

Syllabus

IN THE MATTER OF

FOOD SERVICE EQUIPMENT INDUSTRY, 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 4433. Complaint, Dec. 26, 1940—Decision, Oct. 15, 1941

Where most of the leading dealers throughout the United States in food service equipment for hotels, restaurants, clubs, institutions, etc., members of an association consisting of about 100 such dealers and including certain manufacturers of kitchen, restaurant, and cafeteria equipment especially designed for each particular installation, but with members' primary business consisting in purchase and resale of said equipment, which they bought from selected manufacturers designated by said association as "Honor Roll Members," as below set forth, and also from members of a china association; and who would have been in competition with one another, but for acts and practices below set forth, as would have been said "Honor Roll" and China Association manufacturers in sales to dealers, and also with member dealers in sales to ultimate users;

Acting through and by means of said dealers' association, its officers and directors—

- (a) Entered into and carried out agreements and understandings with said Honor Roll member manufacturers and said China Association, and pursued a concerted course of action and undertaking among themselves and with others, to adopt, carry out, enforce, and maintain, throughout the United States, certain restrictive and unfair policies and trade practices, including (1) classification of jobbers and dealers in food service equipment as being, or not being, "legitimate jobbers" or "recognized dealers," as defined by said association as those who carry a stock, maintain display rooms, etc., (2) acceptance of applications for membership in said association only from firms who, in its judgment, conformed to aforesaid classification, securing new members principally upon invitation of association members, as finally passed upon by the association directors, (3) the urging of all manufacturers to sell exclusively to and through aforesaid "legitimate" or "recognized" jobbers or dealers, and of protesting to manufacturers who sold to any others, (4) the selecting of certain cooperating manufacturers as recipients of the association's "Honor Roll Certificates," and the urging upon the association members that, in their purchases, they give preference to such "Honor Roll Members," (5) the protesting to manufacturers who sold food service equipment directly to public service companies, chain stores, and other large purchasers, unless such sales were made on a competitive equality with the prices which said purchasers could receive from "legitimate jobbers" or "recognized dealers" and (6) the entering into and carrying out of specific agreements and understandings with Honor Roll and China Association members with intent and effect of carrying out said policies and practices; and

Where said association members, to make effective and require compliance with said policies and practices, and, in effect, a general policy and practice of reducing competition throughout the United States in the sale and offer

- of food service equipment by manufacturers, and of tending to create and maintain a monopoly in such trade by aforesaid Honor Roll and China Association members, and of reducing competition in the resale of such equipment and tending to create and maintain a monopoly in said association members and in "legitimate" or "recognized" dealers and jobbers—
- (b) Entered into agreements under which they held at least one national meeting each year, formed local organizations of their association members in various cities and held frequent meetings thereof, and held directors' meetings, all for discussion of and agreement on, policies, and appointed special committees to enforce such policies and practices and enter into agreements and understandings with "Honor Roll" and other manufacturers;
 - (c) Agreed to and did issue and disseminate, through their association, a monthly bulletin to dealers and manufacturers herein concerned, in which association's activities were summarized and its membership and the current holders of Honor Roll certificates were listed, and agreed to and did issue, from time to time, to Honor Roll members and other manufacturers, a complete list of "legitimate" or "recognized" jobbers and dealers;
 - (d) Agreed to and did issue annually to Honor Roll members, Honor Roll certificates signifying that such members had carried out certain restrictive undertakings, as described below, and agreed to and did give preference to them in the purchase by association members of food service equipment;
 - (e) Agreed to and did submit complaints with reference to Honor Roll members to the association's committee on merchandising, for investigation and report as to whether such manufacturers should be dropped from the Honor Roll;
 - (f) Entered into and carried out an agreement and understanding with five manufacturers of stainless steel and enamel cooking utensils and other similar products for food service equipment, pursuant to which, and following certain restrictive undertakings by said manufacturers as below set forth, said association members gave preference in their purchases of said products to such manufacturers, with effect of monopolizing in said members resale of such equipment to institutional buyers throughout the United States, and of tending to monopolize in said manufacturers all purchases of such equipment by association members and by "legitimate" and "recognized" jobbers and dealers;
 - (g) Entered into and carried out, in many instances, an agreement and understanding with members of aforesaid China Association, pursuant, to which, and following certain restrictive undertakings on their part as hereinafter described, said association members specifically agreed to (1) cease pitting one manufacturer against another in an endeavor to force down prices, (2) cease requesting the copying of other American manufacturers' designs, (3) cease demanding and accepting volume discounts, (4) cease soliciting business on the same decoration on the same makes of china as now being supplied by another dealer, and (5) "practice better ethics," i. e., that a dealer given the exclusive right to quote on some specific proposition on one make of china, should confine his offering to the consumer to that particular brand and not accept an order for any other make; with effect of monopolizing in said association members and in "legitimate jobbers" and "recognized dealers" resale of various types of vitrified china products made by China Association members, to hotels, clubs, institutions, and similar buyers throughout the United States, and of monopolizing in said china

manufacturers all purchases of such equipment by association members and "legitimate" and "recognized" jobbers and dealers;

- (h) Agreed to and did attempt to prevent, and in some cases did prevent, said Honor Roll members and other manufacturers from selling directly to chain stores, hotels, restaurants, and similar large volume purchasers, on any basis other than that of a competitive equality with the prices of said "legitimate jobbers" or "recognized dealers"; and
- (i) Agreed to and did supervise and investigate, through said association and otherwise, the practices and policies of competing dealers in food service equipment, and agreed to and did act concertedly to maintain the policies and practices hereinbefore described; and

Where said "Honor Roll members," pursuant to above understanding and agreement and in furtherance thereof—

- (j) Agreed not to sell their food service equipment through any other than said "recognized dealers" or "legitimate jobbers"; and in many instances discontinued selling to curbstone brokers, commission agents, and others, and selling direct to hotels, restaurants, chain stores, and similar large volume purchasers, on any basis other than that of a competitive equality with "legitimate jobbers'" or "recognized dealers'" prices; and

Where said China Association members, pursuant to their said understanding and agreement, acting through their association—

- (k) Agreed to sell directly to department stores for their restaurants only where such stores had china departments, and to use their best endeavors to sell through dealers, to others and to chain stores; to cease immediately from taking on any new direct-to-consumer accounts or any new broker or commission agent accounts; and to refrain from quoting prices to consumers without first having received the dealer's consent as to the mark-up to be used;

Capacity, tendency, and effect of which agreements, policies, practices, and acts were—

(1) To create and set up said Honor Roll Members as a "White List" of manufacturers of food service equipment, signifying thereby that only those manufacturers who received Honor Roll Certificates from said association were to receive preference in the placement of business by its members;

(2) To prevent dealers who were not members of said association or were not classified by it as "legitimate" or "recognized" from procuring food service equipment from Honor Roll manufacturers and from other cooperating manufacturers, including the China Association members; to eliminate and discriminate against them; and to interfere with, suppress and hamper their interstate supply of food service equipment;

(3) To unreasonably restrain competition in the sale or offer of food service equipment throughout the United States, and thus to deprive hotels, restaurants, clubs, institutions, and other similar purchasers of the advantages they would receive under conditions of free and fair competition, and otherwise to operate as a restraint upon competition;

(4) To reduce substantially direct sales by manufacturers of food service equipment to hotels, restaurants, chain stores, and similar large volume purchasers;

(5) To burden, hamper, and interfere with the normal and natural flow of trade in food service equipment in interstate commerce;

(6) To cause said Honor Roll and China Association members to boycott and refuse to sell present and would-be dealers, distributors, and brokers of food service equipment who (a) were not members of said association, or (b) were not classified by it as "legitimate jobbers" or "recognized dealers";

(7) To prejudice and injure manufacturers of food service equipment who did not conform to said association members' policies and practices, or who did not desire to so conform but were compelled to do so by the concerted action of said association, its Honor Roll Members, and said China Association; and

(8) To injure the competitors of said association, Honor Roll, and China Association members by unfairly diverting business and trade from them:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of competitors and the public; had a dangerous tendency to, and actually did, hinder and prevent competition in the sale and distribution of food service equipment in commerce; unreasonably restrained such commerce; had a dangerous tendency to create in them a monopoly in the sale of such equipment; and constituted unfair methods of competition in commerce.

Mr. Fletcher G. Cohn for the Commission.

Levinson, Becker, Peebles & Swiren, of Chicago, Ill., for Food Service Equipment Industry, Inc., its officers and directors, representative members, G. S. Blodgett Co., Inc., and Hobart Manufacturing Co.

Cobbs, Logan, Roos & Armstrong, of St. Louis, Mo., for American Stove Co.

Goodwin, Nixon, Hargrave, Middleton & Devans, of Rochester, N. Y., for Josiah Anstice & Co., Inc.

D'Ancona, Pfau & Kohlsaat, of Chicago, Ill., for G. S. Blakeslee & Co.

Saltsman & Saltsman, of Carrollton, Ohio, for Carrollton Metal Products Co.

Robinson, Robinson & Cole, of Hartford, Conn., for Colt's Patent Fire Arms Manufacturing Co.

Hill, Hamblen, Essery & Lewis, of Detroit, Mich., for Detroit-Michigan Stove Co.

Cullen & Dykman, of Brooklyn, N. Y., for Lalance-Grosjean Manufacturing Co.

Ross & Watts, of Chicago, Ill., for McGraw Electric Co.

Currie & Leberman, of Sheboygan, Wis., for Polar Ware Co.

Venable, Baetjer & Howard, of Baltimore, Md., for Standard Gas Equipment Corporation.

Zabel, Carlson, Gritzbaugh & Wells, of Chicago, Ill., for Illinois Brass Mfg. Co.

Walker, Hilleary, Shafer & Cox, of Terre Haute, Ind., for Columbian Enameling & Stamping Co.

Reed & Ewing, of Beaver, Pa., for American Vitified China Manufacturers Association, Albert M. Walker, James K. Love, Mayer China Co. and Sterling China Co.

A. M. & H. C. Walker, of Akron, Ohio, for Bailey-Walker China Co.

Kenefick, Cooke, Mitchell, Bass & Letchworth, of Buffalo, N. Y., for Buffalo Pottery Co., Inc.

Mr. George K. Ralston, of Martins Ferry, Ohio, for Carr China Co.

Pentz & Pentz, of DuBois, Pa., for Jackson Vitriified China Co.

Powell, Clifford & Jones, of Clarksburg, W. Va., for D. E. McNichol Co. of W. Va.

Bond, Schoeneck & King, of Syracuse, N. Y., for Onondaga Pottery Co.

Mr. Scott Scammell, of New York City, for Scammell China Co.

Mr. Wylie McCaslin, of New Castle, Pa., for Shenango Pottery Co.

Mr. George S. Thompson, of East Liverpool, Ohio, for Wellsville China Co.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that the respondents named and represented in the caption hereof, and more particularly described hereinafter, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Food Service Equipment Industry, Inc., hereinafter referred to as "respondent industry" is a nonprofit corporation organized under the laws of the State of Illinois on July 25, 1933, and existing and doing business by virtue of the laws of said State since that date, with its office and principal place of business being located at 2155 Pershing Road, Chicago, Ill.

Its officers are now, and since its organization have been, the following respondents hereinafter referred to as "respondent Industry Officers":

I. S. Anoff, chairman, who is also president and director of respondent Albert Pick Co., Inc., his address being in care of Albert Pick Co., Inc., 2151 Pershing Road, Chicago, Ill.

M. P. Duke, vice chairman, who is also president of respondent Duke Manufacturing Co., his address being in care of Duke Manufacturing Co., 2222 North 9th Street, St. Louis, Mo.

(Miss) L. E. Iwert, secretary, whose address is 2159 Pershing Road, Chicago, Ill.

S. R. Sperans, treasurer, who is also president of respondent Straus Duparquet, Inc., and whose address is in care of Straus Duparquet, Inc., 630 Six h Avenue, New York, N. Y.

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Its directors, hereinafter referred to as "respondent Industry directors," are now, and since its organization have been, the following respondents:

- A. H. Beadle, vice-president, Joesting & Schilling Co., Inc., St. Paul, Minn.
- S. J. Carson, manager, Carson Crockery Company, Denver, Colo.
- H. C. Davis, in care of F. A. Davis & Sons, Baltimore, Md.
- W. F. Dougherty, president, W. F. Dougherty & Sons, Inc., Philadelphia, Pa.
- B. Dohrmann, vice president, Dohrmann Hotel Supply Co., San Francisco, Calif.
- P. L. Ezekiel, president, Ezekiel & Wellman Co., Inc., Richmond, Va.
- A. W. Forbriger, in care of John Van Range Company, Cincinnati, Ohio.
- W. Friedman, in care of H. Friedman & Sons, Inc., 30 Cooper Square, New York, N. Y.
- C. A. Winchester, treasurer, Thompson-Winchester Company, Inc., Boston, Mass.
- C. Winkler, in care of Greene-Winkler Company, Inc., Seattle, Wash.

PAR. 2. The control, direction, and management of respondent Industry's affairs, policies, and actions are vested in respondents, Industry officers, and Industry directors.

PAR. 3. Among the members of said respondent Industry are the following respondents:

A. L. Cahn & Sons, a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 46 Cooper Square, New York, N. Y.

Duke Manufacturing Co., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 2222 North 9th Street, St. Louis, Mo.

Ezekiel & Wellman Co., Inc., a corporation organized and existing under the laws of the State of Virginia with its office and principal place of business located at 7th and Cary Streets, Richmond, Va.

Alex Janows & Company, a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at 1645 West Carroll Avenue, Chicago, Ill.

Albert Pick Co., Inc., a corporation organized and existing under the laws of the State of Delaware with its office and principal place of business located at 2151 Pershing Road, Chicago, Ill.

The Stearnes Company, a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at 1333 South Wabash Avenue, Chicago, Ill.

Straus-Duparquet, Inc., a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 630 Sixth Avenue, New York, N. Y.

The above-named respondents, all members of respondent Industry, do not constitute the entire membership of said respondent Industry, but are representative members thereof, the membership of said respondent Industry consisting of approximately 75 or 80 corporations, individuals, firms, and partnerships, with the number of same vary-

ing from year to year, so that it is impracticable to name as respondents and bring before the Commission each and all the members of respondent Industry without manifest delay and inconvenience. Therefore, the Commission names and includes as respondents in this proceeding the aforementioned A. L. Cahn & Sons, Duke Manufacturing Co., Ezekiel & Weilman Co., Inc., Alex Janows & Co., Albert Pick Co., Inc., The Stearnes Co. and Straus-Duparquet, Inc., hereinafter referred to as "respondent Industry Members," both individually and as representatives of the entire membership of respondent Industry.

PAR. 4. Among the manufacturers of various types of food service equipment who are recipients of honor roll certificates from respondent Industry are the following respondents:

American Stove Co., a corporation organized and existing under the laws of the State of New Jersey with its office and principal place of business located at 825 Choteau Avenue, St. Louis, Mo.

Josiah Anstice & Co., Inc., a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 97 Humboldt Street, Rochester, N. Y.

G. S. Blakeslee & Co., a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at West 19th and South 52d Streets, Cicero, Ill.

G. S. Bridgett Co., Inc., a corporation organized and existing under the laws of the State of Vermont with its office and principal place of business located at 59 Maple Street, Burlington, Vt.

Carrollton Metal Products Co., a corporation organized and existing under the laws of the State of Ohio with its office and principal place of business located at Carrollton, Ohio.

Colt's Patent Fire Arms Manufacturing Co., a corporation organized and existing under the laws of the State of Connecticut with its office and principal place of business located at Hartford, Conn.

Detroit-Michigan Stove Co., a corporation organized and existing under the laws of the State of Michigan with its office and principal place of business located at 6900 East Jefferson Avenue, Detroit, Mich.

Hobart Manufacturing Co., a corporation organized and existing under the laws of the State of Ohio with its office and principal place of business located at Troy, Ohio.

Lalance-Grosjean Manufacturing Co., a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 92d Street and Atlantic Avenue, Woodhaven, Long Island, N. Y.

McGraw Electric Co., a corporation organized and existing under the laws of the State of Delaware with its office and principal place of business located at 120 South LaSalle Street, Chicago, Ill.

Polar Ware Co., a corporation organized and existing under the laws of the State of Wisconsin with its office and principal place of business located at Sheboygan, Wis.

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Standard Gas Equipment Corporation, a corporation organized and existing under the laws of the State of Maryland, with its principal corporate office located in Baltimore, Maryland, and its principal sales office located at 18 East 41st Street, New York, N. Y.

United States Stamping Co., a corporation organized and existing under the laws of the State of West Virginia with its office and principal place of business located at Moundsville, W. Va.

Vollrath Co., a corporation organized and existing under the laws of the State of Wisconsin with its office and principal place of business located at Sheboygan, Wis.

The above-named respondents do not constitute all of the manufacturers of various types of food service equipment who are recipients of honor roll certificates from respondent Industry, but are representative of such recipients; said recipients consist of between 40 and 45 firms and corporations manufacturing various types of food service equipment, with the number varying from year to year, as said recipients are selected annually by respondent Industry, so that it is impracticable to name as respondents each and all of said recipients without manifest delay and inconvenience. Therefore, the Commission names and includes as respondents in this proceeding the aforesaid American Stove Co., Josiah Anstice & Co., Inc., G. S. Blakeslee & Co., G. S. Blodgett Co., Inc., Carrollton Metal Products Co., Colt's Patent Fire Arms Manufacturing Co., Detroit-Michigan Stove Co., Hobart Manufacturing Co., Lalance-Grosjean Manufacturing Co., McGraw Electric Co., Polar Ware Co., Standard Gas Equipment Corporation, Vollrath Co., and United States Stamping Co., all of whom are hereinafter referred to as "respondent Honor Roll Members," both individually and as representatives of all the manufacturers of various types of food service equipment who are recipients of honor roll certificates from respondent Industry:

PAR. 5. Respondent, Illinois Brass Manufacturing Co., is a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at 224 North Ada Street, Chicago, Ill.

Respondent, Columbia Stamping and Enameling Co., which is also known as Columbia Stamping Products, Inc., is a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 40-05 21st Street, Long Island City, N. Y.

PAR. 6. Respondent, American Vitrified China Manufacturers Association, hereinafter referred to as "respondent China Association," is an unincorporated association organized in 1918, with its office and place of business located at Shenango Pottery Co., New Castle, Pa.

Its active officers, hereinafter referred to as "respondent China Association Officers" are respondent Albert M. Walker, its president,

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whose address is in care of Bailey-Walker China Co., Bedford, Ohio, and respondent James K. Love, its secretary treasurer, who is vice president of Shenango Pottery Co., New Castle, Pa.

PAR. 7. The following respondents, hereinafter referred to as "respondent China Association Members," all manufacturers of vitrified china products comprise the membership of respondent China association:

Bailey-Walker China Co., a corporation organized and existing under the laws of the State of Ohio with its office and principal place of business located at Bedford, Ohio.

Buffalo Pottery Co., Inc., a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at Seneca Street, and Hages Place, Buffalo, N. Y. (This respondent is also a recipient of an honor roll certificate from respondent Industry.)

Carr China Company, a corporation organized and existing under the laws of the State of West Virginia with its office and principal place of business located at Grafton, W. Va.

Iroquois China Co., a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at Syracuse, N. Y.

Jackson Vitrified China Co., a corporation organized and existing under the laws of the State of Pennsylvania with its office and principal place of business located at Falls Creek, Pa.

D. E. McNichol Co. of W. Va., a corporation organized and existing under the laws of the State of West Virginia with its office and principal place of business located at Clarksburg, W. Va. (This respondent is also a recipient of an honor roll certificate from respondent Industry.)

Mayer China Company, a corporation organized and existing under the laws of the State of Pennsylvania with its office and principal place of business located at Second Avenue and 6th Street, Beaver Falls, Pa.

Onandaga Pottery Co., a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 1856-58 West Fayette Street, Syracuse, N. Y.

Scammell China Company, a corporation organized and existing under the laws of the State of New Jersey with its office and principal place of business located at Third and Landing Streets, Trenton, N. J.

Shenango Pottery Co., a corporation organized and existing under the laws of the State of Pennsylvania with its office and principal place of business located at New Castle, Pa.

Sterling China Company, a corporation organized and existing under the laws of the State of Ohio with its office and principal place of business located at 12th and Anderson Streets, Wellsville, Ohio.

Wellsville China Co., a corporation organized and existing under the laws of the State of Ohio with its office and principal place of business located at Wellsville, Ohio.

PAR. 8. The said respondent Industry members, hereinbefore described and referred to in paragraph 3, are all dealers in various types of food service equipment for hotels, restaurants, clubs, institutions, and other such classes of business, the primary business of said

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respondent Industry members being the purchase and resale of such equipment, with the said respondent Industry members constituting most of the leading dealers in this equipment throughout the United States. There are a few members of respondent Industry who are small manufacturers of kitchen, restaurant, and cafeteria equipment, which, in a large part, must be especially designed and manufactured for each particular installation. Large manufacturers of such equipment, however, are not admitted to membership in respondent Industry.

PAR. 9. Respondent honor roll members, hereinbefore described and referred to in paragraph 4, are manufacturers of the various types of food service equipment which are resold by respondent Industry members to hotels, restaurants, clubs, institutions, etc. Respondent honor roll members are recipients of certificates from respondent Industry, and are selected annually by respondent Industry in recognition of their cooperation with, and adoption of, the policies of respondent Industry in promoting the policies and practices, hereinafter set out. Respondent honor roll members are invited to attend meetings of respondent Industry. The status of being an honor roll member is not permanent, but honor roll certificates are granted from year to year by respondent Industry, respondent Industry members each year deciding as to what manufacturers should be placed on the honor roll.

Just prior to the close of the fiscal year on June 30, in each year, ballots are mailed out by respondent Industry to all respondent Industry members, containing the names of all manufacturers who appeared on the "Roll of Honor" during the preceding year and respondent Industry members are required to check the list and suggest any changes or additions thereto; the ballots are then submitted to respondent Industry directors for approval.

To remain an honor roll member, the manufacturer must restrict his sales to "legitimate jobbers" who are defined by respondent Industry, as being those jobbers who carry stock, maintain display rooms, employ a sales organization, extend facilities, and offer delivery service.

PAR. 10. Respondents, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., although not recipients of honor roll certificates from respondent Industry, nevertheless have cooperated with respondent Industry in effectuating the policies and practices hereinafter set out, and are both manufacturers of certain types of food service equipment which are resold by respondent Industry members.

PAR. 11. In the course and conduct of their respective businesses, respondent Industry members purchase the various types of equipment which they resell, from respondent honor roll members, China association members and other manufacturers thereof including respondents Illinois Brass Manufacturing Co. and Columbia Stamping and Enameling Co., and as part of such purchases, cause said equipment to be shipped or transported into the States of the United States where the respective places of business of said respondent Industry members are located, from other States of the United States.

Said respondent Industry members also, in the course and conduct of their respective businesses, resell and distribute such equipment to hotels, restaurants, clubs, institutions and other such types of users thereof, located throughout the United States and as part of said sales, transport, or cause to be transported, such equipment from their respective places of business to said purchasers located in States of the United States other than the States of origin of such shipments.

Respondents, honor roll members, China association members, and Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., in the course and conduct of their respective businesses, sell and distribute the various types of food service equipment manufactured by them, to the purchasers thereof, including respondent Industry members, and as part of said sales, transport, or cause to be transported, said equipment from their respective places of business to these purchasers thereof located in the States of the United States other than the States of origin of said shipments.

All of said respondents, Industry members, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., are, and were during the periods hereinafter set forth, engaged in commerce between and among the several States of the United States and in the District of Columbia.

PAR. 12. Respondents, Industry, Industry officers, Industry directors, China association, and China association officers, all aided, abetted, furthered, cooperated with, and were instrumentalities of, and parties to, some, or all of the understandings, agreements, combinations, and conspiracies, hereinafter set out, and actively participated in the performance of some or all of the acts and things done in pursuance thereto and in furtherance thereof.

PAR. 13. Respondent Industry members are in competition with each other and with other dealers in food service equipment for hotels, restaurants, clubs, institutions, and other such types

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of users of such equipment, which is manufactured and sold by respondents, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., and other manufacturers of such equipment, in selling and seeking to sell same in commerce between and among the several States of the United States and in the District of Columbia, to the ultimate users of such equipment, except insofar as said competition has been hindered, lessened, restrained or restricted, or potential competition between and among them forestalled by the unfair practices and methods hereinafter set forth.

These competitive dealers of respondent Industry members likewise purchase or seek to purchase such equipment from the manufacturers thereof, including respondents, honor roll members, China association members, Illinois Brass Manufacturing Co. and Columbia Stamping and Enameling Co., and as part of said purchases, which are made or sought to be made by said competitors, the manufacturers of said equipment, including the aforementioned respondents, do, or did, transport, or cause, or did cause, such equipment to be shipped to the various places of business of said competitors located in States of the United States which are, or would be different from the States of origin of such shipments.

PAR. 14. Respondents, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., are in competition with each other, and with other manufacturers of the same types of equipment used for food service which they manufacture, in selling and seeking to sell such equipment in commerce between and among the several States of the United States and in the District of Columbia to respondent Industry members, competitors of said respondent Industry members, and also directly to the ultimate users of said equipment except insofar as said competition has been hindered, lessened, restrained, or restricted or potential competition between and among them forestalled by the unfair methods and practices herein set forth.

PAR. 15. Respondent Industry members are in competition with respondents, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., in selling and seeking to sell, in commerce between and among the several States of the United States and in the District of Columbia, to the ultimate users thereof, the various types of food service equipment manufactured by said respondents, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., except insofar as said competition has been hindered, lessened, restrained, or restricted,

or potential competition between or among them forestalled by the unfair methods and practices hereinafter set forth.

PAR. 16. Respondent Industry members, acting through and by means of respondents, Industry, Industry officers, and Industry directors since about 1933, have, by means of agreements and understandings with the other respondents, as hereinafter set forth, and by other means and methods conspired and combined together, and with others, and have united in, and pursued, a common and concerted course of action and undertaking, among themselves, with the other respondents, and with others, to adopt, carry out, enforce and maintain throughout the United States, certain restricting, restraining, and unfair policies and trade practices, hereinafter described which said respondent Industry members adhered to, among themselves, and which they have effectuated, by coercion, compulsion, and other unfair means and methods.

PAR. 17. Among the said restricting, restraining, and unfair policies and trade practices referred to in the preceding paragraph, which were so formulated, adopted and put into effect by the respondents, are the following:

1. A policy and practice of selecting the members of respondent Industry according to certain standards set up by said respondent Industry which require said Industry Members to carry stocks, maintain display rooms, employ a sales organization, extend credit facilities, and offer delivery service.

2. A policy and practice of securing new members of respondent Industry on the basis of invitations from a respondent Industry member, and not through applications for membership, and of requiring all such invitations to be sent to respondent I. S. Anoff, chairman of respondent Industry, by whom said applications are referred to respondent Industry directors for final action.

3. A policy and practice of compelling all manufacturers of food service equipment to sell same through respondent Industry members and not directly to the ultimate users thereof.

4. A policy and practice of selecting certain specific manufacturers of food service equipment to cooperate with respondent Industry's purposes and policies, as recipients of respondent Industry's "Honor Roll Certificates."

5. A policy and practice of preventing manufacturers of food service equipment from selling said equipment to any dealers in same who are not members of respondent Industry.

6. A policy and practice of preventing manufacturers of food service equipment from selling same directly to public service companies, chain stores, and other recognized outlets.

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7. A policy and practice of only purchasing the equipment which respondent Industry dealers resell, from those manufacturers who are recipients of honor roll certificates from respondent Industry.

8. A policy and practice of entering into and thereafter carrying out, agreements and understandings with respondents, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., and other manufacturers of various types of food service equipment for the purpose and intent of monopolizing in respondent Industry members the resale and distribution of such equipment, and of monopolizing in respondents honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., all purchases by respondent Industry members of the various types of equipment manufactured by said respondents, honor roll members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co.

9. A general policy and practice of reducing competition throughout the United States, in the sale and offering for sale, of various types of food service equipment, by the manufacturers thereof and of tending to create and maintaining a monopoly in such trade by respondents, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co.

10. A general policy and practice of reducing competition throughout the United States, in the resale of food service equipment, and of tending to create and maintain a monopoly in respondent Industry members in such trade and commerce throughout the United States.

PAR. 18. For the purpose of making such policies and practices effective, and of requiring compliance therewith by all food service equipment dealers and manufacturers of such equipment, throughout the United States, respondents have done, and performed and still do and perform, among other acts and things, the following:

1. Respondent Industry members agreed to formulate, adopt, follow, carry out, enforce, impose and make effective, and have formulated, adopted, followed, carried out, enforced, imposed and made effective, the policies and practices described in the preceding paragraph.

2. Respondent Industry members agreed to hold, and have held, at least one national meeting each year, at which said policies and practices were discussed, adopted and agreed to.

3. Respondent Industry members agreed to form, and have formed, local organizations of Industry members, particularly in New York, N. Y., Boston, Mass., Chicago, Ill., Miami, Fla., and St. Louis, Mo.

4. Respondent Industry members agreed to hold, and have held, frequent meetings of the respondent membership of said local organiza-

tions, at which said policies and practices were discussed, adopted and agreed to.

5. Respondent Industry directors agreed to hold, and have held, regular and special meetings at which said policies and practices were discussed, adopted and agreed to.

6. Respondent Industry members have agreed to appoint, and have appointed, through and by means of respondents, Industry, Industry officers and Industry directors, special committees to enforce said policies and practices, and also to confer and enter into agreements and understandings with representatives of respondent honor roll members and other manufacturers of various types of food service equipment which are resold by said respondent Industry members for the purpose, intent and effect of carrying out said policies and practices.

7. Respondent Industry members agreed to seek and obtain, and have sought and obtained, promises and assurances from one another, in establishing and making effective the policies and practices hereinabove described.

8. Respondent Industry members agreed to issue, and have issued through and by means of respondents, Industry, Industry officers and Industry directors, a monthly bulletin entitled "Food Service Equipment Industry Bulletin," in which the activities of respondent Industry are summarized, a complete list of the membership of respondent Industry given and also a full list of the current holders of honor roll certificates from respondent Industry.

9. Respondent Industry members agreed to disseminate, and have disseminated, aforesaid monthly bulletin among respondents, Industry members, honor roll members and other manufacturers of food service equipment.

10. Respondent Industry members have agreed to issue, and have issued, through and by means of respondents, Industry, Industry officers and Industry directors, special bulletins, general letters and the like, from time to time, for dissemination among respondents, Industry members, honor roll members, and other manufacturers of food service equipment.

11. Beginning in 1937, and continuing thereafter, respondent Industry members have, through respondent Industry, agreed to issue, and have issued, to respondent honor roll members, honor roll certificates, which signify that said respondent honor roll members have entered into and thereafter carried out, an agreement, understanding, combination and conspiracy with respondent Industry, acting for and on behalf of respondent Industry members, for the purpose and intent, and with the effect of unlawfully restricting, restraining,

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monopolizing and suppressing, and eliminating competition in commerce between and among the several States of the United States and in the District of Columbia, in the sale of food service equipment by the manufacturers thereof, and in the resale and distribution of such equipment in said commerce, by dealers thereof.

12. Pursuant to said understanding, agreement, combination, and conspiracy, hereinbefore set forth in the subparagraph 11, and in furtherance thereof, respondent honor roll members have agreed, and still do agree, among other things:

(a) Not to sell, and do not sell, the various types of food service equipment manufactured by them through anyone other than "recognized dealers" as defined by respondent Industry, which "recognized dealers" in most instances are respondent Industry members.

(b) To discontinue selling, and have discontinued selling, the various types of food service equipment manufactured by them to curbstone brokers, commission agents, and others who are not "recognized dealers," as defined by respondent Industry, which "recognized dealers" in most instances are respondent Industry members.

(c) To discontinue selling directly and have discontinued selling directly, to hotels, restaurants, chain stores, etc.

(d) That where it is necessary to sell directly to the trade in certain territories where there are no "recognized dealers," to quote, and do quote, in such instances the same prices as those at which respondent Industry members sell to the trade.

13. Pursuant to said agreement, understanding, combination, and conspiracy, hereinbefore set forth in subparagraph 11, and in furtherance thereof, respondent Industry members agreed, among other things, to purchase, and do purchase, most, if not all, of the various types of food service equipment manufactured by said respondent honor roll members from said respondents, to the exclusion of all other manufacturers of such equipment.

14. Respondent Industry members agreed to submit, and do submit, any complaints with reference to respondent honor roll members to respondent Industry's committee on merchandising.

15. Respondent Industry members agreed to require, and do require, said respondent Industry's Committee on merchandising to investigate such complaints and report back to respondent Industry directors as to whether such manufacturers should be dropped from respondent Industry's honor roll.

16. Respondent Industry members agreed to publish, and do publish, in each issue of its monthly bulletins all of the names of respondent honor roll members.

17. Respondent honor roll members agreed to give, and do give, respondent Industry members preferential consideration to the particular food service equipment manufactured by said respondent honor roll members.

18. In about 1937, respondent Industry members agreed to enter into, and did enter into, and thereafter carry out, by means of respondents, Industry officers and Industry directors, an agreement and understanding with respondents, Polar Ware Co., Lalance-Grosjean Manufacturing Co., Carrollton Metal Products Co., United States Stamping Co., Vollrath Co., and Columbia Stamping and Enameling Co., all of whom are manufacturers of stainless steel and enamel cooking utensils and other similar products, for food service equipment, to monopolize in respondent Industry members the resale of such equipment to hotels, restaurants, clubs, institutions and similar buyers of same, throughout the United States, and to monopolize in said respondent manufacturers of such food service equipment all purchases of same by respondent Industry members.

19. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 18, and in furtherance thereof, the aforementioned respondent manufacturers agreed, among other things:

(a) To refrain from selling, and do refrain from selling, to any new hotel accounts or like buyers, directly, or through any commission agent, broker or any other channel of distribution other than "recognized dealers," as defined by respondent Industry, which "recognized dealers" in most instances are respondent Industry members.

(b) To attempt to eliminate, and did attempt to eliminate before October 1, 1937, all existing direct or brokerage accounts and divert this business exclusively to respondent Industry members.

20. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 18, and in furtherance thereof, respondent Industry members agreed to purchase and do purchase, most, if not all, of their stainless steel and enamel cooking utensils and similar products used as food service equipment from said respondent manufacturers to the exclusion of all other manufacturers of such food service equipment.

21. In about 1939, respondent Industry members agreed to enter into, and did enter into, and thereafter carry out, through and by means of respondents, Industry, Industry officers and Industry directors, an agreement and understanding with respondent China association members, acting through and by means of respondents, China Association and China association officers, to monopolize in respondent Industry members the resale of various types of vitrified china products to hotels, restaurants, clubs, institutions and similar buyers of same throughout the United States, and to monopolize in respondent

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China Association members all purchases of such equipment by respondent Industry members.

22. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 21, and in furtherance thereof, respondent China Association members, acting through and by means of respondents, China association and China association officers, agreed, among other things:

(a) To sell, and do sell, directly to department stores only when the purchases by said stores are for use in their own departments.

(b) To use, and do use, their best endeavors to sell department stores having no china departments, exclusively through and by means of respondent Industry members.

(c) To sell, and do sell, to chain stores directly only where this is absolutely necessary because of competitive conditions.

(d) To cease and did cease, immediately after entering into the aforementioned agreement and understanding, from taking on any new direct-to-consumer accounts or any new broker or commission agent accounts.

(e) To refrain from, and do refrain from, quoting prices to ultimate consumers of their products without first having received the consent of respondent Industry members in a particular locality where such consumers are located, as to the mark-up to be used;

23. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 21, and in furtherance thereof, respondent Industry members, acting through and by means of respondents, Industry, Industry officers and Industry directors, agreed, among other things:

(a) To cease, and did cease, pitting one manufacturer against another in an attempt to get lower prices on their purchases.

(b) To cease, and did cease, requesting the copying of other American manufacturers' designs.

(c) To cease, and did cease, demanding or accepting volume discounts.

(d) To cease, and did cease, soliciting business on the same decorations on the same makes of china as are supplied by any of respondent China Association members to other respondent Industry members.

24. Respondent Industry members agreed to attempt, and did attempt, with some success, to prevent respondent honor roll members and other manufacturers of food service equipment from selling directly to chain stores.

25. Respondent Industry members agreed to solicit and obtain, and did solicit and obtain, through coercion, better prices and special

discounts from some respondent honor roll members and other manufacturers of food service equipment, for respondent Industry members.

26. Respondent Industry members agreed to enter into, and did enter into and thereafter carry out, an agreement and understanding with respondents, Standard Gas Equipment Corporation, Detroit-Michigan Stove Co., and American Stove Co., the three largest manufacturers of commercial gas ranges and cooking equipment in the United States, to monopolize in respondent Industry members, particularly in the New York and Chicago trading areas, the resale of commercial gas ranges and other cooking equipment manufactured by said three respondents, and to monopolize in said three respondents all purchases of such equipment by respondent Industry members, particularly in said areas.

27. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 26, and in furtherance thereof, the aforementioned respondents, Standard Gas Equipment Corporation, Detroit-Michigan Stove Co., and American Stove Co., did agree, among other things:

(a) To confine, and did confine, in said New York and Chicago areas, the exclusive sale and distribution of said equipment manufactured by the said three respondents, to respondent Industry members.

(b) To grant, and did grant, extra discounts, to respondent Industry members in the Chicago trade area, during the special campaign on the products manufactured by said three respondents, said special campaign being fostered and promoted by respondent I. S. Anoff, chairman of respondent Industry.

28. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 26, and in furtherance thereof, respondent Industry members, particularly in said New York and Chicago areas, agreed to purchase, and did purchase, most, if not all, of the aforementioned food service equipment manufactured by respondents, Standard Gas Equipment Corporation, Detroit-Michigan Stove Co., and American Stove Co., from said three respondents.

29. Respondent Industry members agreed to enter into, and did enter into, and thereafter carry out, through and by means of respondents, Industry, Industry officers, and Industry directors, and by other means and methods, an agreement and understanding with respondent Illinois Brass Manufacturing Co., whereby the said respondent Illinois Brass Manufacturing Co. did agree to, and did grant to, respondent Industry members exclusively, extreme discounts on the types of food service equipment manufactured by said respondent Illinois Brass Manufacturing Co., and whereby said respondent

Industry members, acting through and by means of respondent Industry, agreed, at least tacitly to make, and did make, special efforts to sell the particular food service equipment manufactured by said respondent Illinois Brass Manufacturing Co.

30. Respondent Industry members agreed to supervise and investigate, and did supervise and investigate, through and by means of respondents, Industry, Industry officers, and Industry directors, and by other means and methods, the practices and policies of competing dealers in food service equipment, and to act, and did act, concertedly to maintain the policies and practices, hereinbefore described in paragraph 17, to coercively require, and did coercively require, recalcitrant dealers and manufacturers of such equipment to recognize and conform to such policies and practices.

PAR. 19. Each of the respondents named in the caption hereof acted, and now acts, in concert and in cooperation with one or more of the other respondents, either directly, or through or by means of respondents, Industry, Industry officers, Industry directors, China association, or China association officers, or by other means or methods, in doing and performing the acts and things, hereinbefore alleged, in effectuating, furthering and requiring compliance with the restricting, restraining and unfair policies and trade practices adopted and carried into effect by respondent Industry members, as hereinabove alleged.

PAR. 20. The capacity, tendency and effect of the aforesaid agreements, combinations, policies, practices, and the acts and things done and performed by all of the respondents named in the caption hereof, in pursuance thereof, are, and have been:

1. To monopolize in respondent Industry members the selling and distribution of food service equipment to hotels, restaurants, clubs, institutions, and similar users of such equipment, throughout the United States, and in the District of Columbia.

2. To monopolize in respondents, honor roll members, China association members, Illinois Brass Manufacturing Co. and Columbia Stamping and Enameling Co., and such other manufacturers of various types of food service equipment whom respondent Industry members, acting through and by means of respondents, Industry officers and Industry directors, and by other means and methods, approve the manufacture and sale of such equipment throughout the United States and in the District of Columbia.

3. To create and set up the respondent honor roll members as a "White List" of manufacturers of various types of food service equipment signifying thereby that only those manufacturers of various types of food service equipment who receive honor roll certifi-

cates from respondent Industry, are to receive the business of respondent Industry members.

4. To prevent dealers in food service equipment throughout the United States and in the District of Columbia who are not members of respondent Industry from securing various types of food service equipment from the manufacturers thereof, especially from those manufacturers of such equipment who are recipients of honor roll certificates from respondent Industry.

5. To suppress, eliminate, and discriminate against those who are, or have been, engaged in, or desire to engage in, the sale and distribution of food service equipment anywhere in the United States, but who are not members of, or cannot become members of, or who do not wish to become members of, respondent Industry.

6. To unreasonably lessen, eliminate, restrain, stifle, hamper and suppress competition in the sale, or offering for sale, of various types of food service equipment throughout the United States, and in the District of Columbia, and thus to deprive hotels, restaurants, clubs, institutions and other similar users of such equipment of the advantages in price, service and other considerations which they would receive and enjoy under conditions of normal, unmolested, free and fair competition in the sale, and offering for sale, to them of such equipment, and to otherwise operate as a restraint upon, obstruction and deterrent to, the freedom of fair and legitimate competition in such trade and industry.

7. To obstruct and prevent the establishment throughout the United States and the District of Columbia of new dealers in food service equipment.

8. To prevent direct sales throughout the United States and in the District of Columbia by manufacturers of various types of food service equipment to hotels, restaurants, clubs, institutions and other similar users of same, chain stores, brokers, "price-cutters" and noncooperation nonmembers of respondent Industry.

9. To prevent competitive sales throughout the United States and in the District of Columbia by gas and electric utility companies to consumers of such equipment who ordinarily are customers of respondent Industry members.

10. To prevent manufacturers of various types of food service equipment from bidding in competition with respondent Industry members on W. P. A. projects.

11. To obstruct and prevent the establishment throughout the United States and in the District of Columbia of new manufacturers of various types of food service equipment.

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12. To burden, hamper, and interfere with the normal and natural flow of trade in commerce of food service equipment into, through and from the various States of the United States and in the District of Columbia.

13. To interfere with, suppress, and hamper the interstate supply of various types of food service equipment of those who are, or who desire to, engage in the sale and distribution of such equipment throughout the United States, and in the District of Columbia, but who are not now members of, or cannot become members of, or do not desire to become members of, respondent Industry.

14. To result in respondents, honor roll members, China association members, Illinois Brass Manufacturing Co. and Columbia Stamping and Enameling Co. boycotting and refusing to sell to, dealers, distributors and brokers of various types of food service equipment and those who desire to become such dealers, distributors and brokers, throughout the United States, and in the District of Columbia, but who are not members of, or cannot become members of, or who do not wish to become members of, respondent Industry.

15. To prejudice and injure manufacturers of various types of food service equipment, throughout the United States, and in the District of Columbia, who do not conform to respondents' said restricting, restraining and unfair policies and practices, or who do not desire to so conform, but are compelled to do so, by the concerted action of all of the respondents named in the caption hereof, as hereinbefore alleged.

16. To injure the competitors of respondents, Industry members, honor roll members, China association members, Illinois Brass Manufacturing Co., and Columbia Stamping and Enameling Co., by unfairly diverting business and trade from said competitors and otherwise oppressing them.

PAR. 21. The acts and practices of the respondents as herein alleged are all to the prejudice of competitors of respondents and of the public; have a dangerous tendency to and have actually hindered and prevented competition in the sale of various types of food service equipment in commerce within the intent and meaning of the Federal Trade Commission Act; have unreasonably restrained such commerce in said food service equipment; have a dangerous tendency to create in respondents a monopoly in the sale of such equipment, 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 26th day of December 1940,

issued, and thereafter had 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 the said act. All of said respondents, except respondents, United States Stamping Co. and Scammell China Co., 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 all of the respondents (including the aforementioned respondents, United States Stamping Co. and Scammell China Co.) except respondent, Illinois Brass Manufacturing Co., 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, 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 stipulations, said stipulation having been approved, accepted and filed, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Food Service Equipment Industry, Inc., hereinafter referred to as "respondent Industry" is a nonprofit corporation organized under the laws of the State of Illinois on July 25, 1933, and existing and doing business by virtue of the laws of said State since that date, with its office and principal place of business being located at 2155 Pershing Road, Chicago, Ill.

Its officers are now, and since its organization have been, the following respondents, hereinafter referred to as "respondent Industry officers."

I. S. Anoff, chairman, who is also president and director of respondent Albert Pick Co., Inc., his address being in care of Albert Pick Co., Inc., 2151 Pershing Road, Chicago, Ill.

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M. P. Duke, vice-chairman, who is also president of respondent Duke Manufacturing Co., his address being in care of Duke Manufacturing Co., 2222 North 9th Street, St. Louis, Mo.

(Miss) L. E. Iwert, secretary, whose address is 2159 Pershing Road, Chicago, Ill.

S. R. Sperans, treasurer, who is also president of respondent Straus-Duparquet, Inc., and whose address is in care of Straus-Duparquet, Inc., 630 Sixth Avenue, New York, N. Y.

Its directors, hereinafter referred to as "respondent Industry directors," from the time of its organization until April 1940, and up to the time of the filing of the complaint herein, with the exception of respondents H. C. Davis, P. L. Ezekiel, and C. Winkler, who were replaced as such directors in April 1940, are, and have been, the following respondents:

A. H. Beadle, vice president, Joesting & Schilling Co., Inc., St. Paul, Minn.

S. J. Carson, manager, Carson Crockery Company, Denver, Colo.

H. C. Davis, in care of F. A. Davis & Sons, Baltimore, Md.

W. F. Dougherty, president, W. F. Dougherty & Sons, Inc., Philadelphia, Pa.

B. Dohrmann, vice president, Dohrmann Hotel Supply Company, San Francisco, Calif.

P. L. Ezekiel, president, Ezekiel & Wellman Co., Inc., Richmond, Va.

A. W. Forbriger, in care of John Van Range Company, Cincinnati, Ohio.

W. Friedman, in care of H. Friedman & Sons, Inc., 30 Cooper Square, New York, N. Y.

C. A. Winchester, treasurer, Thompson-Winchester Company, Inc., Boston, Mass.

C. Winkler in care of Greene-Winkler Company, Inc., Seattle, Wash.

PAR. 2. The control, direction, and management of respondent Industry's affairs, policies and actions have been vested in respondent Industry officers and Industry directors, and still are, with the exception of the aforementioned respondents H. C. Davis, P. L. Ezekiel, and C. Winkler.

PAR. 3. The membership of respondent Industry consists of approximately 100 corporations, firms, partnerships, and individuals, all of whom are dealers in various types of food service equipment for hotels, restaurants, clubs, institutions and other such classes of business, the primary business of said members being the purchase and resale of such equipment, with said members constituting most of the leading dealers in such equipment throughout the United States. Certain of the members of respondent Industry are manufacturers of kitchen, restaurant and cafeteria equipment, which, in a large part, must be especially designed and manufactured for each particular installation.

The number of members of said respondent Industry vary from year to year. The following respondents, hereinafter referred to as

“respondent Industry members,” are represented members of respondent Industry:

A. L. Cahn & Sons, a corporation organized and existing under the laws of the State of New York with its office and principal place of business located at 46 Cooper Square, New York, N. Y.

Duke Manufacturing Co., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 2222 North 9th Street, St. Louis, Mo.

Ezekiel & Weillman Co., Inc., a corporation organized and existing under the laws of the State of Virginia, with its office and principal place of business located at 7th and Cary Streets, Richmond, Va.

Alex Janows & Company, a corporation organized and existing under the laws of the State of Illinois with its office and principal place of business located at 1645 West Carroll Avenue, Chicago, Ill.

Albert Pick Co., Inc., a corporation organized and existing under the laws of the State of Delaware, with its office and principal place of business located at 2151 Pershing Road, Chicago, Ill.

The Stearnes Company, a corporation organized and existing under the laws of the State of Illinois, with its office and principal place of business located at 1333 South Wabash Avenue, Chicago, Ill.

Straus-Duparquet, Inc., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 630 Sixth Avenue, New York, N. Y.

PAR. 4. Respondent Industry annually selects certain manufacturers of the various types of food service equipment, which are resold by respondent Industry members to receive honor roll certificates from respondent Industry, in recognition of said manufacturers' cooperation with, and adoption of, the policies and practices of respondent Industry, which policies and practices are hereinafter set out.

The honor roll certificates which respondent Industry thus awards read as follows:

Presented to _____ in recognition of your cooperation with the policies of the Food Service Equipment Industry, Inc., in promoting friendly relations between manufacturers and dealers who (1) carry stocks, (2) maintain display rooms, (3) employ a sales organization, (4) extend credit facilities, (5) offer delivery service.

Expires June 30, 19—

S. R. SPERENS,

Treasurer,

S. S. ANOFF,

Chairman.

The recipients of such honor roll certificates, hereinafter referred to as “Honor Roll Members,” are invited to attend meetings of respondent Industry. The status of being an honor roll member is not permanent, but honor roll certificates are granted from year to year by respondent Industry, respondent Industry members each year deciding as to what manufacturers should be placed on the honor roll.

Just prior to the close of the fiscal year on June 30, in each year, ballots are mailed out by respondent Industry to all respondent Industry members, containing the names of all manufacturers who appeared on the "Roll of Honor" during the preceding year, and respondent Industry members are required to check the list and suggest any changes or additions thereto; the ballots are then submitted to respondent Industry directors for approval.

To remain an honor roll member the manufacturer is required to observe the sales policy hereinafter set out in subdivision 9 of paragraph 17. Questions as to whether manufacturers on the Honor Roll have observed such sales policy have at various times been the subject of disagreement between respondents, Industry members and honor roll members.

The Commission finds that through the selection of honor roll members by respondent Industry, in the manner herein described, the respondent Industry compels or attempts to compel compliance by said honor roll members with the sales policy of said respondent, hereinafter set out in subdivision 9 of paragraph 17.

There are approximately 40 or 45 manufacturers of food service equipment who are honor roll members of respondent Industry, with the number of said members varying from year to year. The following respondents, hereinafter referred to as "respondent Honor Roll Members," all of whom were recipients of said honor roll certificates from respondent Industry for the year 1940, are representative of the honor roll members:

American Stove Co., a corporation organized and existing under the laws of the State of New Jersey, with its office and principal place of business located at 825 Choteau Avenue, St. Louis, Mo.

Josiah Anstice & Co., Inc., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 97 Humboldt Street, Rochester, N. Y.

G. S. Blakeslee & Co., a corporation organized and existing under the laws of the State of Illinois, with its office and principal place of business located at West 19th and South 52nd Streets, Cicero, Ill.

G. S. Blodgett Co., Inc., a corporation organized and existing under the laws of the State of Vermont, with its office and principal place of business located at 59 Maple Street, Burlington, Vt.

Carrollton Metal Products Co., a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business located at Carrollton, Ohio.

Colt's Patent Fire Arms Manufacturing Co., a corporation organized and existing under the laws of the State of Connecticut, with its office and principal place of business located at Hartford, Conn.

Detroit-Michigan Stove Co., a corporation organized and existing under the laws of the State of Michigan, with its office and principal place of business located at 6900 East Jefferson Avenue, Detroit, Mich.

Hobart Manufacturing Co., a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business located at Troy, Ohio.

Lalance-Grosjean Manufacturing Co., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 92nd Street and Atlantic Avenue, Woodhaven, Long Island, N. Y.

McGraw Electric Co., a corporation organized and existing under the laws of the State of Delaware, with its office and principal place of business located at 120 South LaSalle Street, Chicago, Ill.

Polar Ware Co., a corporation organized and existing under the laws of the State of Wisconsin, with its office and principal place of business located at Sheboygan, Wis.

Standard Gas Equipment Corporation a corporation organized and existing under the laws of the State of Maryland, with its principal corporate office located in Baltimore, Maryland, and its principal sales office located at 18 East 41st Street, New York, N. Y.

United States Stamping Co., a corporation organized and existing under the laws of the State of West Virginia, with its office and principal place of business located at Moundsville, W. Va.

Vollrath Co., a corporation organized and existing under the laws of the State of Wisconsin, with its office and principal place of business located at Sheboygan, Wis.

PAR. 5. Respondent, Illinois Brass Manufacturing Co., is a corporation organized and existing under the laws of the State of Illinois, with its office and principal place of business located at 224 North Ada Street, Chicago, Ill.

Respondent, Columbian Enameling & Stamping Co., Inc., referred to in the complaint as "Columbia Stamping & Enameling Co.," is a corporation organized and existing under the laws of the State of Indiana, with its office and principal place of business being located at 1536 Beech Street, Terre Haute, Ind.

Although the complaint referred to this respondent as Columbia Stamping & Enameling Co., and further stated that it was incorporated under the laws of the State of New York, with its principal place of business being located at 40-05 Twenty-first Street, Long Island City, N. Y., the respondent Columbian Enameling & Stamping Co., Inc., having admitted proper service upon it of the complaint, and having waived, by the signatures of its attorneys of record to the stipulation as to the facts, any and all defenses which it might have possessed because of the failure of the complaint to properly state its name, address and State of incorporation, the Commission finds that the respondent Columbian Enameling & Stamping Co., Inc., to all legal intents and purposes, shall be, and is, considered as though its proper name, address and State of incorporation were set out in the complaint.

PAR. 6. The Commission finds with reference to respondent Illinois Brass Manufacturing Co. that it was not a party to, or a participant in, any of the agreements and understandings by and between the respondent Industry members and the various other respondents, which agreements and understandings are hereinafter set out.

PAR. 7. Respondent American Vitriified China Manufacturers Association, hereinafter referred to as "respondent China Association," is an unincorporated association organized in 1918, with its office and place of business located in Shenango Pottery Co., New Castle, Pa.

Its active officers, hereinafter referred to as "respondent China Association Officers" are respondent Albert M. Walker, its president, whose address is in care of Bailey-Walker China Co., Bedford, Ohio, and respondent James K. Love, its secretary-treasurer, who is vice president of Shenango Pottery Co., New Castle, Pa.

PAR. 8. The Commission finds the following respondents, hereinafter referred to as "respondent China Association Members," all manufacturers of vitrified china products, comprised the membership of respondent China Association as of July 26, 1940:

Bailey-Walker China Co., a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business located at Bedford, Ohio; Buffalo Pottery, Inc., referred to in the complaint as "Buffalo Pottery Co., Inc.," is a corporation, incorporated in October, 1940, under the laws of the State of New York, with its office and principal place of business being located at Seneca Street and Hayes Place, Buffalo, N. Y. It succeeded, in October 1940, to the business of Buffalo Pottery Co., Inc., taking over the business and assets of said Buffalo Pottery Co., Inc.; it retained the membership of its said predecessor in respondent China Association; it adopted, approved, ratified and continued to carry out, the agreement, which is hereinafter set out, which said Buffalo Pottery Co., Inc., as a member of said respondent China Association, entered into in 1939 with respondent Industry members. Furthermore, said respondent's predecessor, Buffalo Pottery Co., Inc., was the recipient of an honor roll certificate from respondent Industry, and respondent Buffalo Pottery, Inc., as the successor to the business and assets of said Buffalo Pottery Co., Inc., assumes and is responsible for any and all benefits and obligations which the said Buffalo Pottery Co., Inc., may have acquired through the receipt and acceptance by it of the said honor roll certificate from respondent Industry.

Carr China Company, a corporation, organized and existing under the laws of the State of West Virginia, with its office and principal place of business located at Grafton, W. Va.

Iroquois China Co., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 2320 Milton Street, Solvay, N. Y.

Jackson Vitriified China Co., a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business located at Falls Creek, Pa.

D. E. McNichol Co. of W. Va., a corporation organized and existing under the laws of the State of West Virginia, with its office and principal place of business

located at Clarksburg, W. Va. (This respondent is also a recipient of an honor roll certificate from respondent Industry.)

Mayer China Company, a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business located at Second Avenue and 6th Street, Beaver Falls, Pa.

Onondaga Pottery Co., a corporation organized and existing under the laws of the State of New York, with its office and principal place of business located at 1856-58 West Fayette Street, Syracuse, N. Y.

Scammell China Company, a corporation organized and existing under the laws of the State of New Jersey, with its office and principal place of business located at Third and Landing Streets, Trenton, N. J.

Shenango Pottery Co., a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business located at New Castle, Pa.

Sterling China Company, a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business located at Twelfth and Anderson Streets, Wellsville, Ohio.

Wellsville China Co., a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business located at Wellsville, Ohio.

PAR. 9. In the course and conduct of their respective businesses, respondent Industry members purchase the various types of equipment which they resell, from respondent honor roll members, China association members and other manufacturers thereof, and as part of such purchases cause said equipment to be shipped or transported into the States of the United States where the respective places of business of said respondent Industry members are located, from other States of the United States.

Said respondent Industry members also, in the course and conduct of their respective businesses, resell and distribute such equipment to hotels, restaurants, clubs, institutions and other such types of users thereof, located throughout the United States and, as a part of said sales, transport, or cause to be transported, such equipment from their respective places of business to said purchasers located in States of the United States other than the States of origin of such shipments.

Respondent honor roll members and China association members, in the course and conduct of their respective businesses, sell and distribute the various types of food service equipment manufactured by them, to the purchasers thereof, including respondent Industry members, and, as a part of said sales, transport, or cause to be transported, said equipment from their respective places of business to these purchasers thereof located in the States of the United States other than the States of origin of said shipments.

All of said respondent Industry members, honor roll members and China association members are, and were during the period hereinafter set forth, engaged in commerce between and among the several States of the United States and in the District of Columbia.

PAR. 10. Respondent Industry, Industry officers, Industry directors, China association and China association officers, all aided, abetted, furthered, cooperated with, and were instrumentalities of, and parties to, some or all of the understandings, agreements and combinations herein set out, and actively participated in the performance of some or all of the acts and things done in pursuance thereto and in furtherance thereof.

PAR. 11. The Commission finds that respondent Industry officers, Industry directors and China association officers, in aiding, abetting, furthering, cooperating with and being instrumentalities of, and parties to, some or all of the understandings, agreements and combinations herein set forth, and in actively participating in the performance of some or all of the acts and things done in pursuance thereto and in furtherance thereof, did not act individually but acted in their official capacities as Industry officers, Industry directors or China association officers.

PAR. 12. In the course and conduct of their respective businesses, respondent Industry members, but for the policies, acts and practices hereinafter found, naturally and normally would be in competition with each other and with other various types of dealers and jobbers in food service equipment for hotels, restaurants, clubs, institutions and other such types of users of such equipment, which is manufactured and sold by respondent honor roll members and China association members, and other manufacturers of such equipment, in selling and seeking to sell same in commerce between and among the several States of the United States and in the District of Columbia, to the ultimate users of such equipment.

Those jobbers or dealers in food service equipment who do not meet the requirements of respondent Industry, as hereinafter found, for the classification of "legitimate jobbers" or "recognized dealers," likewise purchase or seek to purchase such equipment from the manufacturers thereof, including respondent honor roll members and China association members, and as part of said purchases which are made or sought to be made by said competitors, the manufacturers of said equipment, including the aforementioned respondents, do, did, or would transport, or cause, did or would cause, such equipment to be shipped to the various places of business of said competitors located in States of the United States which are, or would be, different from the States of origin of such shipments. Such trade and commerce between and among the various States of the United States and in the District of Columbia in such equipment, to said jobbers and dealers, have been hindered and forestalled, in the manner and by the methods hereinafter found.

PAR. 13. In the course and conduct of their respective businesses, respondent honor roll members and China association members, but for the policies, acts and practices hereinafter found, naturally and normally would be in competition with each other, and with other manufacturers of the same types of equipment used for food service which they manufacture, in selling and seeking to sell such equipment in commerce between and among the several States of the United States and in the District of Columbia, to respondent Industry members, competitors of said respondent Industry members, who are not classified as "legitimate jobbers" or "recognized dealers" by respondent Industry, and also directly to the ultimate users of said equipment.

PAR. 14. In the course and conduct of their respective businesses, respondent honor roll members and China association members, but for the policies, practices and acts herein found, naturally and normally would be in competition with respondent Industry members in selling and seeking to sell, in commerce between and among the various States of the United States and in the District of Columbia, to the ultimate users thereof, the various types of food service equipment manufactured by said respondent honor roll members and China association members.

PAR. 15. Respondent Industry members, acting through and by means of respondent Industry, Industry officers and Industry directors, since about 1933, have entered into and carried out agreements and understandings with the other respondents, as herein found, and by other means and methods have combined together, and with others, and have united in and pursued a common and concerted course of action and undertaking, among themselves, with the other respondents, and with others, to adopt, carry out, enforce and maintain throughout the United States certain restricting, restraining and unfair policies and trade practices, herein found, which said respondent Industry members adhered to among themselves and which they have effectuated by the means and methods herein found.

PAR. 16. Among the said policies and trade practices referred to in the preceding paragraph, which were so formulated, adopted and put into effect by the respondents, are the following:

1. A policy and practice of selecting and classifying, according to certain standards set up by respondent Industry, jobbers and dealers in food service equipment throughout the United States as being or not being "legitimate jobbers" or "recognized dealers," who are defined by respondent Industry as being those dealers or jobbers who carry stock, maintain display rooms, employ a sales organization, extend credit facilities, and offer delivery service.

2. A policy and practice of accepting applications for membership in respondent Industry only from firms that, in the judgment of respondent Industry, (a) are "legitimate jobbers" or "recognized dealers" as those terms are defined by respondent Industry, and (b) are of good reputation and standing.

3. A policy and practice of securing new members upon application of prospective members submitted generally and principally upon invitation of respondent Industry members; such applications have, however, in some instances been submitted and accepted without prior invitation from respondent Industry members. All applications, regardless of source, are submitted to respondent I. S. Anoff, Chairman of respondent Industry, by whom such applications are thereafter referred to respondent Industry directors for final action.

4. A policy and practice of urging all manufacturers of food service equipment to sell same through respondent Industry members or through the jobbers or dealers in such equipment, whom respondent Industry has selected and classified as "legitimate" or "recognized," and not to sell such equipment directly to the ultimate users thereof.

5. A policy and practice of selecting certain specific manufacturers of food service equipment who cooperate with respondent Industry's purposes and policies, as recipients of respondent Industry's "Honor Roll Certificates."

6. A policy and practice of protesting to manufacturers of food service equipment who sell such equipment to any jobbers or dealers other than respondent Industry members or those jobbers or dealers who are classified by respondent Industry as "legitimate" or "recognized."

7. A policy and practice of protesting to manufacturers of food service equipment who sell same directly to public service companies, chain stores and other large purchasers of such equipment unless such sales are made on a competitive equality with the prices which such purchasers could receive from "legitimate jobbers" or "recognized dealers," as the same are classified by respondent Industry.

8. A policy and practice of urging and suggesting to respondent Industry members that they give preference to respondent honor roll members in the purchase by said respondent Industry members of the various types of food service equipment which are manufactured by said respondent honor roll members.

9. A policy and practice of entering into, and thereafter carrying out, specific agreements and understandings with respondent honor roll members and China association members, for the purpose, intent, and with the effect of carrying out the policies and practices hereinbefore enumerated in this paragraph.

The Commission finds that, in effect, the respondent Members have adopted and carried out a general policy and practice of reducing competition throughout the United States, in the sale and offering for sale of various types of food service equipment by the manufacturers thereof, and of tending to create and maintain a monopoly in such trade by respondent honor roll members and China association members and also of reducing competition throughout the United States in the resale of such equipment, and of tending to create and maintain a monopoly in respondent Industry members and in those dealers and jobbers in food service equipment whom respondent Industry classifies as "legitimate jobbers" or "recognized dealers," in such trade and commerce throughout the United States.

PAR. 17. For the purpose of making such policies and practices effective, and of requiring compliance therewith by all food service equipment dealers and manufacturers of such equipment, throughout the United States, respondents have done, and performed, among other acts and things, the following:

1. Respondent Industry members agreed to formulate, adopt, follow, carry out and make effective, and have formulated, adopted, followed, and in a great number of instances made effective, the policies and practices described in the preceding paragraph.

2. Respondent Industry members agreed to hold, and have held, at least one national meeting each year, at which said policies and practices were discussed, adopted and agreed to.

3. Respondent Industry members agreed to form, and have formed, local organizations of Industry members, particularly in New York, N. Y.; Boston, Mass.; Chicago, Ill.; Miami, Fla.; and St. Louis, Mo.

4. Respondent Industry members agreed to hold, and have held, frequent meetings of the respondent membership of said local organizations, at which said policies and practices were discussed, adopted and agreed to.

5. Respondent Industry directors agreed to hold, and have held, meetings at which said policies and practices were discussed, adopted and agreed to.

6. Respondent Industry members have agreed to appoint, and have appointed, through and by means of respondent Industry, Industry officers and Industry directors, special committees to enforce said policies and practices, and also to confer and enter into agreements and understandings with representatives of respondent honor roll members and other manufacturers of various types of food service equipment which are resold by said respondent Industry members, for the purpose, intent and with the effect of, carrying out said policies and practices.

7. Respondent Industry members agreed to issue and disseminate, and have issued and disseminated, through and by means of respondent Industry, Industry officers and Industry directors, a monthly bulletin entitled "Food Service Equipment Industry Bulletin," to respondents, Industry members, honor roll members and other manufacturers of food service equipment, in which Bulletin the activities of respondent Industry are summarized, a complete list of the membership of respondent Industry given and also a full list of the current holders of honor roll certificates from respondent Industry.

8. Respondent Industry members have agreed to issue, and have issued, from time to time, through and by means of respondent Industry, to respondent honor roll members and other manufacturers of food service equipment throughout the United States, a complete list of all such jobbers and dealers of food service equipment throughout the United States, numbering approximately 600, as respondent Industry has selected and classified as "legitimate jobbers" or "recognized dealers".

9. Beginning in 1937, and continuing thereafter, respondent Industry members have, through respondent Industry, agreed to issue, and have issued, annually to honor roll members, honor roll certificates, which signify that said respondent Honor Roll Members have entered into, and thereafter carried out, an agreement, understanding and combination with respondent Industry, acting for and on behalf of respondent Industry members, in the sale of food service equipment by the manufacturers thereof, and in the resale and distribution of such equipment in said commerce by dealers thereof. Pursuant to said understanding, agreement and combination, and in furtherance thereof, respondent honor roll members, in effect:

(a) agreed, and agree, not to sell, and, in many instances, do not sell, the various types of food service equipment manufactured by them, through any broker, jobber or dealer, other than the "recognized dealers" or "legitimate jobbers" so defined and classified by respondent industry.

(b) agreed, and agree, to discontinue selling, and, in many instances, have discontinued selling, the various types of food service equipment manufactured by them, to curbstone brokers, commission agents, and others who are not "legitimate jobbers" or "recognized dealers" as defined and classified by respondent industry.

(c) agreed, and agree, to discontinue selling, and, in many instances, have discontinued selling, directly to hotels, restaurants, chain stores and similar large volume purchasers of food service equipment, on any basis other than that of a competitive equality, with the prices such purchasers could receive from "legitimate

jobbers" or "recognized dealers" as same are defined and classified by respondent Industry.

10. Pursuant to said understanding, agreement and combination, hereinbefore set out in subparagraph 9, and in furtherance thereof, respondent Industry members agreed to, and do, give preference to respondent honor roll members in the purchase by said respondent Industry members of the various types of food service equipment which are manufactured by said respondent honor roll members.

11. Respondent Industry members agreed to submit, and do submit, any complaints with reference to respondent honor roll members to respondent Industry's committee on merchandising.

12. Respondent Industry members agreed to require, and do require, said respondent Industry's committee on merchandising to investigate such complaints and report back to respondent Industry directors as to whether such manufacturers should be dropped from respondent Industry's honor roll, and respondent Industry directors decide whether or not this should be done.

13. Respondent Industry members agreed to publish, and do publish, in each issue of its monthly bulletins all of the names of respondent honor roll members.

14. In about 1937, respondent Industry members agreed to enter into, and did enter into, and thereafter carry out, by means of respondent Industry, Industry officers and Industry directors, an agreement and understanding with respondents Carrollton Metal Products Co., Polar Ware Co., Lalance-Grosjean Manufacturing Co., United States Stamping Co. and Vollrath Co., all of whom are manufacturers of stainless steel and enamel cooking utensils and other similar products, for food service equipment. Said agreement and understanding tend to have the effect of monopolizing in respondent Industry members the resale of such equipment to hotels, restaurants, clubs, institutions and similar buyers of same throughout the United States, and also have had the effect of tending to monopolize in said respondent manufacturers of food service equipment all purchases of same by respondent Industry members and by those jobbers and dealers of such equipment whom respondent Industry classifies as "legitimate jobbers" and "recognized dealers." Pursuant to said agreement and understanding, and in furtherance thereof, the respondent manufacturers made the following specific agreements which were, to a substantial extent, observed and carried out by said respondents:

(a) To refrain from selling to any new hotel accounts or like buyers, directly, or through any commission agent, broker or any

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other channel of distribution other than "legitimate jobbers" and "recognized dealers," as defined by respondent Industry.

(b) To attempt to eliminate before October 1, 1937, all existing direct or brokerage accounts and divert this business exclusively to respondent Industry members.

15. Pursuant to said agreement and understanding, hereinbefore set forth in subparagraph 14, and in furtherance thereof, respondent Industry members agreed to give, and do give, preference in their purchases of stainless steel and enamel cooking utensils and similar products used as food service equipment to said respondent manufacturers.

16. In about 1939, respondent Industry members agreed to enter into, and did enter into, and thereafter carry out, in many instances, an agreement and understanding with respondent China association members, acting through and by means of respondents China association and China association officers, which tends to have the effect of monopolizing in respondent Industry members, and in those dealers and jobbers whom respondent Industry classifies as "legitimate jobbers" and "recognized dealers," the resale of various types of vitrified china products manufactured by respondent China association members to hotels, restaurants, clubs, institutions and similar buyers of same throughout the United States, and which likewise tends to have the effect of monopolizing in respondent China association members all purchases of such equipment by respondent Industry members and those jobbers and dealers whom the respondent Industry classifies as "legitimate jobbers" and "recognized dealers." Pursuant to said understanding and agreement, respondent China association members, acting through and by means of respondents China association and China association officers, specifically agreed:

(a) To sell directly to department stores for their restaurants, only where such stores have china departments.

(b) To use their best endeavors to sell, through dealers, department stores having no china departments.

(c) To sell chain stores through dealers where this is possible.

(d) To cease immediately from taking on any new direct-to-consumer accounts.

(e) To cease immediately taking on any new broker or commission agent accounts; and

(f) To refrain from quoting prices to consumers without having first received the consent of the dealer as to the mark-up to be used.

Pursuant to said understanding and agreement respondent Industry members specifically agreed to:

(a) Cease pitting one manufacturer against another in an endeavor to force down prices.

(b) Cease requesting the copying of other American Manufacturers' designs.

(c) Cease demanding and accepting volume discounts.

(d) Cease soliciting business on the same decoration on the same makes of china as now being supplied by another dealer.

(e) Practice better ethics; that is, if a dealer is given the exclusive right to quote on some specific proposition on one make of china, he should confine his offering to the consumer to that particular brand and not accept an order for any other make of china.

17. Respondent Industry members agreed to attempt, and did attempt, by the various methods hereinbefore set forth to prevent, and in some cases did prevent, the respondent honor roll members and other manufacturers of food service equipment from selling directly to chain stores, hotels, restaurants and similar large volume purchasers of food service equipment, on any basis other than that of a competitive equality with the prices such purchasers could receive from the "legitimate jobbers" or "recognized dealers," which are defined, selected and classified as such by respondent Industry;

18. Respondent Industry members agreed to supervise and investigate, and did supervise and investigate, through and by means of respondent Industry, Industry officers and Industry directors, and by other means and methods, the practices and policies of competing dealers in food service equipment, and agreed to act, and did act, concertedly to maintain the policies and practices, hereinbefore described in paragraph 16.

PAR. 18. Although respondent Columbian Enameling and Stamping Co., Inc., had a representative at the meeting, in about 1937, at which the respondents Carrollton Metal Products Co., Polar Ware Co., Lalance-Grosjean Manufacturing Co., United States Stamping Co., and Vollrath Co., entered into the agreement with the respondent Industry members which has hereinbefore been set forth in subparagraph 14 of paragraph 17 this representative of respondent Columbian Enameling and Stamping Co., Inc., took no part in the actual discussions regarding the agreement and was not present at the meeting when the resolution embodying such agreement was adopted. The Commission, therefore, finds that said respondent Columbian Enameling & Stamping Co., Inc., was not a party to such agreement.

PAR. 19. Each of the respondents named in the caption hereof, except respondents Illinois Brass Manufacturing Co. and Columbian Enameling & Stamping Co., Inc., acted in concert and in cooperation with one or more of the other respondents, either directly or through or by means of respondent Industry, Industry officers, Industry

directors, China association or China association officers, or by other means or methods, in doing and performing the acts and things hereinbefore found, in effectuating, furthering and requiring compliance with the policies and trade practices adopted and carried into effect by respondent Industry members, as hereinabove found; and which, with respect to respondents China association, China association officers and China association members, who do not hold honor roll certificates, appear in subparagraph 16 of paragraph 17 hereof.

PAR. 20. The Commission finds, from all of the foregoing facts, that the capacity, tendency, and effect of the aforefound agreements, combinations, policies, practices, and acts and things done and performed in pursuance thereof, as have hereinbefore been found, have been and are:

1. To create and set up the respondent honor roll members as a "White List" of manufacturers of various types of food service equipment, signifying thereby that only those manufacturers of various types of food service equipment who receive honor roll certificates from respondent Industry, are to receive preference in the placement of business by respondent Industry members.

2. To prevent dealers in food service equipment throughout the United States and in the District of Columbia who are not members of respondent Industry or who are not selected and classified by respondent Industry as "legitimate jobbers" or "recognized dealers" from procuring various types of food service equipment from the manufacturers thereof, who are recipients of honor roll certificates from respondent Industry, and from those other manufacturers of such equipment who cooperate with respondent Industry, including respondent China association's members.

3. To suppress, eliminate and discriminate against those who are, or have been, engaged in, or desire to engage in, the sale and distribution of food service equipment anywhere in the United States, but (a) who are not members of, or cannot become members of, or who do not wish to become members of, respondent Industry, or (b) who are not selected, classified and designated by, respondent Industry as "legitimate jobbers" or "recognized dealers".

4. To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in the sale, or offering for sale, of various types of food service equipment throughout the United States, and in the District of Columbia, and thus to deprive hotels, restaurants, clubs, institutions, and other similar purchasers and users of such equipment of the advantages in price, service and other considerations

which they would receive and enjoy under conditions of normal, unmolested, free and fair competition in the sale, and offering for sale, to them of such equipment, and to otherwise operate as a restraint upon, obstruction and deterrent to, fair and legitimate competition in such trade and industry.

5. To reduce substantially direct sales throughout the United States and in the District of Columbia by manufacturers of various types of food service equipment to hotels, restaurants, chain stores and similar large volume purchasers of food service equipment.

6. To burden, hamper, and interfere with the normal and natural flow of trade in commerce of food service equipment into, through and from the various States of the United States and in the District of Columbia.

7. To interfere with, suppress and hamper the interstate supply of various types of food service equipment of those who are engaged in or who desire to engage in, the sale and distribution of such equipment throughout the United States, and in the District of Columbia, but (a) who are not now members of, or cannot become members of, or do not desire to become members of, respondent Industry, or (b) who are not selected, classified and designated as "legitimate jobbers" or "recognized dealers" by respondent Industry.

8. To cause respondent honor roll members and China association members to boycott and refuse to sell dealers, distributors, and brokers of various types of food service equipment and those who desire to become such dealers, distributors and brokers, throughout the United States, and in the District of Columbia, but who (a) are not members of, or cannot become members of, or who do not wish to become members of respondent Industry, or (b) who are not selected, classified and designated by respondent Industry as "legitimate jobbers" or "recognized dealers".

9. To prejudice and injure manufacturers of various types of food service equipment, throughout the United States and in the District of Columbia, who do not conform to respondent Industry members' policies and practices, or who do not desire to so conform, but are compelled to do so, by the concerted action of the respondent Industry, Industry officers, Industry directors, honor roll members, China association, China association officers and China association members, as hereinbefore set out.

10. To injure the competitors of respondent Industry members, honor roll members and China association members by unfairly diverting business and trade from said competitors.

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CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice of competitors of the respondents and to the public; have a dangerous tendency to hinder and prevent, and have actually hindered and prevented competition in the sale and distribution of various types of food service equipment in commerce within the intent and meaning of section 4 of the Federal Trade Commission Act; have unreasonably restrained such commerce in said food service equipment; have a dangerous tendency to create in respondents a monopoly in the sale of such equipment, and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents and a stipulation as to the facts entered into by all of the respondents, except Illinois Brass Manufacturing Co., 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 named in said stipulation, 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 all of the respondents named in the caption hereof, except respondents Illinois Brass Manufacturing Co. and Columbian Enameling & Stamping Co., Inc. (referred to in the complaint as Columbia Stamping & Enameling Co), have violated Section 5 of the provisions of the Federal Trade Commission Act, the Commission issues the following order to cease and desist from such violations.

I

It is ordered, That respondents Food Service Equipment Industry, Inc., a nonprofit corporation, I. S. Anoff, M. P. Duke, (Miss) L. E. Iwert, and S. R. Sperans, as officers of respondent Food Service Equipment Industry, Inc., A. H. Beadle, S. J. Carson, H. C. Davis, W. F. Dougherty, B. Dohrmann, P. L. Ezekiel, A. W. Forbriger, W. Friedman, C. A. Winchester, and C. Winkler, as directors of respondent Food Service Equipment Industry, Inc., together with any and all of the other officers, directors, representatives, agents, and employees of said respondent Food Service Equipment Industry,

Inc., and its successors and assigns, and all of the members of respondent Food Service Equipment Industry, Inc., their officers, directors, representatives, agents, and employees, successors and assigns, and which members were made respondents herein by naming as their representatives, respondents A. L. Cahn & Sons, a corporation, Duke Manufacturing Co., a corporation, Ezekiel & Weilman Co., Inc., a corporation, Alex Janows & Company, a corporation, Albert Pick Co., Inc., a corporation, The Stearnes Company, a corporation, and Straus-Duparquet, Inc., a corporation, directly or indirectly or through any corporate or other device, in connection with the sale, offering for sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food service equipment of any type or description, do forthwith cease and desist from continuing, entering into, or carrying out, any agreement, understanding or combination, express or implied, between or among themselves or with any of the other respondents named in the caption hereof, or with others, and from concerted action or cooperative effort, for the purpose, intent, or with the effect of lessening, eliminating, restricting, hampering, suppressing or forestalling competition in the sale, or offering for sale of such equipment in said commerce, by the following methods, policies, practices, acts or things, or any one or more thereof to wit:

1. Selecting or classifying, according to any standards set up by respondent Food Service Equipment Industry, Inc., jobbers or dealers in such equipment as being or not being "legitimate" or "recognized," or by, or according to, any other classification, whereby certain jobbers or dealers in such equipment are, in any manner or by any method, given any form of approval by said respondent Food Service Equipment Industry, Inc., to resell food service equipment, or whereby certain jobbers or dealers are differentiated from other jobbers or dealers in such equipment, for the purpose, or with the intent, or with the effect, of thereby securing, or attempting to secure, for any particular jobbers or dealers or classes of jobbers or dealers in such equipment any special or particular benefits of any nature or description not granted to, or secured by, or for, any other jobbers or dealers in such equipment.

2. Issuing, distributing, or circulating by any means or method, to or among manufacturers of food service equipment of any nature or description, a list or enumeration of those jobbers or dealers in such equipment whom respondent Food Service Equipment Industry, Inc., has designated, selected or classified for the purposes herein prohibited in subparagraph 1 of this paragraph.

3. Securing, selecting or designating firms, by any means or methods, as members of respondent Food Service Equipment Industry, Inc., where the intent, purpose or effect of said membership is to secure, or attempt to secure, for such members, from the manufacturers of such equipment, special or particular benefits or privileges of any nature or description, not granted or offered by such manufacturers to firms who are not members of respondent Food Service Equipment Industry, Inc.

4. Urging or advocating in any manner, or by any method, manufacturers of food service equipment of any nature or description to sell such equipment exclusively or solely through, or by means of members of respondent Food Service Equipment Industry, Inc., or through, or by means of particular or designated jobbers or dealers in food service equipment whom respondent Food Service Equipment Industry, Inc., may classify or designate in such a manner as to set them apart from other jobbers, dealers, or brokers in such equipment.

5. Protesting in any manner, or by any method, to any manufacturer of food service equipment of any nature or description because of such manufacturer's selling such equipment to any jobbers or dealers in such equipment other than those who are members of respondent Food Service Equipment Industry, Inc., or to those jobbers or dealers who are especially selected, classified or approved by respondent Food Service Equipment Industry, Inc., in the manner hereinbefore described in subparagraph 1 of this paragraph, as being entitled to resell such equipment.

6. Urging or advocating in any manner, or by any method, manufacturers of food service equipment of any nature or description to refrain from selling such equipment directly to the ultimate users thereof.

7. Protesting in any manner, or by any method, to any manufacturer of food service equipment of any nature or description for selling same directly to public service companies, chain stores or other large users of such equipment at lower prices than such purchasers could receive from jobbers or dealers in such equipment who are especially designated, classified or approved by respondent Food Service Equipment Industry, Inc., as being entitled to resell such equipment.

8. Selecting, classifying or designating certain manufacturers of food service equipment to be recipients of special awards, such as honor roll certificates, or other designations, from respondent Food Service Equipment Industry, Inc., because of said manufacturers' cooperation in carrying out any or all of the methods, policies, practices, acts or things prohibited in this order, where the purpose,

intent or effect of such selection, designation or classification is to cause preference of any nature or description, to be given to such manufacturers in purchases by the members of respondent Food Service Equipment Industry, Inc., or by other dealers or jobbers of food service equipment.

9. Suggesting, advocating or urging by any means or methods that members of respondent Food Service Equipment Industry, Inc., should purchase food service equipment from, or give preference in their purchases of such equipment to, those manufacturers who are recipients of honor roll certificates, or other designations, from respondent Food Service Equipment Industry, Inc., prohibited herein in subparagraph (8) of this paragraph.

10. Issuing, or disseminating or circulating to the members of respondent Food Service Equipment Industry, Inc., or to any other party or parties, by any means or methods, any bulletins, by whatever name called, or any other form of written or printed matter, for the purpose, or with the intent, or with the effect, of listing, or designating, or pointing out by any method, or in any manner, those manufacturers of food service equipment who have received, in the manner or for the reasons hereinbefore set out and prohibited in subparagraph (8) of this paragraph, honor roll certificates or any other form of award or recognition from respondent Food Service Equipment Industry, Inc.

11. Advocating or urging by any means or methods a common course of action by members of respondent Food Service Equipment Industry, Inc., to purchase food service equipment from, or give preference in their purchase of such equipment to, any particular type, group or class of manufacturers who assist respondent Industry or respondent Industry members in carrying out any of the policies, practices, acts or things herein prohibited.

12. Refusing or refraining from pitting against each other competing manufacturers of vitrified china products, where the purpose, intent, or effect of such refusal is to prevent, hinder or forestall competition in price among such manufacturers for the sale of their products to dealers or jobbers in food service equipment.

13. Waiving or refusing to accept volume discounts from manufacturers of vitrified china products, when such discounts are not contrary to law.

14. Refusing to solicit or accept sales for the same decorations on the same makes of vitrified china because a particular jobber or dealer in food service equipment is already being supplied with such decorations.

15. Refraining from requesting one manufacturer of vitrified china to copy or duplicate the design of another such manufacturer where such copying or duplicating is not contrary to law.

16. Arranging, holding, or taking part in any meetings or conferences of officers, directors or members of respondent Food Service Equipment Industry, Inc., of representatives of manufacturers of food service equipment, or of dealers or jobbers of such equipment, for the purpose, intent, or with the effect, of continuing, promoting, encouraging or carrying out, in any way, any of the methods, policies, practices, acts or things prohibited by this order.

17. Organizing, forming, or encouraging in any manner, or by any method, the continuance or creation of any local organization, or organizations, of members of respondent Food Service Equipment Industry, Inc., for the purpose, intent, or with the effect of continuing, promoting, encouraging or carrying out, in any manner or by any method, any of the methods, policies, practices, acts or things prohibited by this order.

18. Supervising or investigating, by means of respondent Food Service Equipment Industry, Inc.'s directors or officers, or by any other means or methods, the practices or policies of competing dealers in food service equipment, for the purpose, or with the intent or with the effect, of maintaining, or attempting to maintain, any of the methods, policies, practices, acts or things prohibited by this order.

II.

It is further ordered, That all manufacturers of food service equipment who are recipients of honor roll certificates or other awards or designations from respondent Food Service Equipment Industry, Inc., which signify or point out that such manufacturers have complied with the requirements of respondent Food Service Equipment Industry, Inc., to receive such certificates, awards or designations, or who have cooperated in carrying out the policies and practices of said respondent Food Service Equipment Industry, Inc., together with the officers, directors, representatives, agents, employees, and the successors and assigns of each of said manufacturers, and which manufacturers were made respondents herein by naming as their representatives, the respondents American Stove Co., a corporation, Josiah Anstice & Co., Inc., a corporation, G. S. Blakeslee & Co., a corporation, G. S. Blodgett Co., Inc., a corporation, Carrollton Metal Products Co., a corporation, Colt's Patent Fire Arms Manufacturing Co., a corporation, Detroit-Michigan Stove Co., a corporation, Hobart Manufacturing Co., a corporation, Lalance-Grosjean Manu-

facturing Co., a corporation, McGraw Electric Co., a corporation, Polar Ware Co., a corporation, Standard Gas Equipment Corporation, a corporation, United States Stamping Co., a corporation, Vollrath Co., a corporation, Buffalo Pottery, Inc., a corporation (referred to in the complaint as Buffalo Pottery Co., Inc.) and D. E. McNichol Co. of W. Va., a corporation, directly or indirectly, or through any corporate or other device in connection with the sale, offering for sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of food service equipment of any type or description, do forthwith cease and desist from continuing, entering into, or carrying out, any agreement, understanding or combination, express, or implied (through the receipt of such honor roll certificates or other such awards or designations, from respondent Food Service Equipment Industry, Inc., or through or by any other means or methods) between or among themselves, or with respondent Food Service Equipment Industry, Inc., or with any of the other respondents named in this order or with any other persons, partnership, firm or corporation, and from concerted action or cooperative effort, for the purpose, or with the intent, or with the effect of lessening, eliminating, restraining, hampering, suppressing or forestalling competition in the sale or offering for sale of such equipment in said commerce, by the following methods, policies, practices, acts or things, of any one or more thereof, to wit:

1. Refusing or ceasing to sell any of the food service equipment of any nature or description, which any of said respondents manufacture, through any broker, jobber, or dealer, because such broker, jobber, or dealer in such equipment has not been selected, classified or approved by respondent Food Service Equipment, Inc., or any other group or organization, of jobbers or dealers in such equipment, as entitled to resell such equipment.

2. Refusing or ceasing to sell any of such food service equipment to curbstone brokers, commission agents, or any other party or parties who desire to, and are financially and otherwise able to, purchase such equipment from them, because such prospective purchasers have not been, or are not, approved in any manner, or by any method, by respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment.

3. Refusing or ceasing to sell any such food service equipment directly to hotels, restaurants, chain stores, and similar large-volume purchasers of such equipment at lower prices than such purchasers could receive from jobbers or dealers in such equipment who have been, or are, approved in any manner by respondent Food Service

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Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment.

4. Refusing or ceasing to sell any such food service equipment directly to hotels, restaurants, chain stores, or other similar large volume purchasers of such equipment on any basis other than that which is satisfactory to respondent Food Service Equipment Industry, Inc., or any other group or organization of jobbers or dealers in such equipment.

III.

It is further ordered, That respondent American Vitrified China Manufacturers Association, an unincorporated association, and respondents Bailey-Walker China Co., a corporation, Buffalo Pottery, Inc., a corporation (referred to in the complaint as "Buffalo Pottery Co., Inc."), Carr China Company, a corporation, Iroquois China Co., a corporation, Jackson Vitrified China Co., a corporation, D. E. McNichol Co. of W. Va., a corporation, Mayer China Co., a corporation, Onondaga Pottery Co., a corporation, Scammell China Co., a corporation, Shenango Pottery Co., a corporation, Sterling China Co., a corporation, and Wellsville China Co., a corporation, both individually and as members of respondent American Vitrified China Manufacturers Association, and the respective officers, directors, representatives, agents, employees, successors, and assigns of each of said respondents and also respondents Albert M. Walker and James K. Love, as president and as secretary-treasurer, respectively, of respondent American Vitrified China Manufacturers Association, directly or indirectly, or through any corporate or other device, in connection with the sale, offering for sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any type of food service equipment, especially any vitrified china products, do forthwith cease and desist from continuing, entering into or carrying out, any agreement, understanding or combination, express or implied, between or among themselves or with any of the other respondents named herein, especially respondent Food Service Equipment Industry, Inc., or with others, and from concerted action or cooperative effort, for the purpose, with the intent, or with the effect, of lessening, eliminating, restraining, hampering or forestalling competition in the sale or offering for sale of such equipment or products in said commerce by the following methods, policies, practices, acts and things, or any one or more thereof, to wit:

1. Refusing to sell directly to department stores, which have no china departments, the products manufactured by said respondent corporations, for use in the restaurants of such department stores.
2. Endeavoring to sell, or attempting to sell, or selling, such products to department stores having no china departments, exclusively through dealers in food service equipment.
3. Endeavoring to sell, or attempting to sell, or selling, such products to chain stores, exclusively through dealers in food service equipment.
4. Refusing to sell such products directly to the consumers thereof.
5. Refusing to take on, accept or acquire any new broker or agent accounts.
6. Refusing to quote, or refraining from quoting, prices on such products to consumers without first having received consent of the dealers in food service equipment as to the mark-up to be used.

IV

It is further ordered, That nothing in this order is to be construed as prohibiting any single respondent from selecting its own customers or sources of supply, in good faith in the regular or ordinary course of trade, or from entering into any contract or agreement not prohibited by the provisions of the Sherman Anti-Trust Act as amended.

V

It is further ordered, That the case growing out of the complaint herein be, and the same hereby is, closed as to the respondents Illinois Brass Mfg. Co., Columbian Enameling & Stamping Co., Inc. (referred to in the complaint as Columbia Stamping & Enameling Co.), and also to respondents I. S. Anoff, M. P. Duke, (Miss) L. E. Iwert, S. R. Sperans, A. H. Beadle, S. J. Carson, M. C. Davis, W. F. Dougherty, B. Dohrmann, P. L. Ezekiel, A. W. Forbriger, W. Friedman, C. A. Winchester, C. Winkler, Albert M. Walker, and James K. Love, individually (but not as to such individual respondents when they are acting in their respective official capacities as officers and directors of respondents Food Service Equipment Industry, Inc. or American Vitrified China Manufacturers Association), but without prejudice to the right of the Commission, should future facts so warrant, to reopen the same and resume prosecution thereof in accordance with its regular procedure.

VI

It is further ordered, That all, and each of the respondents named in the caption hereof, except those respondents against whom the

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case growing out of the complaint has been closed by paragraph V of this order, shall in their individual and official or representative capacities, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Syllabus

IN THE MATTER OF
FORD MOTOR COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3174. Complaint, July 16, 1937—Decision, Oct. 20, 1941*

Where a corporation engaged in the manufacture of passenger motor vehicles and in the competitive interstate sale and distribution thereof to its authorized retail dealers throughout the United States, whom it furnished with suggested price lists for their sales to the consuming public; predicated such retail prices on an advertised f. o. b. price plus transportation to retailer, cost of such equipment as bumpers, bumper guards, spare tires, and other necessary accessories, and, in addition, taxes, advertising assessments, and handling and conditioning charges, so that the actual delivered price of a vehicle to the retail purchaser was far in excess of its advertised f. o. b. price plus actual transportation; in a nation-wide advertising campaign in newspapers, magazines, price lists, radio broadcasts, and other advertising media, describing and illustrating its said products—

Misrepresented the price to be paid by the consumer purchaser for a particular vehicle through featuring f. o. b. prices which pertained, not to the model displayed, but to a less expensive car, setting forth in fine print almost totally obscured by the larger type featuring the f. o. b. price, the additional charges needed to make up the full price of the car ready for operation, and in some instances accompanying the featured price by the legend, in small letters, "and up f. o. b. Detroit" or said legend plus some such words as "standard accessories group including bumpers and spare tires extra," which explanatory matter was either inadequate or so inconspicuous as to be of no value in correcting the inherent deceptive tendencies;

With result that the false impression was conveyed that the car pictured was obtainable at the price featured and more expensive models were available at higher prices; readers of its advertisements would expect to obtain cars equipped exactly as shown for the prices emphasized at place of manufacture plus actual transportation charges; and persons who might not otherwise consider purchase of the type of car illustrated, visited the show-rooms of authorized dealers and in some instances purchased such cars at the prices above indicated which were much higher than the figures stated in its advertisements; and with tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the belief that its vehicles could be purchased at prices much less than those at which they were actually obtainable, and to induce it to visit said dealers and purchase such cars, whereby trade was unfairly diverted to it from its competitors who truthfully represent the prices of their products:

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

Before *Mr. W. W. Sheppard* and *Mr. John P. Bramhall*, trial examiners.