

IN THE MATTER OF

A. E. STALEY MANUFACTURING COMPANY AND THE
STALEY SALES CORPORATION

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SUBSECTION (A) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT.
15, 1914, AS AMENDED BY ACT OF JUNE 19, 1936

Docket 3803. Complaint, June 1, 1939—Decision, June 10, 1942

Where a corporate processor and refiner of corn products, owning and operating in Decatur, Ill., a plant with capacity for processing about 50,000 bushels of corn daily, together with its subsidiary, engaged in competitive interstate sale and distribution of products of such processing;

In selling their glucose or corn sirup unmixed—a major raw material in many candies, constituting from 5 to 90 percent of the finished weight thereof, and about 85 percent of mixed table sirups—to candy manufacturers and mixers of such sirups, engaged in the competitive resale thereof to wholesalers, chain stores, retailers, and others, likewise in competition—

- (a) Discriminated in price unlawfully through sales of glucose of like grade and quality, fulfilled by shipments to purchasers from their Decatur, Ill. plant at differing delivered prices through a pricing system based upon their Chicago tank car prices, to which were added as differentials the amounts of the railroad tariff from Chicago to destination; and
- (b) Discriminated in price between different purchasers through preferential operation or application of their booking system—under which, following announcement of a new price increase, purchasers were granted a period of 5 to 10 days within which to purchase at the old and lower price provided shipment was made within 30 days—by use of practices under which favored buyers received price advantages varying from 5 cents to 55 cents per hundredweight of glucose; in that, among other things, they—
- (1) Permitted large buyers with unused balances booked by them an extension of delivery time in response to threat of taking business elsewhere;
- (2) Accepted statements of their brokers or salesmen as to orders booked without proper confirmation as to fact of such orders;
- (3) Made offers to take business at the lower prices long after expiration of the time for so doing; and
- (4) Made sales or offers at the lower tank car prices to buyers with no facilities for such purchasing, while making delivery in tank wagon quantities from their filling station stocks, and continuing such deliveries at the older and lower price for several months after the price advance;

With the result that—

- (1) Candy manufacturers who were obliged to pay higher prices for glucose than some of their competitors, might sell their candies—as to which, in the case of the low-priced product bearing no differentiating name or brand customers may be attracted by a difference of as little as one-eighth of a cent per pound, and especially so in the case of the large quantity purchasers to whom a small difference is determinative—only by absorbing the higher glucose costs or by attempting to recover such higher costs by increasing

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the price of their candies and selling them upon a nonprice basis, thereby reducing their profit either directly or through reduced volume, and diminishing their incentive or desire to compete with those paying the lower prices; and possibly deterring potential candy manufacturers from entering the industry in cities where they would be obliged to pay the higher glucose prices; and

(2) Producers of glucose table sirup located in cities other than Chicago had higher costs than Chicago mixers; and producers paying the higher prices had sales substantially reduced through ability of those favored to reduce their price, or, in the event of meeting the reduced price, had diminished profits and incentive to compete with producers paying the lower prices for such product, with respect to which customers may be attracted by as small a difference as 5 cents a case of six 10-pound cans; and potential sirup mixers might be deterred from entering the industry in cities where they would be obliged to pay the higher glucose prices:

Held, That aforesaid unlawful price discriminations resulted in substantial injury to competition among purchasers by affording material and unjustified price advantages to some and not to others, and constituted violation of section 2 (a) of the Clayton Act as amended.

Before *Mr. John L. Horner*, trial examiner.

Mr. Frank Hier and *Mr. P. R. Layton* for the Commission.

Le Forgee, Samuels & Miller, of Decatur, Ill., and *Mr. Louis A. Spiess*, of Washington, D. C., for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, have violated and are now violating the provisions of section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C., title 15, sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, A. E. Staley Manufacturing Co., is a corporation, organized and existing under the laws of Delaware with its principal office and place of business at 2200 East Eldorado Street in the city of Decatur and State of Illinois. Respondent, The Staley Sales Corporation, is a corporation, organized under the laws of the State of Illinois and has its principal office and place of business at 2200 East Eldorado Street, city of Decatur and State of Illinois. Respondent, The Staley Sales Corporation, is a wholly owned sales subsidiary of respondent, A. E. Staley Manufacturing Co., through which products manufactured by A. E. Staley Manufacturing Co., are sold and distributed. A. E. Staley Manufacturing Co., owns the entire capital stock of The Staley Sales Corporation and controls and directs The Staley Sales Corporation.

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PAR. 2. Respondent, A. E. Staley Manufacturing Co., owns and operates a plant at Decatur, Ill. This plant has a corn grinding capacity in excess of 50,000 bushels per day, with complete facilities for the finished fabrication of all known corn products, both for household and industrial use.

PAR. 3. For many years respondents have been and are now engaged in the business of manufacturing, selling, and distributing in interstate commerce products derived from corn. The principal products derived from corn are (1) starch, both for food and other purposes; (2) glucose or corn syrup; and (3) corn sugar. Starch is first manufactured from the corn, and glucose and grape sugar are made by treating the starch with certain acids, the resulting solid product being sugar and the resulting sirup being glucose. Glucose is largely used in the manufacture of candy, jellies, jams, preserves, and the like as well as in the mixing of sirups.

The principal byproducts of corn resulting in the corn products business are gluten feed, corn oil, corn-oil cake and corn-oil meal.

A. E. Staley Manufacturing Co., in addition to bulk products, produces branded products.

PAR. 4. For many years in the course and conduct of their business, the respondents have been and are now manufacturing the aforesaid commodities at the aforesaid plant and have sold and shipped and do now sell and ship such commodities in commerce between and among the various States of the United States from the State in which their factory is located across State lines to purchasers thereof located in States other than the State in which respondents' said plant is located in competition with other persons, firms and corporations engaged in similar lines of commerce.

PAR. 5. Since June 19, 1936 and while engaged as aforesaid in commerce among the several States of the United States and the District of Columbia, the respondents have been and are now, in the course of such commerce, discriminating in price between purchasers of said commodities of like grade and quality, which commodities are sold for use, consumption or resale within the several States of the United States and the District of Columbia in that the respondents have been and are now selling such commodities to some purchasers at a higher price than the price at which commodities of like grade and quality are sold by respondents to other purchasers generally competitively engaged with the first mentioned purchasers.

PAR. 6. The effect of said discriminations in price made by said respondents, as set forth in paragraph 5 herein, may be substantially to lessen competition in the sale and distribution of corn products

between the said respondents and their competitors; tend to create a monopoly in the line of commerce in which the respondents are engaged; and to injure, destroy, and prevent competition in the sale and distribution of corn products between the said respondents and their competitors.

PAR. 7. The effect of said discriminations in price made by said respondents, as set forth in paragraph 5 herein, may be substantially to lessen competition between the buyers of said corn products from respondents receiving said lower discriminatory prices and other buyers from respondents competitively engaged with such favored buyers who do not receive such favorable prices; tend to create a monopoly in the lines of commerce in which buyers from respondents are engaged; and to injure, destroy, and prevent competition in the lines of commerce in which those who purchase from respondents are engaged between the said beneficiaries of said discriminatory prices and said buyers who do not and have not received such beneficial prices.

PAR. 8. The aforesaid acts of respondents constitute a violation of the provisions of subsection (a) of section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C., title 15, sec. 13).

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act), as amended by an act of Congress approved June 19, 1936 (Robinson-Patman Act), the Federal Trade Commission on June 1, 1939, issued and subsequently served its complaint in this proceeding against respondents, A. E. Staley Manufacturing Co., a corporation, and The Staley Sales Corporation, a corporation, charging them with violation of the provisions of subsection (a) of section 2 of the said Clayton Act, as amended. After the issuance of said complaint and the filing of respondents' answer thereto, certain stipulations as to the facts were read into the record and certain exhibits were introduced in evidence in support of and in opposition to the allegations of said complaint at hearings before an examiner of the Commission theretofore duly designated by it, and said stipulations and other evidence were duly recorded and filed in the office of the Commission.

Thereafter, this proceeding regularly came on for final hearing before the Commission on the complaint, answer, stipulation as to the facts, and other evidence, and briefs in support of and in opposition

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to the complaint (oral argument not having been requested); and the Commission, having duly considered the same and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, A. E. Staley Manufacturing Co., is a corporation, organized and existing under the laws of the State of Delaware, having its principal office and place of business on East Eldorado Street, Decatur, Ill. Respondent, The Staley Sales Corporation, is a corporation, organized and existing under the laws of the State of Illinois, having its office and principal place of business on East Eldorado Street, Decatur, Ill. All of the capital stock of the latter respondent, except for the qualifying shares necessarily held by its directors is owned by respondent A. E. Staley Manufacturing Co.

PAR. 2. Respondent, A. E. Staley Manufacturing Co., is a processor and refiner of corn products and owns and operates in Decatur, Ill., a plant which has a capacity for processing approximately 50,000 bushels of corn per day. Among the products derived from such processing and refining of corn is glucose or corn sirup unmixed. For many years last past and at all times since June 19, 1936, both respondents have been engaged in the business of selling and distributing glucose produced at said plant to purchasers located in the several States of the United States. As a result of such sales, glucose, or corn sirup unmixed and other products of such processing and refining of corn have been transported from Decatur, Ill., to purchasers located in the several States of the United States, and respondents have maintained a course of trade in such products in commerce among and between the several States of the United States.

In the sale and distribution of glucose or corn sirup unmixed, respondents are in competition with other concerns who sell and distribute similar sirup to purchasers in the several States of the United States. Among such competitors of respondents are Corn Products Refining Co. and Corn Products Sales Co., with plants at Chicago, Ill., and Kansas City, Mo.; Clinton Co. and Clinton Sales Co., with a plant at Clinton, Iowa; Penick & Ford, Limited, Inc., with a plant at Cedar Rapids, Iowa; Anheuser-Busch, Inc., with a plant at St. Louis, Mo.; Union Starch & Refining Co. and Union Sales Co., with a plant at Granite City, Ill.; and American Maize-Products Co., with a plant at Roby, Ind., in the Chicago switching area.

PAR. 3. Glucose or corn sirup unmixed is widely used in the manufacture of candy and in the mixing of table sirups. Among the pur-

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chasers of such glucose from respondents are customers located in Chicago, Decatur, and Centralia, Ill.; St. Joseph, St. Louis, and Kansas City, Mo.; Dallas and Farmersville, Tex.; Shreveport and Alexandria, La.; Little Rock, Ark.; Davenport, Ottumwa, and Sioux City, Iowa.

Respondents sell glucose or corn sirup unmixed strictly upon a delivered price basis. Their lowest price, or base price, for such glucose is f. o. b. Chicago in railroad tank car lots, and their prices to all other purchasers in such quantities, wherever located, are equivalent or approximately equivalent to their prices to purchasers in Chicago plus freight from Chicago to the purchaser's location.

As among customers located in the cities named, and on the dates shown in the following tabulation, respondents' prices per hundred-weight for 43° glucose in tank car lots were as follows:

Location of purchaser	Aug. 1, 1936	Aug. 1, 1937	Aug. 1, 1938	Aug. 1, 1939
Chicago, Ill.....	\$2.94	\$3.04	\$2.29	\$2.09
Decatur, Ill.....	3.11	3.20	2.47	2.27
Centralia, Ill.....	3.11	3.20	2.47	2.27
St. Louis, Mo.....	3.11	3.20	2.47	2.27
Davenport, Ia.....	3.11	3.20	2.46	2.27
St. Joseph, Mo.....	3.32	3.40	2.69	2.49
Kansas City, Mo.....	3.32	3.40	2.69	2.49
Little Rock, Ark.....	3.52	3.59	2.89	2.69
Alexandria, La.....	3.54	3.60	2.90	2.70
Shreveport, La.....	3.63	3.69	3.00	2.80
Farmersville, Texas.....	3.68	3.74	3.06	2.86
Dallas, Texas.....	3.72	3.77	3.09	2.89

At all times since June 19, 1936, substantially the same differentials in price as those shown above have existed between and among respondents' customers located in the cities named.

As heretofore stated respondents' prices on glucose or corn sirup unmixed vary as between purchasers in different cities according to the Chicago price plus the amount of the railroad freight rate on such glucose from Chicago to the purchaser's location. However, all sales of glucose made by respondents are fulfilled with glucose produced in and shipped from their plant in Decatur, Ill.; and, consequently, the price differences as among purchasers which result from respondents' pricing plan as set forth herein do not merely reflect differing transportation costs. This is illustrated in the following tabulation in which sales by respondents to purchasers in various cities are compared with substantially concurrent sales to purchasers in Chicago. In this tabulation the prices per hundred-weight charged purchasers and the price differences between such purchasers are shown, together with the freight rates from Decatur,

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Ill., to the location of each purchaser and the differences between such freight rates.

Location of purchaser	Delivered prices per hundred-weight	Price difference per hundred-weight	Freight rates per hundred-weight from Decatur	Freight rate difference per hundred-weight
St. Louis, Mo.....	\$3.20		\$0.10	
Chicago, Ill.....	3.04	\$0.16	.14	-\$0.04
St. Louis, Mo.....	2.15		.11	
Chicago, Ill.....	2.09	.06	.155	-0.045
St. Louis, Mo.....	2.16		.11	
Chicago, Ill.....	2.09	.07	.155	-.045
Davenport, Ia.....	3.20		.134	
Chicago, Ill.....	3.04	.16	.14	-.006
Davenport, Ia.....	2.27		.14	
Chicago, Ill.....	2.09	.18	.155	-.015
Ottumwa, Ia.....	2.73		.27	
Chicago, Ill.....	2.44	.29	.15	.12
Ottumwa, Ia.....	2.39		.27	
Chicago, Ill.....	2.09	.30	.155	.115
Ottumwa, Ia.....	2.39		.27	
Chicago, Ill.....	2.09	.30	.155	.115
Sioux City, Ia.....	3.50		.36	
Chicago, Ill.....	3.04	.46	.14	.22
St. Joseph, Mo.....	3.42		.35	
Chicago, Ill.....	3.04	.38	.15	.20
St. Joseph, Mo.....	3.40		.36	
Chicago, Ill.....	3.04	.36	.14	.21
St. Joseph, Mo.....	2.49		.36	
Chicago, Ill.....	2.09	.40	.155	.205
Kansas City, Mo.....	3.50		.335	
Chicago, Ill.....	3.04	.46	.14	.185
Kansas City, Mo.....	2.49		.36	
Chicago, Ill.....	2.09	.40	.155	.205
Kansas City, Mo.....	2.49		.36	
Chicago, Ill.....	2.09	.40	.155	.205
Little Rock, Ark.....	3.63		.635	
Chicago, Ill.....	3.04	.59	.15	.385
Little Rock, Ark.....	3.59		.50	
Chicago, Ill.....	3.04	.55	.14	.36
Shreveport, La.....	3.69		.61	
Chicago, Ill.....	3.04	.65	.14	.47
Shreveport, La.....	2.74		.67	
Chicago, Ill.....	2.14	.60	.155	.515
Shreveport, La.....	2.80		.67	
Chicago, Ill.....	2.19	.61	.155	.515
Dallas, Tex.....	3.77		.73	
Chicago, Ill.....	3.04	.73	.14	.59
Dallas, Tex.....	3.77		.68	
Chicago, Ill.....	3.04	.73	.14	.64
Dallas, Tex.....	2.89		.75	
Chicago, Ill.....	2.09	.80	.155	.395
Dallas, Tex.....	2.89		.75	
Chicago, Ill.....	2.09	.80	.155	.695
Dallas, Tex.....	2.94		.75	
Chicago, Ill.....	2.09	.85	.155	.595
Farmersville, Tex.....	3.01		.72	
Chicago, Ill.....	2.24	.77	.155	.565
Farmersville, Tex.....	2.96		.72	
Chicago, Ill.....	2.19	.77	.155	.565

A comparison between the price differences per hundredweight and the freight rate differences per hundredweight illustrates the lack of justification for said price differences by reason of transportation costs incurred by respondents.

Respondents began the manufacture of glucose or corn sirup unmixed in 1920, at which time two of their present competitors were producing similar glucose at plants located in the Chicago railroad switching district and were selling glucose at delivered prices based

upon the Chicago price plus freight from Chicago to point of delivery. When respondents became established as sellers of glucose comparable to that of their competitors, respondents adopted the practice of selling at the same delivered prices as their competitors. Respondents have been, and now are, unable to secure higher prices for their glucose than competitors charge for similar glucose. Respondents have consistently followed the prices for glucose announced by their competitors according to the pricing formula stated; that is, Chicago base plus freight to destination, except in certain instances where respondents have been the first to announce a change in the price of glucose, and in such instances they have announced prices in accord with the pricing formula therefore in use by their competitors and themselves.

PAR. 4. When an increase in the price of glucose or corn sirup unmixed is announced by respondents, a period of from 5 to 10 days following the announcement of such increase is allowed in which a purchaser may place an order for his requirements during the next 30 days, for delivery within such period, at the price in effect before the announcement of the increase. This practice of "booking" is theoretically available to all purchasers on equal terms but in practice some buyers benefit more than others and are enabled to purchase glucose at substantially lower prices than other buyers are paying on purchases concurrently made. Discriminations in price resulting from the booking practice occur in various ways, including the following:

(a) A large buyer may place an order for his next 30 days' requirements of glucose with each of several manufacturers. During the first 30 days the buyer may take all the glucose ordered from one manufacturer, or part of what has been ordered from each manufacturer with whom orders have been placed. At the end of the 30-day period such buyer will frequently inform the manufacturers that they will have to extend the time of delivery or cancel the order which was "booked," and that if canceled, other manufacturers will take care of the buyer and receive the business. Fearful of losing the good will of the buyer, manufacturers may extend the delivery time with the result that the buyer continues to get the benefit of the older and lower price for 60, 90, or even 120 days. A large buyer is more successful in securing such extensions of time than a small buyer because of the greater buying power which he possesses. In many instances this results in a small buyer of glucose paying the new and higher price long before the large buyer is obliged to do so; and if there have been a series of price advances resulting from an actively advancing corn market, the price of glucose or corn sirup unmixed

being concurrently delivered to two competing buyers may vary as much as 30 cents, 40 cents, or 50 cents per hundredweight.

(b) When an advance in the price of glucose or corn syrup un-mixed is announced, the brokers or salesmen representing the manufacturer seek to secure orders from all buyers at the price in effect prior to the price increase announced. Even though they fail to secure orders, in some instances these sales representatives may notify their home offices that they have obtained orders. The manufacturer does not require signed purchase orders from buyers and, therefore, cannot determine from the face of the orders submitted by brokers or salesmen which are bona fide orders and which are not. Some manufacturers send confirmation forms to reported purchasers, and respondents have occasionally been informed by such customers that they have received one or several such confirmations without any knowledge of having placed the order so confirmed. The broker or salesman reporting fictitious "bookings" may later endeavor to convert such "bookings" into actual orders, with the result that when he is successful sales are made at the older and lower price long after the announcement of the advance in price. A large buyer is more frequently the beneficiary of such transactions than a small buyer.

(c) Some manufacturers deliberately offer to take business at the lower prices in effect preceding an advance in the price of glucose long after the privilege of buying at the lower price has expired as to other buyers. In some instances respondents have encountered transactions of this nature as long as 3 months after a price advance.

(d) Some buyers are unable, by reason of lack of storage or delivery facilities, to purchase glucose in tank car lots. Upon the announcement of an advance in the price of glucose, manufacturers have sold or offered to sell tank car lots of glucose to purchasers having no facilities which would permit their purchasing in such quantities and have fulfilled such orders by delivery in tank wagon quantities from their filling station stocks at the usual price differential for such deliveries, and for several months after the price advance have continued such deliveries at the older and lower price in effect before the advance.

Price advantages received by favored buyers as a result of practices such as those outlined in this paragraph have varied from 5 to 55 cents per hundredweight of glucose. Respondents have engaged in these discriminatory practices, which they assert were in use by their competitors at the time they entered the industry but which have been more frequent and widespread in the last several years. Respondents further assert that they had no alternative except to meet the competition of others in order to retain their customers and business. However, in granting extensions of the delivery time as set out in sub-

paragraph (a), respondents have relied upon the verbal statements of buyers to their salesmen or brokers in determining whether or not such action was required to meet competition. Respondents have engaged in the practices stated in subparagraph (b) when they suspected, but did not have actual knowledge, that the "bookings" in question were being made without the knowledge or authorization of the buyer for whom the glucose was "booked." Respondents have, upon unsupported verbal representations of purchasers as to the action of other manufacturers, made discriminatory sales of glucose in the manner set forth in subparagraph (c). Respondents have made discriminatory sales of glucose to tank wagon buyers in the manner set out in subparagraph (d) upon reports by their salesmen of verbal statements by buyers concerning similar offers said to have been made by respondents' competitors.

PAR. 5. Glucose or corn sirup unmixed is used to some extent in the manufacture of most kinds of candy and is one of the major raw materials used in the production of many varieties. In candy in which it is used, glucose constitutes from 5 to 90 percent of the finished weight of such candy. The price paid for glucose represents a substantial part of the total raw material cost and the total manufacturing cost of many candies having a wide range of glucose content, and constitutes a major portion of the raw material and total manufacturing costs of candies having a relatively high glucose content.

Some of those who purchase glucose of like grade and quality from respondents, including purchasers located in the cities heretofore enumerated, are candy manufacturers who purchase such glucose for use in the manufacture of candy and who are competitively engaged in the sale of candy so produced to wholesalers, chain stores, retailers, and others located in the several States of the United States and competitively engaged in the resale thereof. The higher prices paid for glucose by candy manufacturers located as aforesaid other than in the city of Chicago, Ill., contribute in a greater or lesser degree to their having higher raw material costs than those candy manufacturers located in Chicago, the degree in each instance depending upon the difference in the price paid for glucose and the proportion of glucose used in the candies manufactured. Generally, glucose is used in greater proportion in candies which are sold by the manufacturers at but a few cents per pound and at narrow margins of profit. In the case of such low-priced candies bearing no differentiating name or brand, manufacturers thereof may attract customers by selling at as little as one-eighth of a cent per pound lower than competitors, and this is especially true in selling such candies to chain stores

and other purchasers buying in large quantities and to whom a small difference in price is determinative in the placing of their business.

Under these circumstances, candy manufacturers who are obliged to pay higher prices for glucose than some of their competitors may sell candies at competitive prices only by absorbing the higher glucose costs or by attempting to recover such higher glucose costs by increasing the price of their candies and selling them upon a non-price basis. The result is to reduce the profit of such candy manufacturers, either directly through the absorption of higher glucose costs or indirectly through selling at higher than competitive prices, which results in a reduced volume of sale of high glucose-content candies because volume purchasers will not buy such candies at higher than competitive prices. The lower profits of candy manufacturers who are obliged to pay higher prices for glucose diminish their incentive or desire to compete with candy manufacturers paying lower prices for glucose and may deter potential candy manufacturers from entering the industry in cities where they would be obliged to pay higher prices for glucose.

PAR. 6. Glucose or corn sirup unmixed is used in the production of sirups for table use. Among those who purchase glucose from respondents, including purchasers located in the cities heretofore enumerated, are customers engaged in the preparation of table sirups containing glucose for sale to wholesalers, chain stores, and other food product distributors. Such mixed table sirups contain approximately 85 percent of glucose or corn sirup and are usually sold packed in cases which contain six 10-pound cans, or 60 pounds net of mixed table sirup, of which approximately 50 pounds is glucose.

The higher prices paid for glucose or corn sirup unmixed by purchasers engaged in the production of table sirups and located as aforesad other than in Chicago, Ill., contribute in a greater or lesser degree to higher raw material costs and total costs than the corresponding costs of table sirup mixers located in Chicago, Ill., the degree in such instance depending upon the price paid for glucose. Producers of table sirup may attract customers by selling such sirup at prices as little as 5 cents per case lower than the prices of competitors. The savings in the cost of such sirup resulting from lower glucose prices to some producers, when utilized by those producers to reduce the price of table sirup, substantially diminishes the sales of table sirup by producers thereof paying higher prices for glucose; or, in the alternative, the producers paying higher prices for glucose meet the table sirup prices of their competitors who purchase glucose at lower prices. In either case the profits of producers of table sirups paying higher prices for glucose are reduced, and the reduction of

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profit diminishes the incentive of sirup mixers paying higher glucose prices to compete with producers of table sirups paying lower glucose prices and may deter potential sirup mixers from entering the industry in cities where they would be obliged to pay higher prices for glucose.

PAR 7. The record does not show that the aforesaid price differences of respondents, as among their customers purchasing glucose of like grade and quality, are such differences as make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered.

CONCLUSION

The aforesaid discriminations in price by respondents in the sale of glucose or corn sirup unmixed, as herein set forth, have resulted, and do result, in substantial injury to competition among purchasers of glucose by affording material and unjustified price advantages to some purchasers and not to others, and violate subsection (a) of section 2 of an act of Congress entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act), as amended by an act of Congress approved June 19, 1936, (Robinson-Patman Act).

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, certain stipulations as to the facts read into the record, exhibits introduced in evidence, and briefs in support of and in opposition to the complaint, and the Commission having made its findings as to the facts and its conclusion that respondents have violated subsection (a) of section 2 of "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act), as amended by act of June 19, 1936 (Robinson-Patman Act).

It is ordered, That respondents, A. E. Staley Manufacturing Co., a corporation, and The Staley Sales Co., a corporation, and their officers, directors, representatives, agents, and employees, in or in connection with the offering for sale, sale, and distribution of glucose or corn sirup unmixed in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

1. Directly or indirectly discriminating in price between different purchasers of glucose or corn sirup unmixed of like grade and quality

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in the manner and degree set forth in paragraph 3 of the findings as to the facts herein, or in any manner or degree substantially similar thereto, or from continuing or resuming any such discriminations in price.

2. Discriminating in price between different purchasers of glucose in the manner or degree set out in paragraph 4 of the findings as to the facts herein, or in any manner or degree substantially similar thereto, or otherwise discriminating in price between purchasers by means of the booking or entry of orders for glucose or corn sirup unmixed where the price differences between purchasers resulting therefrom substantially approximate or exceed those set out in paragraphs 3 and 4 of the findings as to the facts herein: *Provided*, That this shall not prohibit actual sales of glucose or corn sirup unmixed for future delivery which do not involve such discriminations in price at the time of actual sale.

3. Otherwise discriminating in price as between purchasers of glucose or corn sirup unmixed of like grade and quality where the effect may be substantially to lessen competition or tend to create a monopoly in the line of commerce in which customers of respondents are engaged, or to injure, destroy, or prevent competition with any person who either grants or receives the benefit of such discrimination: *Provided*, That this shall not prevent price differences which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from differing methods or quantities in which said glucose or corn sirup is to such purchasers sold or delivered: *and provided further*, That this shall not prevent respondents from showing that any lower price to any purchaser was made in good faith to meet an equally low price of a competitor of respondents.

It is further ordered, That respondents shall, within 60 days after the 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

SEGAL LOCK & HARDWARE COMPANY, INC., NORWALK
LOCK COMPANY, AND LOUIS SEGAL, AND JACK KLEIN
TRADING AS TESTED APPLIANCES COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3896. Complaint, Sept. 16, 1939—Decision, June 12, 1942*

Where a corporation and its subsidiary, and an individual who was their president and treasurer and directed and controlled both, engaged in the manufacture and competitive interstate sale and distribution of locks and lock cylinders—

(a) Displayed legend bearing words "Pick-Proof" on a certain lock cylinder designed for use in new locks and for substitution in locks already installed, and on carton containers thereof, and represented thereby and through extensive advertisements in newspapers, periodicals, trade journals, circulars, and other printed matter, and by radio broadcasts, that their said lock cylinder in fact afforded absolute security against picking and was the only lock which did so; and

(b) Unfairly disparaged products of competitors by representing through numerous sales agents—who called upon stores, hotels, apartment houses, and other business establishments, as well as private homes, equipped with a picking gun and a number of lock picks, and conducted demonstrations purporting to show how easily locks concerned could be picked—that the locks of those thus contacted could easily be opened by picking so that they afforded little or no protection against burglary, and that their own lock aforesaid was absolutely pick proof;

The facts being that while their own said lock was, as indicated by the evidence, reasonably secure against customary or conventional methods of picking, such methods fall far short of being the only ones employed in picking, locks; locksmiths seldom use so-called conventional instruments or methods, but make their own devices; evidence and tests showed that their said device could be and had been picked by locksmiths in periods of time ranging from a few minutes to considerably longer; and representations aforesaid, with respect to the purported invulnerability of their lock against picking were erroneous and misleading;

With the result that numerous members of the public were induced to and did have their own locks removed and those aforesaid substituted, and with tendency and capacity to mislead and deceive a substantial portion of the public into the erroneous belief that their own said locks were in fact pick proof and to disparage unfairly competitors' products; as a result whereof, public was induced to purchase said products, and trade was thereby diverted unfairly to them from their competitors:

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