counsel for certain of the respondents herein and William T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence, presentation of argument, the filing of briefs, or other intervening procedure, the Commission may issue and serve upon such 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 such respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent Detroit Candy & Tobacco Jobbers Association, Inc., its officers and directors, its agents, employees, or representatives, directly or through any corporate or other device, in connection with the purchase, sale, and distribution of candies, tobaccos, and groceries in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Order

33 F. T. C.

1. Coercing, inducing, or persuading, or attempting to coerce, induce, or persuade, sellers of candies, tobaccos, and groceries located in States other than the State of Michigan to refrain from selling or offering to sell to competitors or prospective competitors of members of respondent association, or by such means controlling, or attempting to control, the terms and conditions upon which such sellers make sales to competitors or prospective competitors of members of respondent association.

2. Cooperating with any of its members or others to perform any of the acts and practices prohibited in paragraph 1 hereof.

It is further ordered, That the case growing out of the complaint herein be, and the same hereby is, closed as to members of the Detroit Candy & Tobacco Jobbers Association, Inc., in their individual capacities, without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume trial thereof in accordance with its regular procedure.

It is further ordered, That the respondent Detroit Candy & Tobacco Jobbers Association, Inc., shall, within 60 days after the 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.

Complaint

IN THE MATTER OF

JOSEPH H. KEVORKIAN, JOSEPH D. KEVORKIAN AND
LOUIS STONE, TRADING AS STOMAR MANUFACTURING
COMPANY

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

Docket 4272. Complaint, Aug. 27, 1940—Decision, Aug. 28, 1941

Where a firm engaged in manufacture and in interstate sale and distribution of steel kitchen graters and shredders; in advertisements in periodicals and in circulars and other advertising literature distributed among their distributors and dealers, who redistributed them to the purchasing public, and in statements on display cards and on envelopes enclosing such products—

Represented that their graters and shredders were made of stainless steel, and would successfully resist rust, tarnish, stain and corrosion, through such legends and statements as "Stomar Stainless Safety Grater and Shredder," "Wont Rust Won't Tarnish Won't Corrode";

Facts being their said products were not made of the more expensive stainless steel or alloy, generally associated with term "stainless," which resists effects of food acids, dampness and water and weather conditions generally, to a much greater degree than does ordinary carbon steel, but were made of latter less expensive product plated with tin, and were not stainless in fact, but, as disclosed by Bureau of Standards tests, would not successfully resist rust, tarnish, or corrosion;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said products possessed qualities which they did not in fact possess, and to cause it, because of such belief, to purchase substantial quantities of said products:

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

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. Charles S. Cox for the Commission.

Scarborough & Creamer, of Philadelphia, Pa., for Joseph H. Kevorkian and Joseph D. Kevorkian.

Mr. Nathan Markmann, of Philadelphia, Pa., for Louis Stone.

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 Joseph H. Kevorkian, Joseph D. Kevorkian, and Louis Stone, individually and as copartners trading as Stomar Manufacturing Co., have violated the provisions of said act, and it appearing to the Commission that a pro-