

. IN THE MATTER OF
SPECIALTY ACCOUNTING SUPPLY MANUFACTURERS
ASSOCIATION 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 4538. Complaint, Dec. 11, 1941.¹—Decision, Sept. 9, 1942

Where some 30 concerns, members of their unincorporated trade association, engaged in the manufacture and interstate sale and distribution of "printed stationery," i. e., (1) sales books, (2) continuous forms for use in billing machines, typewriters, or other office equipment, and (3) autographic registry stationery consisting of multiple sets of business forms for use in business recording machines; and in competition among themselves and with jobber and subjobber sellers of such products, except insofar as such competition had been restrained or eliminated as below set forth—

- (a) Agreed and conspired among themselves to organize and maintain, and did maintain, an unlawful combination to eliminate competition in the sale and distribution of their "printed stationery;" and in pursuance thereof—
- (1) Made use of their said trade association as an instrument for their said joint purpose and action;
- (2) Agreed to and did concertedly fix and maintain prices, terms, and conditions of sale, and agreed to refrain from selling their products to jobbers and subjobbers who failed to observe and maintain such agreed prices, terms, and conditions; and agreed to and did make use of espionage, coercion, and cooperation in dealing with such jobbers and subjobbers, with intent and effect of enforcing such adherence; and exchanged and circulated lists of "recognized" jobbers and dealers;
- (3) With intent and effect of diverting trade from nonmember competitors, gave special and valuable inducements to customers of nonmember manufacturers while denying such inducements to customers of member manufacturers; and operated "bogus independents" under the sponsorship and direction of certain of their own members through outright ownership, financial and contractual affiliations, and otherwise;
- (4) Allocated and divided business among themselves; and entered into cross-licensing agreements and other licensing arrangements in connection with the claims of certain of their number under patents, pursuant to which they agreed that they would maintain prices, terms, and conditions of sale;
- (5) Agreed to and did hold meetings under the auspices of their association, and through it and its officers, etc., cooperated with one another and with their jobbers and subjobbers in furthering and carrying out the acts, practices, and policies above set forth;
- (6) Agreed to and did cooperate with each other in utilizing the facilities and agents of their association in formulating and using "open price plans" and "reporting plans," pursuant to which they made known to the

¹ Amended.

secretary, other agents, and each other, for dissemination among them, information concerning the intimate details of their business transactions, including names and addresses of their customers, volume of production, sales and shipments, lists of prices to be quoted and charged on current and future sales, and the prices obtained on past transactions; and opened up their books for examination by their common agents; and

- (7) Through said filing of prices, quotations, and other information, and intimate business details, including sales of individual members and prices at which made, and said opening of their books and records, entered into and carried out an agreement and understanding that they would adhere to their price lists or price quotations and modifications thereof, filed and distributed as above set forth, until and unless intention to depart therefrom was given to their competitors by similar filing and distribution of other price lists, etc.; and

Where eleven of said manufacturing members, pursuant to and in furtherance of aforesaid agreements—

- (b) Acted collusively between and among themselves through collective discussion of bids and prices in advance of their submission and allocating particular orders through agreement that the one of their number first receiving favorable consideration from any prospective purchaser would inform the others, and with the understanding that others would be compensated in turn by similar reciprocal treatment; with intent and effect of frustrating honest rivalry, avoiding and preventing competition, deceiving buyers generally, and preventing consideration by them of genuinely competitive bids or prices, while attempting to keep up an appearance of competition and making false claims with regard thereto in the submission of bids;

With tendency and effect of unduly restraining and suppressing competition in sale and distribution of "printed stationery" and depriving the public of the benefit of competition among themselves and between them and their competitors:

Held, That such acts and practices, as above set forth, were all to the prejudice of the public and competitors, and had a dangerous tendency to and did actually suppress and lessen competition, placed in them power to control and enhance prices, unreasonably restrained commerce in said "printed stationery," and constituted unfair methods of competition therein.

Mr. Everette MacIntyre for the Commission.

The two concerns of *Winston, Strawn & Shaw*, of Chicago, Ill., and *Hayes & Sher*, of Washington, D. C., for Specialty Accounting Supply Manufacturers Association, and in case of former firm for O. L. Moore, secretary of aforesaid association.

Mayer, Meyer, Austrian & Platt, of Chicago, Ill., for Acme Register Co., Bonnar-Vawter Fanform Co., Stephen Greene Co., Hamilton Autographic Register Co. and The Rotary Printing Co., and along with *Stearns & McBride*, of Chicago, Ill., for The Wallace Press, Inc.

Doran, Kline, Cosgrove, Jeffrey & Russell, of Topeka, Kans., for Adams Bros. Sales Book Co.

Fish, Richardson & Neave, of New York City, for American Sales Book Co. and Cosby-Wirth Manifold Book Co.

Complaint

35 F. T. C.

Mr. George A. McLaughlin, Mr. W. H. McLaughlin and Mr. C. S. McLaughlin, of Boston, Mass., for Atlantic Register Co. and C. W. Potter Co.

Leech & Radue, of Washington, D. C., and *Mr. Thomas J. Byrne and Cooper, Kerr & Dunham*, of New York City, for Autographic Register Co.

Mr. G. Ridgely Sappington, of Baltimore, Md., for Baltimore Sales Book Co.

Sloan & Sloan, of Philadelphia, Pa., for Craft Sales Book Co., Inc. *Toulmin & Toulmin*, of Dayton, Ohio, and *Mr. John M. Mason*, of Washington, D. C., for Egry Register Co.

Boyd, Brooks & Wickham, of Cleveland, Ohio, for W. S. Gilkey Printing Co.

Jenkins & Olson, of Springfield, Ill., for Hanna Register Co.

Mr. Abraham Greenspan, of Holyoke, Mass., for Philip Hano Co., Inc.

Mr. F. W. Andrews, of Alliance, Ohio, for McCaskey Register Co., and along with *Moore & Moore*, of Lisbon, Ohio, for Lisbon Sales Book Co.

Wood, Crump & Rogers, of Los Angeles, Calif., for Los Angeles Register & Printing Co.

Nieberding & Nieberding, of Cincinnati, Ohio, for The Miami Systems Corporation.

Mr. Raymond H. Dresser, of Sturgis, Mich., for National Carbon Coated Paper Co.

Newton, Brickett & Wentworth, of Boston, Mass., for The Potter Press.

Heller, Ehrman, White & McAuliffe, of San Francisco, Calif., for Schwabacher-Frey Co.

Mr. W. R. Morris, of Shelby, Ohio, for Shelby Salesbook Co.

Bostwick & Bostwick, of Chardon, Ohio, for The Snapout Forms Co.

E. H. & W. B. Turner and Mr. Harry N. Routzohn, of Dayton, Ohio, for The Standard Register Co.

Morrison, Hohfeld, Foerster, Shuman & Clark, of San Francisco, Calif., and *Mr. Henry B. Weaver*, of Washington, D. C., for Sunset-McKee Sales Book Co.

Chritton, Wiles, Davies, Hirschl, Schroeder & Merriam and Pam, Hurd & Reichmann, of Chicago, Ill., for United Autographic Register Co.

AMENDED COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act. and by virtue of the authority vested in it by said act, the Federal

Trade Commission, having reason to believe that the persons, partnerships, and corporations named in the caption hereof, and hereinafter described and referred to as respondents, have violated the provisions of Section 5 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 amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Specialty Accounting Supply Manufacturers Association, hereinafter referred to as respondent association, is an unincorporated, voluntary trade association, organized to promote the mutual interests of its members. It was organized in 1933. Its headquarters now are, and have been for several years, in the offices of its secretary, respondent, O. L. Moore, 208 South LaSalle Street, Chicago, Ill., who is now and has for many years maintained and carried on a business of organizing, managing and directing the affairs of trade associations and groups in various industries, including the manufacturers and sellers of "printed stationery" (as it is hereinafter described and defined in par. 4 hereof) and their trade association, the Specialty Accounting Supply Manufacturers Association. The Specialty Accounting Supply Manufacturers Association serves its members as an instrument or vehicle for their joint and cooperative action. On and since July 1, 1939, its membership has included practically all manufacturers and sellers of sales books and continuous form sales records stationery, located and doing business in this country, 30 of whom are named as respondents in the caption hereof. From time to time its membership has included other persons, partnerships, and corporations engaged in like pursuits.

PAR. 2. The manufacturers of sales books and other forms of "printed stationery" (as it is hereinafter described and defined in par. 4 hereof) named in the caption hereof as respondents, and hereinafter referred to merely as manufacturing respondents, are more fully described as follows:

Acme Register Co. is a Delaware corporation, with its principal place of business at 413 South Fifth Street, Minneapolis, Minn.

Adams Bros. Sales Book Co. is a Kansas corporation, with its principal place of business at 200 Jackson Street, Topeka, Kans.

American Sales Book Co., Inc., is a Delaware corporation, with its principal place of business at 3000 Highland Avenue, Niagara Falls, N. Y.

Autographic Register Co. is a New Jersey corporation, with its principal place of business at 1000 Clinton Street, Hoboken, N. J.

Atlantic Register Co. is a Massachusetts corporation, with its principal place of business at 144 Moody Street, Waltham, Mass.

Complaint

35 F. T. C.

Baltimore Sales Book Co. is a Maryland corporation, with its principal place of business at 3120 Frederick Avenue, Baltimore, Md.

Bonnar-Vawter Fanform Co. is a Delaware corporation, with principal place of business at 1717 East Thirtieth Street, Cleveland, Ohio.

Cosby-Wirth Manifold Book Co. is a Minnesota corporation, with its principal place of business located at 628 Stinson Boulevard, Minneapolis, Minn.

Craft Sales Book Co., Inc., is a Pennsylvania corporation, with its principal place of business at 2210 Cambria Street, Philadelphia, Pa.

Egry Register Co. is an Ohio corporation, with its principal place of business at 429 East Monument Avenue, Dayton, Ohio.

W. S. Gilkey Printing Co. is an Ohio corporation, with its principal place of business at 1138 West Ninth Street, Cleveland, Ohio.

Stephen Greene Co. is a Pennsylvania corporation, with its principal place of business at Thirty-fourth and Market Streets, Philadelphia, Pa.

Hamilton Autographic Register Co. is an Ohio corporation, with its principal place of business at 802 Symmes Avenue, Hamilton, Ohio.

Hanna Register Co. is an Indiana corporation, with its principal place of business at Springfield, Ill.

Philip Hano Co., Inc., is a Massachusetts corporation, with its principal place of business at Sargeant Street, Holyoke, Mass.

Lisbon Sales Book Co. is an Ohio corporation, with its principal place of business at Maple Street, Lisbon, Ohio.

Roscoe M. Breeden is an individual, doing business under the firm name of Los Angeles Register and Printing Co., whose principal place of business is 428 Boyd Street, Los Angeles, Calif.

McCaskey Register Co. is an Ohio corporation, with its principal place of business at South Union Avenue, Alliance, Ohio.

The Miami Systems Corporation is an Ohio corporation, with its principal place of business located at 2735 Colerain Street, Cincinnati, Ohio.

National Carbon Coated Paper Co. is a Michigan corporation, with its principal place of business located at Sturgis, Mich.

The Potter Press is a Massachusetts corporation, with its principal place of business located at 515 South Street, Waltham, Mass.

C. W. Potter, Inc., is a Massachusetts corporation, with its principal place of business located at 144 Moody Street, Waltham, Mass.

The Rotary Printing Co. is an Ohio corporation, with its principal place of business located at Norwalk, Ohio.

Complaint

Schwabacher-Frey Co. is a corporation, the place of whose incorporation is not known to the Commission, with its principal place of business at 735 Market Street, San Francisco, Calif.

Shelby Salesbook Co. is an Ohio corporation, with its principal place of business at Shelby, Ohio.

The Snapout Forms Co. is an Ohio corporation, with its principal place of business at Chardon, Ohio.

The Standard Register Co. is an Ohio corporation, with its principal place of business at 626 Albany Street, Dayton, Ohio.

Sunset-McKee Sales Book Co. is a California corporation, with its principal place of business at 2101 Livingston Street, Oakland, Calif.

United Autographic Register Co. is an Illinois corporation, with its principal place of business at 5000 South California Avenue, Chicago, Ill.

The Wallace Press, Inc., is an Illinois corporation, with its principal place of business at 730 West Monroe Street, Chicago, Ill.

PAR. 3. Manufacturing respondents in the regular course of their business in the sale and distribution of sales books and continuous forms, and sales records blanks, cause the same to be shipped and transported from the various points of production in certain respective States through and into other States of the United States. They are in competition among themselves and with jobbers and subjobbers who resell such products to customers except insofar as such competition has been hindered, frustrated, lessened, restricted, restrained or eliminated as alleged in paragraphs 5 and 6 hereof. Respondent association is not engaged in commerce but is engaged in aiding and cooperating with manufacturing respondents in carrying out said unlawful methods as alleged herein, which directly and substantially affect competition among its members.

PAR. 4. The commodity involved here is generally described as "printed stationery" used chiefly for making records of sales and other business transactions. Embraced in such stationery are sales books, continuous forms consisting of multiple sets of business forms for use in billing machines, typewriters, or other office equipment, and autographic register stationery consisting of multiple sets of business forms for use in autographic or credit registers and other business recording machines, all for making hand-written and machine records of various business transactions. Each of the manufacturing respondents produces and sells at least one of the types of stationery described. For convenience, all forms of the three types of the commodity are referred to hereinafter merely as "printed stationery."

PAR. 5. For more than ten years last past, and continuing to the present time, respondents have cooperated, confederated, combined,

Complaint

35 F. T. C.

agreed and conspired between and among themselves to organize and maintain, have organized and maintained, and do now maintain an unlawful combination among and between themselves to hinder, frustrate, suppress, lessen, restrain, and eliminate competition in price and otherwise in the sale and distribution of "printed stationery" in the course of their aforesaid commerce among and between the various States.

Pursuant to and in furtherance of the aforesaid cooperation, confederation, combination, agreement, and conspiracy, respondents, in cooperation between and among themselves have—

1. Organized and operated respondent Specialty Accounting Supply Manufacturers Association as an unincorporated, voluntary trade association to promote the mutual interests of the manufacturing respondents and to serve them, and they now use it as an instrument or vehicle for their joint and cooperative purpose and action in hindering, frustrating, suppressing, lessening, restraining, and eliminating competition in price and otherwise in the sale and distribution of "printed stationery" in commerce among and between the various States.

2. Agreed to fix and maintain, and have fixed and do now concertedly maintain prices, terms and sales conditions in the sale of "printed stationery."

3. Attempted to keep up an appearance of genuine competition and made false claims regarding same, in the submission of bids to purchasing officials of the Federal Government, to awarding authorities of other governmental units or subdivisions and in the submission of price quotations to buyers of "printed stationery" generally, while in reality they acted collusively between and among themselves in an effort to frustrate and with the effect of frustrating honest rivalry, of avoiding and preventing competition, deceiving purchasing officials, awarding authorities and buyers generally, and of preventing consideration by purchasing officials, awarding authorities and by buyers of "printed stationery" generally, of genuinely competitive bids or price quotations. All of this has been accomplished in part by respondents and groups of respondents who met and discussed bids and prices in advance of the date or dates on which they knew they were to submit bids or price quotations to purchasing officials, awarding authorities of the Federal Government and other governmental units and to buyers of "printed stationery" generally. At such meetings and in such discussions respondents decided and agreed upon the use of plans, schemes or devices by which the one of their number who first received favorable consideration from any prospective purchaser of "printed stationery" would inform other respond-

ents of that fact and all other respondents would then submit to such prospective purchaser or purchasers of "printed stationery" higher but noncompetitive bids or price quotations. The purpose and effect of this procedure was to allocate particular awards or orders to the particular respondents who had first received favorable consideration from any particular prospective purchaser as to any particular prospective purchase or order of "printed stationery," it being understood that each of the other respondents would be compensated in turn by similar and reciprocal treatment whenever one of them initiated or originated favorable consideration on the part of any other prospective purchaser as to any other particular prospective purchase or order of "printed stationery."

4. Agreed to enter into, and have entered into, carried out and are now carrying out, understandings and agreements to the effect that the manufacturing respondents refrain from selling printed stationery to jobbers and subjobbers who fail to observe, adhere to and maintain the prices, terms and conditions of sale as agreed upon and fixed by the manufacturing respondents and jobbers.

5. Agreed to adopt, and have adopted and used and are now using, espionage, coercion and cooperation in dealing with jobbers and subjobbers for the purpose and with the effect of enforcing adherence to the prices, terms, and conditions of sale of "printed stationery" as fixed by agreement and understanding between and among the manufacturing respondents, their jobbers and subjobbers.

6. Given special and valuable inducements in price and otherwise to customers of manufacturers not members of the combination, while at the same time denying and withholding such inducements from customers of the manufacturing respondents, for the purpose and with the effect of diverting trade to themselves from competing manufacturers of "printed stationery" not members of respondents' combination.

7. Operated bogus independents under the sponsorship and direction of respondent American Sales Book Co. and certain other of the manufacturing respondents through outright ownership, financial and contractual affiliations and otherwise.

8. Allocated to and divided among the manufacturing respondents particular lots or pieces of business and the business of particular purchasers of "printed stationery."

9. Exchanged and circulated lists of "recognized" jobbers and dealers of "printed stationery."

10. Entered into cross license arrangements and other licensing arrangements in connection with claims of certain of the manufacturing respondents under patents, pursuant to which arrangements the

Complaint

35 F. T. C.

manufacturing respondents sought to and did agree with each other that they would uphold and maintain prices, terms and conditions of sales of "printed stationery."

11. Agreed to hold and have held meetings, from time to time, under the auspices and supervision of respondent, O. L. Moore, and other representatives and agents of respondent association, during the course of which and at other times, respondent associations, its officers, directors, and other agents cooperated with and assisted the manufacturing respondents, their jobbers and subjobbers in furthering and carrying out the unlawful acts, practices and methods herein set forth.

12. Agreed to cooperate with each other in utilizing, and have cooperated with each other and in connection therewith utilized, the facilities and offices of the respondent association and respondent, O. L. Moore, and other agents of respondent association, in formulating and cooperatively using "Open Price Plans" and "Reporting Plans," pursuant to which the various manufacturing respondents have advised and informed respondent, O. L. Moore, other agents of respondent association and each other concerning the intimate details of their respective business transactions, including names and addresses of their respective customers, volume of production, sales and shipments, lists of prices to be quoted and charged on current and future sales transactions and the prices obtained on past transactions, which information and advice has in turn been disseminated by respondent O. L. Moore and other agents and employees of respondent association to and among various manufacturing respondents.

13. Reported, filed, or exchanged and are now reporting, filing, or exchanging between or among themselves intimate details of transactions handled by the manufacturing respondents and transactions expected to be handled by the manufacturing respondents, including information as to prices, price lists, bids or price quotations.

14. Opened up books and other records of the manufacturing respondents for examination by their common agents, and reported, filed and exchanged between and among the manufacturing respondents, through common agents and otherwise, information regarding the sales of individual manufacturing respondents, including the prices at which such sales are made for the purpose and with the effect of securing a collective and cooperative comparison and consideration through common agents and otherwise of the prices at which the manufacturing respondents made sales and are making sales with the price quotations previously announced by the same manufacturing respondents.

Findings

PAR. 6. The aforesaid combination, and the doing and performing of the acts and things, and the use of the methods set forth in the preceding paragraphs hereof tend to have, have had, and now have, the effect of depriving the public of the full benefit of competition in commerce among the manufacturing respondents and between and among the manufacturing respondents and between them and their competitors.

PAR. 7. The acts, practices, methods, agreements, and combination of the respondents, as hereinbefore alleged, are all to the prejudice of the public; have a dangerous tendency to and have actually frustrated, hindered, suppressed, lessened, restrained and eliminated competition in the sale of printed stationery in commerce within the intent and meaning of the Federal Trade Commission Act; have the capacity and tendency to restrain unreasonably, and have restrained unreasonably, such commerce in said products; have a dangerous tendency to create in respondents a monopoly in the sale and distribution of such products and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of Section 5 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 December 11, 1941, issued and served an amended complaint in this proceeding upon respondents named in the caption hereof, charging them with the use of unfair methods of competition in commerce in violation of the provisions of Section 5 of said act. After issuance of the said amended complaint and filing of the respondents' answers, the Commission, by order entered herein, granted the motion of respondents' American Sales Book Co., Inc., Autographic Register Co., Baltimore Sales Book Co., Bonnar-Vawter Fanform Co., Cosby-Wirth Manifold Book Co., Egry Register Co., Hanna Register Co., The Potter Press, The Snapout Forms Co., The Standard Register Co., and United Autographic Register Co., for permission to withdraw said answers and to substitute therefor answers admitting all the material allegations of fact set forth in the said amended complaint. The Commission also granted the motion of respondents Specialty Accounting Supply Manufacturers Association, O. L. Moore, Acme Register Co., Adams Bros. Sales Book Co., Atlantic Register Co., Craft Sales Book Co., W. S. Gilkey Printing Co., Stephen Greene Co., Hamilton Autographic Register Co., Philip Hano Co., Inc., Lisbon Sales Book Co., Roscoe M. Breeden, an individual, doing business under the firm name

Findings

35 F. T. C.

of Los Angeles Register & Printing Co., McCaskey Register Co., The Miami Systems Corporation, National Carbon Coated Paper Co., C. W. Potter, Inc., The Rotary Printing Co., Schwabacher-Frey Co., Shelby Salesbook Co., Sunset-McKee Sales Book Co., and The Wallace Press, Inc., for permission to withdraw their said answers and to substitute therefor answers admitting all the material allegations of fact set forth in said amended complaint except the allegations contained in subparagraph 3 of paragraph 5 of said amended complaint, which they neither admitted nor denied, but stating in said substitute answers that they lacked knowledge of the facts relating to the allegations last referred to. All respondents further waived all intervening procedure and hearing as to said facts and consented that the Commission may, without trial and without the taking of evidence, make and enter its findings as to the facts, including inferences which it may draw therefrom and its conclusions based thereon. Thereupon said substitute admission answers were duly filed in the offices of the Commission. Thereafter this proceeding came on in due course for final hearing before the Commission on the said amended complaint, and the said substitute admission answers of the respondents, 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, Specialty Accounting Supply Manufacturers Association, hereinafter referred to as respondent Association, is an unincorporated, voluntary trade association organized in 1933 to promote the interests of its members. Its headquarters now are and have been for several years, in the offices of its secretary, respondent, O. L. Moore, 208 South LaSalle Street, Chicago, Ill. Said Association serves its members as an instrument or vehicle for their joint and cooperative action. On and since July 1, 1939, its membership has included practically all manufacturers and sellers of sales books and continuous form sales records, stationery, and machines in which such stationery is used, who are located and doing business in this country, 30 of whom are named as respondent in this proceeding. From time to time its membership has included other persons, partnerships, and corporations engaged in like business.

Respondent, O. L. Moore, who does now, and has for several years, managed and directed the affairs of respondent Association, and served as its secretary, does now and has for many years maintained and

carried on a business of organizing, managing, and directing the affairs of trade associations and groups in various industries, including the manufacturers and sellers of "printed stationery," the commodity with which this proceeding is concerned as it is hereinafter described and defined in paragraph 2 hereof.

The manufacturers of sales books and other forms of "printed stationery" (as it is hereinafter described and defined in par. 2 hereof) named in the caption hereof as respondents, and hereinafter referred to as manufacturing respondents, are more fully described as follows:

Acme Register Co., is a Delaware corporation, with its principal place of business at 413 South Fifth Street, Minneapolis, Minn.

Adams Bros. Sales Book Co., is a Kansas corporation, with its principal place of business at 200 Jackson Street, Topeka, Kans.

American Sales Book Co., Inc., is a Delaware corporation, with its principal place of business at 3000 Highland Avenue, Niagara Falls, N. Y.

Autographic Register Co., is a New Jersey corporation, with its principal place of business at 1000 Clinton Street, Hoboken, N. J.

Atlantic Register Co., is a Massachusetts corporation, with its principal place of business at 144 Moody Street, Waltham, Mass.

Baltimore Sales Book Co., is a Maryland corporation, with its principal place of business at 3120 Frederick Avenue, Baltimore, Md.

Bonnar-Vawter Fanform Co., is a Delaware corporation, with its principal place of business at 1717 East 30th Street, Cleveland, Ohio.

Cosby-Wirth Manifold Book Co., is a Minnesota corporation, with its principal place of business at 628 Stinson Boulevard, Minneapolis, Minn.

Craft Sales Book Co., Inc., is a Pennsylvania corporation, with its principal place of business at 2210 Cambria Street, Philadelphia, Pa.

Egry Register Co., is an Ohio corporation, with its principal place of business at 429 East Monument Avenue, Dayton, Ohio.

W. S. Gilkey Printing Co., is an Ohio corporation, with its principal place of business at 1138 West Ninth Street, Cleveland, Ohio.

Stephen Greene Co., is a Pennsylvania corporation, with its principal place of business at Thirty-fourth and Market Streets, Philadelphia, Pa.

Hamilton Autographic Register Co., is an Ohio corporation, with its principal place of business at 802 Symmes Avenue, Hamilton, Ohio.

Hanna Register Co., is an Indiana corporation, with its principal place of business at Springfield, Ill.

Philip Hario Co., Inc., is a Massachusetts corporation, with its principal place of business at Sargeant Street, Holyoke, Mass.

Lisbon Sales Book Co., is an Ohio corporation, with its principal place of business at Maple Street, Lisbon, Ohio.

Roscoe M. Breeden, is an individual, doing business under the firm name of Los Angeles Register & Printing Co., whose principal place of business is 428 Boyd Street, Los Angeles, Calif.

McCaskey Register Co., is an Ohio corporation, with its principal place of business at South Union Avenue, Alliance, Ohio.

The Miami Systems Corporation, is an Ohio corporation, with its principal place of business located at 2735 Colerain Street, Cincinnati, Ohio.

National Carbon Coated Paper Co., is a Michigan corporation, with its principal place of business located at Sturgis, Mich.

The Potter Press, is a Massachusetts corporation, with its principal place of business located at 515 South Street, Waltham, Mass.

C. W. Potter, Inc., is a Massachusetts corporation, with its principal place of business located at 144 Moody Street, Waltham, Mass.

The Rotary Printing Co., is an Ohio corporation, with its principal place of business located at Norwalk, Ohio.

Schwabacher-Frey Co., is a corporation, with its principal place of business at 735 Market Street, San Francisco, Calif.

Shelby Salesbook Co., is an Ohio corporation, with its principal place of business at Shelby, Ohio.

The Snapout Forms Co., is an Ohio corporation, with its principal place of business at Chardon, Ohio.

The Standard Register Company, is an Ohio corporation, with its principal place of business at 626 Albany Street, Dayton, Ohio.

Sunset-McKee Sales Book Co., is a California corporation, with its principal place of business at 2101 Livingston Street, Oakland, Calif.

United Autographic Register Co., is an Illinois corporation, with its principal place of business at 5000 South California Avenue, Chicago, Ill.

The Wallace Press, Inc., is an Illinois corporation, with its principal place of business at 730 West Monroe Street, Chicago, Ill.

PAR. 2. The commodity involved here, generally described as "printed stationery," is used chiefly in making records of sales and other business transactions. Embraced in such stationery are sales books, continuous forms consisting of multiple sets of business forms for use in billing machines, typewriters, or other office equipment, and autographic register stationery consisting of multiple sets of business forms for use in autographic or credit registers and in other business recording machines, all for making hand-written or machine records of various business transactions. Each of the manufacturing respond-

ents produces and sells at least one of the types of stationery described. For convenience, all forms of the three types of the commodity are referred to hereinafter merely as "printed stationery." "Printed stationery" is an important item in commercial intercourse between and throughout the several States of the United States and the District of Columbia, both as a commodity sold in commerce and as an aid to commerce in many other commodities.

PAR. 3. Manufacturing respondents, in the regular course of their business in the sale and distribution of "printed stationery," sell and cause the same to be shipped and transported from the various points of production in various States into and through other States of the United States. In doing so they are in competition among themselves and with jobbers and subjobbers who resell such products to their respective customers and consumers except insofar as such competition has been hindered, frustrated, lessened, restricted, restrained, or eliminated as found herein.

Respondent Association is not engaged in the sale and shipment of "printed stationery" but it is employed by manufacturing respondents and engaged in aiding and cooperating with said manufacturing respondents in the making of sales and shipments of "printed stationery" and machines in which the same is used in interstate commerce and in carrying out the unlawful acts, practices, policies and methods as found herein and which substantially affect competition among its members and with their competitors.

PAR. 4. For more than ten years last past, and continuing to the present time, respondents have cooperated, confederated, combined, agreed and conspired between and among themselves, to organize and maintain, have organized and maintained, and do now maintain, an unlawful combination among and between themselves to hinder, frustrate, suppress, lessen, restrain, and eliminate competition in price and otherwise in the sale and distribution of "printed stationery" in the course of their aforesaid commerce among and between the various States. Pursuant to, and in furtherance of the aforesaid cooperation, confederation, combination, agreement and conspiracy, respondents, in cooperation between and among themselves, have:

(a) Organized and operated respondent Association as an unincorporated, voluntary trade association to promote the mutual interests of the manufacturing respondents and to serve them, and which they now use as an instrument or vehicle for their joint and cooperative purpose and action in hindering, frustrating, suppressing, lessening, restraining, and eliminating competition in price and otherwise in the sale and distribution of "printed stationery" in commerce among and between the various States.

Findings

35 F. T. C.

(b) Agreed to fix and maintain, and have fixed and do now concertedly maintain, prices, terms and sales conditions in the sale of "printed stationery."

(c) Agreed to enter into, and have entered into, carried out and are now carrying out, understandings and agreements to the effect that the manufacturing respondents refrain from selling printed stationery to jobbers and subjobbers who fail to observe, adhere to, and maintain the prices, terms, and conditions of sale as agreed upon and fixed by the manufacturing respondents and jobbers.

(d) Agreed to adopt, and have adopted and used and are now using, espionage, coercion, and cooperation in dealing with jobbers and subjobbers for the purpose and with the effect of enforcing adherence to the prices, terms, and conditions of sale of "printed stationery" as fixed by agreement and understanding between and among the manufacturing respondents, their jobbers and subjobbers.

(e) Gave special and valuable inducements in price and otherwise to customers of manufacturers not members of the combination, while at the same time denying and withholding such inducements from customers of the manufacturing respondents, for the purpose and with the effect of diverting trade to themselves from competing manufacturers of "printed stationery" not members of respondents' combination.

(f) Operated bogus independents under the sponsorship and direction of respondent American Sales Book Co. and certain other of the manufacturing respondents through outright ownership, financial and contractual affiliations and otherwise.

(g) Allocated to and divided among the manufacturing respondents particular lots or pieces of business and the business of particular purchasers of "printed stationery."

(h) Exchanged and circulated lists of "recognized" jobbers and dealers of "printed stationery."

(i) Entered into cross license agreements and other licensing arrangements in connection with claims of certain of the manufacturing respondents under patents, pursuant to which arrangements the manufacturing respondents sought to and did agree with each other that they would uphold and maintain prices, terms and conditions of sale in "printed stationery."

(j) Agreed to hold and have held meetings, from time to time, under the auspices and supervision of respondent, O. L. Moore, and other representatives and agents of respondent association, during the course of which and at other times, respondent association, its officers, directors, and other agents cooperated with and assisted the manufacturing respondents, their jobbers and subjobbers in furthering and carrying out the acts, practices, policies and methods herein set forth.

Findings

(k) Agreed to cooperate with each other in utilizing, and have cooperated with each other and in connection therewith have utilized, the facilities and offices of the respondent association and respondent, O. L. Moore, and other agents of respondent association, in formulating and cooperatively using "Open Price Plans" and "Reporting Plans," pursuant to which the various manufacturing respondents have advised and informed respondent O. L. Moore, other agents of respondent association and each other concerning the intimate details of their respective business transactions, including names and addresses of their respective customers, volume of production, sales and shipments, lists of prices to be quoted and charged on current and future sales transactions, and the prices obtained on past transactions, which information and advice has in turn been disseminated by respondent O. L. Moore and other agents and employees of respondent association to and among various manufacturing respondents.

(l) Reported, filed, or exchanged and are now reporting, filing, or exchanging between or among themselves the intimate details of particular transactions handled by the manufacturing respondents and transactions expected to be handled by the manufacturing respondents, including information as to prices, price lists, bids, or price quotations.

(m) Opened up books and other records of the manufacturing respondents for examination by their common agents, and reported, filed, and exchanged between and among the manufacturing respondents, through common agents and otherwise, information regarding the sales of individual manufacturing respondents, including the prices at which such sales are made, for the purpose and with the effect of securing a collective and cooperative comparison and consideration through common agents and otherwise of the prices at which the manufacturing respondents made sales and are making sales with the price quotations previously announced by the same manufacturing respondents.

Therefore the Commission infers, concludes, and finds that when the manufacturing respondents filed their current and future price lists, price quotations, and other information explaining or modifying the same with respondent, O. L. Moore, as a common agent, for distribution by him among their respective competitors, filed the intimate details, including prices, of their respective sales transactions for similar distribution by said respondent, Moore, and opened their books and records for examination by their common agents for the purpose and with the effect of making a cooperative comparison between the prices received in actual sales transactions and

Findings

35 F. T. C.

the price lists or price quotations and explanations or modifications of the same previously filed and distributed through said respondent, Moore, as their common agent, there existed under such circumstances an agreement, understanding, or meeting of the minds of the manufacturing respondents that they would and should adhere to the said price lists or price quotations and explanations or modifications of the same so filed and distributed until and unless notice of intention to depart therefrom was given to their competitors by similar filing and distribution of other and different price lists or price quotations, explanations, or modifications of the same.

In addition to the foregoing acts, practices, policies, and methods participated in by all respondents, but pursuant to and in furtherance of the aforesaid agreements, understandings, cooperation, concert, and common course of action of all respondents, respondents, American Sales Book Co., Inc., Autographic Register Co., Baltimore Sales Book Co., Bonnar-Vawter Fanform Co., Cosby-Wirth Manifold Book Co., Egry Register Co., Hanna Register Co., The Potter Press, The Snapout Forms Co., The Standard Register Co., and United Autographic Register Co. have adopted and put into effect the following acts, practices, policies, and methods of competition:

Attempted to keep up an appearance of genuine competition and made false claims regarding same, in the submission of bids to purchasing officials of the Federal Government, to awarding authorities of other governmental units or subdivisions and in the submission of price quotations to buyers of "printed stationery" generally, while in reality they acted collusively between and among themselves in an effort to frustrate, and with the effect of frustrating, honest rivalry, of avoiding and preventing competition, deceiving purchasing officials, awarding authorities, and buyers generally, and of preventing consideration by purchasing officials, awarding authorities, and by buyers of "printed stationery" generally, of genuinely competitive bids or price quotations. All of this has been accomplished in part by said respondents and groups of said respondents who met and discussed bids and price in advance of the date or dates on which they knew they were to submit bids or price quotations to purchasing officials, awarding authorities of the Federal Government and other governmental units, and to buyers of "printed stationery" generally. At such meetings and in such discussions respondents decided and agreed upon the use of plans, schemes, or devices by which the one of their number who first received favorable consideration from any prospective purchaser of "printed stationery" would inform other respondents of that fact, and all other respondents would then submit to such prospective purchaser or purchasers of "printed station-

ery" higher but noncompetitive bids or price quotations. The purpose and effect of this procedure was to allocate particular awards or orders to the particular respondents who had first received favorable consideration from any particular prospective purchaser as to any particular prospective purchase or order of "printed stationery," it being understood that each of the other respondents would be compensated in turn by similar and reciprocal treatment whenever one of them initiated or originated favorable consideration on the part of any other prospective purchaser as to any other particular prospective purchase or order of "printed stationery."

PAR. 5. The aforesaid understandings, agreements, combinations, and conspiracies, and the things done thereunder and pursuant thereto and in furtherance thereof as hereinabove found, have had, and now have, the tendency and effect of unduly lessening, restricting, restraining, and suppressing competition in the sale and distribution of "printed stationery," and of depriving the public of the full benefit of competition in commerce between and among the manufacturing respondents and between them and their competitors.

CONCLUSION

The acts and practices of respondents as herein found, are all to the prejudice of competitors of respondents, and of the public, and have a dangerous tendency to, and have actually frustrated, hindered, suppressed, lessened, restrained, and eliminated competition in the sale of "printed stationery" in commerce as "commerce" is defined in the Federal Trade Commission Act; have placed in respondents the power to control and enhance prices; have unreasonably restrained such commerce in "printed stationery"; 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 amended complaint of the Commission and the answers of the respondents, in which answers respondents, American Sales Book Co., Inc., Autographic Register Co., Baltimore Sales Book Co., Bonnar-Vawter Fanform Co., Cosby-Wirth Manifold Book Co., Egry Register Co., Hanna Register Co., The Potter Press, The Snapout Forms Co., The Standard Register Co., and United Autographic Register Co., admit all of the material allegations of fact set forth in said amended complaint, and respondents, Specialty Accounting Supply Manufacturers Association, O. L. Moore, Acme

Order

35 F. T. C.

Register Co., Adams Bros. Sales Book Co., Atlantic Register Co., Craft Sales Book Co., Inc., W. S. Gilkey Printing Co., Stephen Greene Co., Hamilton Autographic Register Co., Philip Hano Co., Inc., Lisbon Sales Book Co., Roscoe M. Breeden, an individual, doing business under the firm name of Los Angeles Register & Printing Co., McCaskey Register Co., The Miami Systems Corporation, National Carbon Coated Paper Co., C. W. Potter, Inc., The Rotary Printing Co., Schwabacher-Frey Co., Shelby Salesbook Co., Sunset McKee Sales Book Co., and The Wallace Press, Inc., admit all the material allegations of fact set forth in the said amended complaint, except the allegations contained in subparagraph (3) of paragraph 5 of said amended complaint, which subparagraph they neither admit nor deny, but state in connection therewith that they lack knowledge of the facts relating to the charges therein contained. All respondents waived all intervening procedure and hearing as to said facts and consented that the Commission may, without trial, and without the taking of evidence, make and enter its findings as to the facts, including inferences which it may draw therefrom, and its conclusions based thereon, and issue and serve upon them an order to cease and desist from any methods of competition alleged in the said amended complaint; and the Commission having made its findings as to the facts, and having stated its conclusion that all of the said respondents have violated the provisions of Section 5 of the Federal Trade Commission Act.

It is ordered, That the respondents, Specialty Accounting Supply Manufacturers Association, an unincorporated association hereinafter referred to as "respondent Association," its officers, directors, agents, and employees and O. L. Moore, individually, and as an officer of Specialty Accounting Supply Manufacturers Association, his representatives, agents, and employees and the following persons, firms, and corporations, individually, and as members of the Specialty Accounting Supply Manufacturers Association, hereinafter referred to as "manufacturing respondents": Acme Register Co., a corporation; Adams Bros. Sales Book Co., a corporation; American Sales Book Co., Inc., a corporation; Atlantic Register Co., a corporation; Autographic Register Co., a corporation; Baltimore Sales Book Co., a corporation; Bonnar-Vawter Fanform Co., a corporation; Cosby-Wirth Manifold Book Co., a corporation; Craft Sales Book Co., Inc., a corporation; Egry Register Co., a corporation; W. S. Gilkey Printing Co., a corporation; Stephen Greene Co., a corporation; Hamilton Autographic Register Co., a corporation; Hanna Register Co., a corporation; Philip Hano Co., Inc., a corporation; Lisbon Sales Book Co., a corporation; McCaskey Register Co., a corporation; The Mi-

Order

ami Systems Corporation, a corporation; National Carbon Coated Paper Co., a corporation; The Potter Press, a corporation; C. W. Potter, Inc., a corporation; The Rotary Printing Co., a corporation; Schwabacher-Frey Co., a corporation; Shelby Salesbook Co., a corporation; The Snapout Forms Co., a corporation; the Standard Register Co., a corporation; Sunset-McKee Sales Book Co., a corporation; United Autographic Register Co., a corporation; and The Wallace Press, Inc.; a corporation; their respective officers, agents, representatives, and employees; and Roscoe M. Breeden, an individual, doing business under the firm name of Los Angeles Register & Printing Co., and his representatives, agents, and employees, in connection with the offering for sale, sale, and distribution in commerce as "commerce" is defined in the Federal Trade Commission Act, of "printed stationery" for use in making records of sales and other business transactions, including sales books, continuous forms consisting of multiple sets of business forms for use in billing machines, typewriters, or other office equipment, and autographic register stationery consisting of multiple sets of business forms for use in autographic or credit registers and other business recording machines for making handwritten or machine records of various business transactions, or other stationery for similar uses, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out, any common course of action, agreement, understanding, combination, or conspiracy between and among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts or practices.

1. Establishing, fixing, or maintaining prices, terms, or conditions of sale for "printed stationery," or adhering to, or promising to adhere to, the prices, terms, and conditions of sale so fixed.

2. Holding or participating in any meeting, discussion, or exchange of information among themselves or under the auspices of respondent Association, respondent O. L. Moore, or any other medium or agency concerning proposed or future prices, terms, or conditions of sale or concerning bids and prices in advance of the submittal of bids or price quotations to purchasing officials, awarding authorities of the Federal Government or other governmental units, or to any buyer of "printed stationery."

3. Arriving at the amount of any bid or price quotations to be submitted to purchasing officials of the Federal Government, to awarding authorities of other governmental units or subdivisions, or to any buyer of "printed stationery" through agreement, understanding, or collusion with other bidders.

Order

35 F. T. C.

4. Exchanging, distributing, or relaying among manufacturing respondents, information as to bids submitted or to be submitted to purchasing officials of the Federal Government or to awarding authorities of other governmental units or subdivisions or to any buyer of "printed stationery," or submitting bids which are not bona fide, to such officials, agencies, or purchasers, for the purpose, or with the effect, of protecting or favoring any one or more of the manufacturing respondents or of eliminating competitive bidding.

5. Exchanging or circulating among respondent members or through respondent Association or any other medium or central agency, lists of "recognized" jobbers or dealers in "printed stationery," to protect or favor any one or more such jobbers or dealers or restrict the sale of "printed stationery" to jobbers and dealers so listed.

6. Coercing, inducing, or persuading, by espionage, refusal to sell, or other means, or so attempting to coerce, induce, or persuade, jobbers or subjobbers of "printed stationery" to adhere to or maintain the prices, terms, or conditions of sale as fixed by any of the manufacturing respondents and their jobbers or subjobbers.

7. Giving special or valuable inducements in price, or otherwise, to purchasers of "printed stationery" not customers of the respondents herein, while at the same time denying or withholding such inducements or valuable consideration from customers of the respondents, for the purpose, or with the effect, of diverting trade to any of the respondents from other manufacturers or sellers of "printed stationery."

8. Holding out or permitting any printing stationery concern to be held out and advertised as an independent business when, in fact, such concern is owned, operated, or controlled by any of the respondents

9. Allocating or dividing among themselves or anyone, any given lot or piece of business or the business of any given purchaser of "printed stationery" which allocation or division has the tendency or effect of fixing prices or otherwise restricting, restraining, or eliminating competition in the sale and distribution of "printed stationery."

10. Entering into, continuing, or carrying out any licensing or cross-licensing arrangements in connection with claims of any of the manufacturing respondents under patents, for the purpose, or with the tendency or effect, of upholding or maintaining prices, terms, or conditions of sale of "printed stationery."

11. Exchanging, distributing, or relaying among manufacturing respondents or any of them, or through respondent Association, re-

Order

spondent O. L. Moore, or through any other medium or central agency, price lists or other information showing current or future prices, terms, or conditions of sale, or information showing current or future prices, terms, or conditions of sale of any particular respondent, or bid or price quotations submitted or to be submitted on any prospective piece of business.

12. Exchanging, distributing, or relaying among manufacturing respondents or any of them, or through respondent Association, respondent, O. L. Moore, or any other medium or central agency, information concerning prices charged particular customers or information concerning volume of production, sales, or shipments of "printed stationery" where the identity of the manufacturer, seller, or purchaser can be determined through such information, and which has the capacity or tendency of aiding in securing compliance with announced prices, terms, or conditions of sale.

13. Formulating, establishing, putting into operation, continuing, or using in any way, any "open price plan" or "reporting plan" which has the tendency or effect of depriving the public of any benefit of competition in price between and among the manufacturing respondents, or between any of them and any other manufacturer or seller of "printed stationery."

14. Authorizing or permitting the examination of the books and other records of the manufacturing respondents by any agent of the respondents or any of them, to permit or make possible a collective or cooperative consideration, through any common agent of the respondents, of the prices at which any given manufacturing respondent has made sales, is currently making sales, or expects to make sales, and a comparison of the sales with the price quotations previously announced by such manufacturing respondents.

15. Formulating or putting into operation any other practice or plan which has the purpose, or the tendency or effect, of fixing prices for "printed stationery" or otherwise restricting, restraining, or eliminating competition in the sale and distribution of such products.

16. Employing or utilizing respondent, O. L. Moore, or respondent Association or any other medium or central agency as an instrument, vehicle, or aid in performing or doing any of the acts and practices prohibited by this order.

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

Complaint

35 F. T. C.

IN THE MATTER OF

INDESTRO MANUFACTURING CORP.

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

Docket 4006. Complaint, Feb. 1, 1940—Decision, Sept. 10, 1942

Where a corporation, engaged in the manufacture and interstate sale and distribution of automobile tools—

Represented and described certain wrenches as being made from "Forged Alloy Steel," "Drop Forged Alloy Steel," "Special Alloy Steel," and "Carbon Alloy Steel" through application of such terms thereto in catalogues, price lists, and other advertising material, and on labels attached thereto;

The facts being that the quantity of chromium, vanadium, nickel, molybdenum and copper present in its said products was not sufficient, either alone or in combination, to have any appreciable effect upon the properties thereof or the steel contained therein, or to constitute "alloy steel," i. e., carbon steel to which such alloying elements have been added in quantities sufficient to affect its properties; and the small quantities of elements aforesaid found in its products indicated that they were residual only, resulting from the method of processing which included, probably, use of some alloy scrap;

With tendency and capacity to mislead and deceive the purchasing public into the mistaken belief that said wrenches were made from alloy steels— for which there is a decided preference in the industry, and among dealers and the purchasing public over those made from plain carbon steels— thereby inducing it to purchase substantial quantities of said products:

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

Before *Mr. Edward E. Reardon* and *Mr. Andrew B. Duvall*, trial examiners.

Mr. William M. King, *Mr. James I. Rooney* and *Mr. S. F. Rose* for the Commission.

Mr. Albert G. McCaleb and *Mr. Arthur Nelson Cornell*, of Chicago, Ill., and *Mr. James H. Littlehales*, of Washington, D. C., for respondent.

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 Indestro Manufacturing Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in