

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.

Complaint

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Before *Mr. John W. Addison*, trial examiner.

Mr. Wilbur N. Baughman and *Mr. Karl E. Steinhauer* for the Commission.

Goodman & Friedman, of New York City, for Segal Lock and Hardware Co., Inc. and Norwalk Lock Co., and along with *Mr. Charles M. Palmer*, of New York City, for Louis Segal.

Mr. Samuel Weiss, of New York City, for Jack Klein.

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 Segal Lock & Hardware Co., Inc., a corporation; Norwalk Lock Co., a corporation; Louis Segal, an individual; and Jack Klein, an individual, trading as Tested Appliances Co., hereinafter referred to as the respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Segal Lock & Hardware Co., Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 261 Broadway, New York, N. Y. Said corporation is now and has been for some time engaged in the sale and distribution of locks and lock cylinders, including a lock or lock cylinder designated as "Segal Pick-Proof Lock," "Segal Pick-Proof Lock Cylinder," and "Segal Pick-Proof Cylinder," hereinafter referred to as the Segal lock cylinder. Said device is the mechanical locking part or cylinder of a lock and is designed to be used in new locks or interchangeably in locks already installed after the removal of the original cylinder.

Respondent, Norwalk Lock Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of business at 261 Broadway, New York, N. Y. Said corporation is a manufacturing subsidiary or division of the Segal Lock & Hardware Co., Inc., and is now and has been for some time engaged in the manufacture of locks and lock cylinders, including the lock cylinder device described in the preceding paragraph.

Respondent, Louis Segal, is an individual, serving as president and treasurer of the Segal Lock & Hardware Co., Inc., and the Norwalk Lock Co., with his principal office and place of business at 261

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Broadway, New York, N. Y. Said respondent formulates, controls, and directs the acts, practices and policies of said respondents, Segal Lock & Hardware Co., Inc., and Norwalk Lock Co.

Respondent, Jack Klein, is an individual, trading, operating, and doing business as Tested Appliances Co., with his principal office and place of business at 261 Broadway, New York, N. Y. Said respondent is now and has been for some time engaged in the sale, distribution, and installation of the Segal lock cylinder previously described.

PAR. 2. In the course and conduct of the aforesaid business, the respondents have been, and now are, cooperating and confederating in promoting, advertising, selling, and installing said Segal lock cylinder and in doing the acts and things hereinafter alleged.

PAR. 3. Respondents sell said Segal lock cylinder to purchasers situated in the various States of the United States and in the District of Columbia, and cause said device, when sold, to be transported from their aforesaid place of business in the State of New York to the purchasers thereof located in the various States of the United States other than the State of New York and in the District of Columbia. Said respondents maintain, and at all times mentioned herein have maintained, a course of trade in commerce, as commerce is defined in the Federal Trade Commission Act, in said Segal lock cylinder.

PAR. 4. Respondents are now, and have been during all the times mentioned herein, in substantial competition in commerce with other corporations, firms, partnerships and individuals likewise engaged in the business of manufacturing, selling, distributing, and installing lock cylinders in commerce among the several States of the United States and in the District of Columbia, who do not engage in the unfair methods and unfair and deceptive acts and practices herein alleged.

PAR. 5. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused, and are now causing, the dissemination of false and misleading statements, claims, and representations concerning the mechanical perfection and "pick-proof" quality of said Segal lock cylinder and the absence of such qualities in the locks or lock cylinders sold and distributed by their competitors. Said false, misleading, and disparaging statements, claims, and representations have been, and are now being, disseminated by insertions in newspapers, trade journals, and periodicals having a general circulation, and also in circulars and other printed or written matter, all of which are distributed in commerce among the various States of the United States, and by continuities broadcast from radio stations, which have sufficient power to, and do, convey the program emanating therefrom to listeners located

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in the various States of the United States other than the State in which such broadcasts originate for the purpose of inducing, and which have induced and are inducing, directly or indirectly, the purchase of their said product.

. Among and typical of said false, misleading, and disparaging statements, representations, and claims, disseminated and caused to be disseminated as aforesaid, are the following:

No lock is safe without a Segal Pick-Proof Cylinder.

The Segal Pick-Proof Cylinder contains a series of ingenious locking devices, a complete internal system of safeguards which positively prevents opening by picking.

Now * * * after many years of the most pains-taking research he (Samuel Segal) has perfected the only lock cylinder that is impossible to pick.

Experts have tried to pick it open. Our competitors have tried. Recently, in New York, the inventor of the lock-picking gun tried to pick open the *New Segal Pick-Proof Cylinder*. Newspaper reporters were there. So were leading representatives of the trade. That expert failed, too. See the clippings attached.

New Segal Pick-Proof Lock Cylinder.

Without it, there is no real security. Without it, any lock can be picked open by skeleton keys or other lock-picking devices with which burglars are so expert. Only the *New Segal Pick-Proof Cylinder* cannot be picked open. *The only way to open the New Pick-Proof Cylinder is with its own keys.*

It cannot be picked, or opened, by any skill, art or machine.

Impossible to Open By Any Method of Lock Picking.

Nothing But the Proper Key Will Open It.

A Sensational Engineering Achievement. — The First Absolute Guarantee of Complete Safety From The Lock-Picking Menace.

The New Segal Cylinder is absolute proof against lockpicking and is the only certain protection against the dangerous picking gun.

The only genuine pick-proof cylinder ever invented.

It will protect your home and possessions by making the lock on your door *absolutely* pick-proof.

Only Your Key will Unlock It.

The Segal Pick-Proof Cylinder.

Every pin-tumbler cylinder should be *replaced* with a Segal Pick-Proof Cylinder! That's the only way your customers can be absolutely sure that no burglar will be able to pick their locks open!

You know that you can open any lock with skeleton keys, lockpicking gun, or other devices. So can the professional burglar. Yet, *no one can pick* open the new Pick-Proof Cylinder. The only way you, or any expert, *can* open it is with its proper keys.

Keep the Burglar Out—Get the only lock cylinder that can't be picked open.

Bernard Zion, co-inventor of the lock-picking gun, challenged the Segal Lock Company to a contest by saying that he thought he could open the new "pick-proof" locks invented by Sam Segal. * * * The contest was staged in the Segal offices; Mr. Zion tried to pick the lock, failed, now admits that it cannot be picked. If he can't do it, it can't be done.

PAR. 6. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase and installation of said Segal

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lock cylinder, the respondents have represented and are representing, through the medium of demonstrations made to prospective purchasers, that locks or lock cylinders sold and installed by their competitors can be easily picked or opened by the use of a "pick gun" or a lock-picking device, and that such locks or lock cylinders so picked or opened are inferior to their own Segal lock cylinder. Said "pick gun" is a gun-shaped device, the pick prongs of which may be inserted into the cylinder of a lock. When said "pick gun" is so inserted and operated by a person trained in its use the locking device or the lock may be released and the lock unfastened. By the use of the aforesaid "pick gun" or other lock-picking device, the respondents, their salesmen, representatives, or agents have been, and are, picking and opening locks or lock cylinders manufactured and installed by their competitors, and by such demonstrations, accompanied by statements and representations as to the superiority and "pick-proof" quality of said Segal lock cylinder, said respondents, their salesmen, representatives, or agents have been and are disparaging the locks or lock cylinders manufactured and installed by their competitors.

PAR. 7. Through the use of the aforesaid false, misleading and disparaging statements, representations and claims, and others of similar import and meaning not herein set forth, the respondents have represented, directly or by implication, that said Segal lock cylinder is absolutely "pick-proof" under any and all circumstances; that experts have tried and failed to pick it; that the inventor of the "lock-picking gun" failed in a public demonstration to pick it; that without the respondents' locking device any lock can be picked or opened by skeleton keys or other lock-picking devices; that only the Segal lock cylinder cannot be picked or opened; that said device is the first device which is an absolute guarantee of complete safety from the lock-picking menace and dangerous pick-gun; that Bernard Zion the co-inventor of the "lock-picking gun" challenged the Segal Lock Co. to a contest, and that in response thereto a contest was staged at which said Bernard Zion tried to pick the respondents' said Segal lock cylinder, and failed; that said Bernard Zion thereupon admitted that respondents' said device could not be picked or opened without a key; that competitors' locks or lock cylinders are inferior to respondents' said Segal lock cylinder and that such inferior lock cylinders may be picked open, whereas respondents' device is pick-proof and cannot be opened with such an instrument or instruments.

PAR. 8. The aforesaid statements, representations, and claims, including the representations and implications made by and in connection with the "pick-gun" demonstrations alleged in paragraph 6

herein, made and disseminated by the respondents in the manner described above are grossly exaggerated, misleading, and untrue.

In truth and in fact, said Segal lock cylinder is not absolutely "pick-proof" under any and all circumstances; and expert locksmiths have not failed to open it. All locks or lock cylinders can be opened or picked by some lock-picking device in the hands of an expert. Said Segal lock cylinder is not safe from the "lock-pick" menace and the picking gun. Bernard Zion, co-inventor of the "pick-gun," did not on the occasion of a public demonstration or contest fail in an honest endeavor to open said lock cylinder, for in truth and in fact, Bernard Zion only pretended that he could not open or pick said Segal lock cylinder and he has opened or picked said Segal lock cylinder. The representations and implications made by the respondents in connection with the demonstrations in the picking and opening of locks or lock cylinders of respondents' competitors to the effect that such locks or lock cylinders are inferior to respondents' Segal lock cylinder and that such inferior locks or lock cylinders may be picked open, whereas respondents' locking device is "pick-proof" and cannot be opened with a lock-picking device, are misleading and untrue and falsely and unfairly defame and disparage competitors and their products.

PAR. 9. The use by the respondents of the aforesaid false, misleading and disparaging statements, representations, and claims, including the representations and implications made by and in connection with the "pick-gun" demonstrations alleged in paragraph 6 hereof, has the tendency and capacity to, and does, mislead and deceive and has misled and deceived a substantial number of the purchasing public into the erroneous and mistaken belief that the aforesaid false, misleading and disparaging statements, representations, and claims, including the representations and implications made by and in connection with the "pick-gun" demonstrations, are true, and into the purchase of substantial quantities of respondents' said Segal lock cylinder because of such erroneous and mistaken belief. As a direct result thereof, trade in commerce among the various States of the United States and the District of Columbia has been diverted unfairly to the respondents from their competitors in said commerce who do not misrepresent the "pick-proof" quality of their locks or lock cylinders and who do not disparage their competitors' products. .

PAR. 10. The aforesaid methods, acts, or practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and unfair and deceptive acts or practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 16, 1939, issued and subsequently served its complaint in this proceeding upon the respondents, Segal Lock & Hardware Co., Inc., a corporation, Norwalk Lock Co., a corporation, Louis Segal, an individual, and Jack Klein, an individual, trading as Tested Appliances Co., charging them with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the filing of the respondents' answers, testimony, and other evidence in support of the allegations of the complaint were introduced by the attorney for the Commission, and in opposition thereto by the attorneys for certain of the respondents, before John W. Addison, a trial examiner of the Commission theretofore duly designated by it which testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answers of the respondents, testimony, and other evidence, report of the trial examiner upon the evidence and the exceptions to such report, brief in support of and in opposition to the complaint, and oral argument, and the Commission having duly considered the matter 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, Segal Lock & Hardware Co., Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 261 Broadway, New York City, N. Y.

Respondent, Norwalk Lock Co., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of business located at 261 Broadway, New York City, N. Y. This respondent is a subsidiary of respondent, Segal Lock & Hardware Co., Inc., being wholly owned by the Segal Lock & Hardware Co., Inc.

Respondent, Louis Segal, an individual, is president and treasurer of both of the corporate respondents, having his principal office at 261 Broadway, New York City, N. Y. He formulates, directs, and controls the policies, acts, and practices of the corporate respondents.

The Commission having concluded, for the reasons hereinafter set forth, that the complaint should be dismissed as to respondent, Jack

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Klein, the term "respondent," as used hereinafter, will not include this respondent unless the contrary is indicated.

PAR. 2. The respondents are engaged in the manufacture and in the sale and distribution of locks and lock cylinders, including a certain lock cylinder designated by respondents as "Segal Pick-Proof Lock," "Segal Pick-Proof Lock Cylinder," and Segal Pick-Proof Cylinder." This device is the mechanical locking part or cylinder of a lock, and is designed to be used both in new locks and for installation in locks which have already been installed, the cylinder being substituted for the original cylinder in such locks.

The respondents have acted in cooperation and concert with one another in carrying out the acts and practices hereinafter described.

PAR. 3. In the course and conduct of their business the respondents cause and have caused their locks and lock cylinders, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain and for a number of years last past have maintained a course of trade in their locks and lock cylinders in commerce among and between the several States of the United States and in the District of Columbia.

PAR. 4. The respondents are now and at all times mentioned herein have been in active and substantial competition with other corporations and individuals, and with firms and partnerships, engaged in the sale and distribution of locks and lock cylinders in commerce among and between the several States of the United States and in the District of Columbia.

PAR. 5. The lock cylinder in question bears the legend "Segal Pick-Proof," and a similar legend appears also on the carton in which the cylinder is packed and displayed for sale. In the course and conduct of their business, respondents have also advertised the cylinder extensively by means of advertisements inserted in newspapers, periodicals, and trade journals having wide circulation, by means of circulars and other printed matter distributed among prospective purchasers, and by means of radio broadcasts. Among the statements and representations appearing in such advertisements were the following:

No lock is safe without a Segal Pick-Proof Cylinder.

The Segal Pick-Proof Cylinder contains a series of ingenious locking devices, a complete internal system of safeguards which positively prevents opening by picking.

Now * * * after many years of the most painstaking research he (Samuel Segal) has perfected the only lock cylinder that is impossible to pick.

Experts have tried to pick it open. Our competitors have tried. Recently, in New York, the inventor of the lock-picking gun tried to pick open the *New Segal*

Pick-Proof Cylinder. Newspaper reporters were there. So were leading representatives of the trade. That expert failed, too. See the clippings attached.

Without it, there is no real security. Without it, any lock can be picked open by skeleton keys or other lock-picking devices with which burglars are so expert. Only the *New Segal Pick-Proof Cylinder* cannot be picked open. *The only way to open the New Pick-Proof Cylinder is with its own keys.*

It cannot be picked, or opened, by any skill, art or machine.

Impossible to Open By Any Method of Lock Picking.

Nothing But the Proper Key Will Open It.

A Sensational Engineering Achievement. The First Absolute Guarantee of Complete Safety From The Lock-Picking Menace.

The New Segal Cylinder is absolute proof against lockpicking and is the only certain protection against the dangerous picking gun.

The only genuine pick-proof cylinder ever invented.

It will protect your home and possessions by making the lock on your door *absolutely* pick-proof.

Only Your Key will Unlock It.

Every pin-tumbler cylinder should be *replaced* with a Segal Pick-Proof Cylinder! That's the only way your customers can be absolutely sure that no burglar will be able to pick their locks open!

You know that you can open any lock with skeleton keys, lock-picking gun, or other devices. So can the professional burglar. Yet, *no one can pick* open the new Pick-Proof Cylinder. The only way you, or any expert, *can* open it is with its proper keys.

Keep the Burglar Out—Get the only lock cylinder that can't be picked open.

Bernard Zion, co-inventor of the lock-picking gun, challenged the Segal Lock Company to a contest by saying that he thought he could open the new "pick-proof" locks invented by Sam Segal. * * * The contest was staged in the Segal offices; Mr. Zion tried to pick the lock, failed, now admits that it cannot be picked. If he can't do it, it can't be done.

PAR. 6. Through the use of these statements and representations, including the legends appearing on the cylinder and carton, the respondents represent that their lock cylinder is in fact pick proof, that it affords absolute security against picking, and that it is the only lock which does afford such security.

PAR. 7. Picking a lock may be defined as the opening of the lock without the use of the original or duplicate keys and without damage to the lock. The lock or lock cylinder here involved was first placed on the market by respondents in 1938. In the construction of the lock certain mechanical principles and features are employed which respondents contend render it impossible to manipulate the lock tumblers sufficiently to open the lock by picking. Some six locksmiths testifying at the instance of respondents stated that they had been unable to pick the lock although they had made a number of attempts to do so. On the other hand, three locksmiths testifying at the instance of the Commission stated that they had picked the lock on numerous occasions, and two of these witnesses conducted a demon-

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stration in the presence of the trial examiner, all other persons being excluded from the room in which the demonstration took place. The reason for the exclusion of all persons other than the trial examiner was that the witnesses giving the demonstration regarded their picking method as a trade secret and objected to divulging it.

For the purpose of the demonstration three of respondents' cylinders were purchased at random from hardware or locksmith supply dealers. The first of the cylinders was successfully picked by one of the witnesses within 30 minutes, while the third cylinder was picked by the same witness within 4 minutes. In the attempt of the other witness to pick the second cylinder the instruments used by the witness became caught in the cylinder and the attempt to pick this cylinder was therefore abandoned. The record indicates that possibly this cylinder was not in perfect condition when it was purchased. While the two witnesses are employed in the same locksmith shop and have at times worked together in picking respondents' lock, each worked alone on this occasion.

These two locksmiths testified that they had previously picked respondents' cylinder some 30 to 40 times, and that the average time required to pick the cylinder on these occasions was between 20 and 30 minutes. They further stated that they had not used the same cylinder in all of their attempts, but had used some 10 different cylinders and moreover had adjusted the 10 cylinders from time to time so as to cause them to have varying combinations. According to the testimony of these witnesses, the shortest period of time during which they had been able to pick the cylinder, prior to the demonstrations before the trial examiner, was 7 minutes, while the longest period of time required was 45 minutes.

PAR. 8. The evidence on behalf of respondents shows that the customary or conventional lock picks available at hardware and locksmith supply stores are restricted to a few types, there being only some 8 or 10 types of such picks, and respondents insist that their lock cannot be picked by the use of such devices. They also insist that their lock cannot be picked through the use of a certain instrument known as a "picking gun," which is a device somewhat resembling a pistol in appearance and having a pointed projection which may be inserted into the keyway of a lock and used to manipulate the lock tumblers. The record indicates that respondents' lock is reasonably secure against such customary or conventional methods of picking, and respondents contend that this fact warrants their claims that their lock is pick proof.

It is further evident from the record, however, that these customary or conventional lock picks and methods of picking fall far short of

being the only devices and methods which may be and frequently are employed in the picking of locks. In fact, locksmiths seldom use the so-called conventional instruments or methods at all, but make their own devices and instruments, depending upon the particular lock which they are called upon to open. The fact that at least three locksmiths have been able to pick respondents' lock on numerous occasions, and the further fact that one of these locksmiths picked the lock twice in the demonstration before the trial examiner, show that the lock is not in fact pick proof. The Commission therefore finds that respondents' representations with respect to the purported invulnerability of their lock against picking are erroneous and misleading.

PAR. 9. In an effort to promote the sale of their lock direct to the purchasing public, the respondents early in 1939 organized a separate division or department of their business under the name of Tested Appliances Co., and placed respondent, Jack Klein, in charge of the operations of such division. While the complaint herein alleged, in substance, that Klein was the owner of the business known as Tested Appliances Co., the evidence discloses that Klein was in fact only an employee of the other respondents herein, and that while he was vested with a limited amount of authority in the operation of this phase of respondents' business, his actions were at all times subject to the general supervision and control of the other respondents. He was discharged by respondents in May 1939, and since that time has had no connection with the sale of respondents' products.

In conducting this phase of their business the practice of the respondents was to send out numerous sales agents, at times some two thousand in number who called upon stores, hotels, apartment houses, and other business establishments, as well as private homes, and represented to such prospective purchasers that the locks of such persons were insecure, could easily be opened by picking, and that such locks therefore afforded little or no protection against burglary. Each of these salesmen was provided by respondents with a picking gun and with a number of lock picks, and in connection with and as a part of their sales efforts the salesmen conducted certain demonstrations purporting to show how easily the locks of the prospective purchasers could be picked. Along with such purported demonstrations numerous representations were made to such prospective purchasers to the effect that respondents' lock was absolutely pick proof. As a result of such practices on the part of respondents through their agents, numerous members of the public were induced to and did have their locks removed and respondents' lock substituted therefor. The Commission finds that these practices on the part of respondents

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constituted an unfair disparagement of the products of respondents' competitors.

PAR. 10. The Commission further finds that the acts and practices of the respondents as herein described have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' locks are in fact pick proof, and the tendency and capacity to disparage unfairly the products of respondents' competitors. In consequence thereof such portion of the public has been induced to purchase and has purchased respondents' products, with the result that substantial trade has been diverted unfairly to the respondent from their competitors.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony, and other evidence taken before John W. Addison, a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, report of the trial examiner upon the evidence and the exceptions to such report, briefs in support of and in opposition to the complaint, and oral argument, and the Commission having made its findings as to the facts and its conclusion that certain of the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents, Segal Lock & Hardware Co., Inc., a corporation, Norwalk Lock Co., a corporation, their officers, and Louis Segal, individually, and as an officer of said corporations, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of respondents' locks and lock cylinders in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "pick proof," or any other word or words of similar import, to designate or describe respondents' locks or lock

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cylinders, or otherwise representing, directly or by implication, that respondents' locks or lock cylinders cannot be picked.

2. Conducting demonstrations purporting to show that locks or lock cylinders sold by respondents' competitors can be picked, unless in connection with such demonstrations disclosure is made that respondents' locks and lock cylinders can also be picked.

It is further ordered, That said 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.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to respondent, Jack Klein.

IN THE MATTER OF
NATIONAL PRESS PHOTO BUREAU, INC., KAY HART
STUDIOS, INC., BOLIVAR STUDIOS, INC., AND SAMUEL
F. REESE AND CLARA L. REESE

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

Docket 3898. Complaint, Sept. 20, 1939—Decision, June 16, 1942

Where three corporations and two individuals, general officers of two of said concerns and in control of their activities and policies, the third having become inactive; engaged in interstate sale of photographs to members of the purchasing public—

In soliciting business under a plan by which their agents, supplied with a letter from a local newspaper—in consideration of furnishing the paper a glossy print of photographs taken in its community—introducing the agent as a photographer of the "National Press Photo Bureau" (one of corporate names employed), engaged in taking pictures of leading citizens for the paper's files—

- (a) Represented that the photograph was desired for their files or "photographic morgue" and for use by newspapers or other publications, and, following approval of proof by the subject, endeavored, with frequent success, to solicit purchase of one or more copies of the photograph selected; and
- (b) Represented, through use of words "National Press" as part of one of their corporate names and through their aforesaid practices, that they conducted a news or press photographic agency engaged in taking photographs intended for release to newspapers and other publications; when in fact they did not conduct such an agency, had no connection with any newspaper except as above set forth in regard to letters of introduction, but, as aforesaid, were engaged in selling photographs, and their said method was merely a scheme or device to secure sittings and sell photographs to prospective customers;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such representations were true, thereby causing it to purchase substantial quantities of photographs because of such mistaken belief:

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

Before *Mr. Lewis C. Russell* and *Mr. John J. Keenan*, trial examiners.

Mr. John M. Russell for the Commission.

Mr. Nat C. Helman, of New York City, for respondents.

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