

## Syllabus

## IN THE MATTER OF

## EVENING DRESS GUILD, INC., ET AL.

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

*Docket 4751. Complaint, Apr. 22, 1942—Decision, Nov. 16, 1943*

Where eleven corporations, a partnership and an individual, members of a corporate "Guild" (later dissolved), doing a substantial volume of the whole of the business—particularly in the metropolitan area surrounding New York City—of the manufacture and interstate sale and distribution of popular priced women's and misses' formal evening dresses in competition with one another, except as below set forth, and with others;

Entered into, maintained, and carried out agreements and understandings between and among themselves to suppress competition in said business; and

In pursuance of said agreements, etc., and to make them effective, concertedly—

- (1) Organized said Guild to control and regulate their business;
- (2) Fixed and maintained prices and terms and conditions of sale in connection with the marketing of their said merchandise;
- (3) Attended meetings held from time to time under the auspices of said Guild, at which the prices of their said merchandise to retail dealer customers were increased; and
- (4) Adopted also under said Guild auspices, trade practice rules forbidding certain trade deductions and allowances to their customers which they had theretofore permitted;

Capacity, tendency and effect of which agreements, etc., and acts performed in pursuance thereof, were unreasonably to suppress and restrain competition in the sale and distribution of said articles of merchandise in commerce and to deprive the public of the full benefit of competition therein;

Held, That said acts and practices, under the circumstances set forth, were all to the prejudice of the public, had a dangerous tendency to and did actually restrain and eliminate price competition in the sale and distribution of formal evening dresses in commerce; placed in their hands power to control and enhance prices; unreasonably restrained such commerce in formal evening dresses; and constituted unfair acts and practices in commerce and unfair methods of competition therein.

*Mr. George W. Williams* for the Commission.

*Mr. Lawrence I. Gerber*, of New York City, for Harry Goodman, Herman Goodman, and Joseph Scafuri.

*Mr. Herman Haines*, of New York City, for Murray E. Gottesman, Meyer Schatzberg, Jack Levy, Mike Reiter, Clover Dance Frocks, Inc., Debonair Dance Frocks, Inc., Gaytime Frocks, Inc., Hollywood Formals, Inc., Patio Dress Co., Inc., Penelope Frocks, Inc., Seville Dress Manufacturing Co., Inc., Studio Dance Frocks, Inc., and S. Wicha, Inc.

## Complaint

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## 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 parties named in the caption hereof, and hereinafter particularly described, designated and referred to as respondents, have violated the provisions of section 5 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, Evening Dress Guild, Inc., hereinafter referred to as respondent "Guild," is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 152 West Forty-second Street (at the office of attorney Harold Harmatz), New York, N. Y.

The following individuals are, or were within the time hereinafter mentioned, the acting officers of said respondent Guild and as such officers, and individually, are designated as respondents herein: Harry Goodman, acting president, 134 West Thirty-seventh Street, New York, N. Y.; Murray E. Gottesman, acting secretary (Studio Dance Frocks, Inc.), 1359 Broadway, New York, N. Y.; and Meyer Schatzberg, acting treasurer (Clover Dance Frocks, Inc.), 1359 Broadway, New York, N. Y.

The following named individuals constitute the board of directors of said Guild, or were within the time hereinafter mentioned, and as such directors, and individually, are designated as respondents herein: Jack Levy (Gaytime Frocks, Inc.), 1359 Broadway, New York, N. Y.; Murray E. Gottesman (Studio Dance Frocks, Inc.), 1359 Broadway, New York, N. Y.; and Mike Reiter (Seville Dress Manufacturing Co., Inc.), 134 West Thirty-seventh Street, New York, N. Y.

The membership of said respondent Guild is made up of numerous corporations, partnerships, firms and individuals, hereinafter referred to as respondent members, engaged in the manufacture, sale and distribution of popular priced women's and misses' formal evening dresses.

PAR. 2. Respondent, Bouquet Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Clover Dance Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the

State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Darling Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Debonair Dance Frocks, 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 1359 Broadway, New York, N. Y.

Respondent, Gaytime Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Hollywood Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Judy Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

Respondent, Patio Dress 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 office and principal place of business at 218 West Thirty-seventh Street, New York, N. Y.

Respondent, Penelope Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 491 Seventh Avenue, New York, N. Y.

Respondent, Seville Dress Manufacturing 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 office and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

Respondent, Studio Dance Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Tango Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

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Respondent, S. Wicha, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 491 Seventh Avenue, New York, N. Y.

Respondents, Harry Goodman and Herman Goodman, are individuals, trading under their own names as copartners, with their office and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

Respondent, Joseph Scafuri, is an individual, trading under the firm name and style of Adorable Dance Frocks, with his office and principal place of business at 1357 Broadway, New York, N. Y.

Respondent, Murray Oliphant, is an individual, with his office and principal place of business at 1385 Broadway, New York, N. Y.

PAR. 3. Said respondent members at all times herein mentioned have been, and are now, engaged in the manufacture, sale and delivery of popular priced women's and misses' formal evening dresses, and delivering the same to their customers in the various States of the United States, other than New York, the State of origin, and in the District of Columbia, whereby said respondents created and maintained, and still maintain, a constant and continuous current of commerce in said evening dresses, between the respondent members and the purchasers thereof, in, among and between the various States of the United States, and in the District of Columbia.

The volume of business done by respondent members constitutes a substantial portion of the whole of such business done by this industry, particularly in the metropolitan area surrounding New York City.

PAR. 4. Said respondent members are in competition with one another in the manufacture, sale and distribution of their said articles of merchandise in the various States of the United States and in the District of Columbia, except insofar as their said competition has been hindered, lessened or restrained, or potential competition among them forestalled, by the acts, practices, methods and policies of said respondents hereinafter set forth.

There are other corporations, partnerships, firms and individuals not affiliated with respondent Guild, and which are engaged in the manufacture, sale and distribution of similar articles of merchandise in the area in which said respondents trade, in competition with one another, and with one or more of said member respondents, except insofar as such competition has been hindered, lessened and restrained, or potential competition among them forestalled, by the said respondents' acts, practices, methods and policies hereinafter described.

PAR. 5. Said respondents within the last two years, have entered into, maintained and carried out agreements, understandings, combinations and conspiracies, between and among themselves to suppress, hinder, and lessen competition in the manufacture, sale, and delivery of said articles of merchandise in the course of said commerce, in, among, and between the various States of the United States, and in the District of Columbia.

Pursuant to, and in furtherance of, and to make effective said agreements, understandings, combinations and conspiracies, said respondent members and individuals have cooperatively, concertedly and collectively adopted, engaged in, and carried out, among others, the following methods, acts and practices:

1. Organized respondent Guild, as aforesaid, to control and regulate the business of manufacturing, selling and delivering the said articles of merchandise.

2. Fixed, established and maintained prices and the terms and conditions of sale in connection with the marketing of the respective lines of their said articles of merchandise, in the various States of the United States, and in the District of Columbia.

3. Attended meetings held from time to time under the auspices of respondent Guild, at which the prices of said articles of merchandise manufactured or sold by respondent members, as aforesaid, were increased to retail dealer customers.

4. Adopted under the auspices of respondent Guild, trade practice rules forbidding certain trade deductions and allowances which had theretofore been permitted by said members to their customers.

PAR. 6. The capacity, tendency, and effect of the aforesaid agreements, understandings, combinations and conspiracies and the methods, acts and practices and things done and performed by respondents in pursuance thereof are, and have been, to unreasonably lessen, suppress, and restrain competition in the manufacture, sale, and delivery of said articles of merchandise in the various States of the United States and in the District of Columbia, and to deprive the purchasing, using, and consuming public of the advantage of competitive prices, terms, and conditions in connection with the purchase thereof, and other advantages which they would receive and enjoy under conditions of normal and unobstructed and free and fair competition in said trade and industry, and to otherwise operate as a restraint upon, obstruction and detriment to, the freedom of fair and legitimate competition in such trade and industry; and particularly among the members of said Guild.

PAR. 7. The acts and practices of said respondents, and the things done and performed by them, as herein alleged, are all to the prejudice

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of the public; have a dangerous tendency to hinder and prevent, and have actually hindered and prevented competition between and among said member respondents in the manufacture, sale, and delivery of their said articles of merchandise in commerce, within the intent and meaning of section 4 of the Federal Trade Commission Act; and placed in member respondents the power to control and enhance prices and other terms and conditions in connection with the manufacture, sale and delivery of their said articles of merchandise; have a dangerous tendency to create in member respondents a monopoly in said articles of merchandise in said commerce; have unreasonably restrained such commerce in their said articles of merchandise, and constitute unfair methods of competition and unfair and deceptive acts or 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 the 22d day of April 1942, issued and subsequently served its complaint in this proceeding upon the above-named respondents charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of section 5 of said act. All of the above-named respondents, except the Evening Dress Guild, Inc., Darling Formals, Inc., Judy Formals, Inc., and Murray Oliphant, filed admission answers admitting all material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and said answers, and the Commission, having duly considered the matter and now being 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, Evening Dress Guild, Inc., hereinafter referred to as "respondent Guild," was a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 152 West Forty-second Street, New York, N. Y. Said respondent was dissolved and ceased doing business on September 14, 1942.

Respondent, Harry Goodman, 134 West Thirty-seventh Street, New York, N. Y., is an individual and was an officer of respondent Guild,

having held the office of acting president during the times herein mentioned.

Respondent, Murray E. Gottesman, 1359 Broadway, New York, N. Y., is an individual and representative of Studio Dance Frocks, Inc., and was an officer and director of respondent Guild, having held the office of acting secretary during the times herein mentioned.

Respondent, Meyer Schatzberg, 1359 Broadway, New York, N. Y., is an individual and representative of Clover Dance Frocks, Inc., and was an officer of respondent Guild, having held the office of acting treasurer during the times herein mentioned.

Respondents, Jack Levy, 1359 Broadway, New York, N. Y., an individual and representative of Gaytime Frocks, Inc., and Mike Reiter, 134 West Thirty-seventh Street, New York, N. Y., an individual and representative of Seville Dress Manufacturing Co., Inc., were directors of respondent Guild during the times herein mentioned.

Respondent, Bouquet Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Clover Dance Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Debonair Dance Frocks, 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 1359 Broadway, New York, N. Y.

Respondent, Gaytime Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Hollywood Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Patio Dress 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 office and principal place of business at 218 West Thirty-seventh Street, New York, N. Y.

Respondent, Penelope Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 491 Seventh Avenue, New York, N. Y.

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Respondent, Seville Dress Manufacturing 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 office and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

Respondent, Studio Dance Frocks, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 1359 Broadway, New York, N. Y.

Respondent, Tango Formals, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

Respondent, S. Wicha, Inc., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business at 491 Seventh Avenue, New York, N. Y.

Respondents, Harry Goodman and Herman Goodman, are individuals, trading under their own names as copartners, with their offices and principal place of business at 134 West Thirty-seventh Street, New York, N. Y.

Respondent, Joseph Scafuri, is an individual, trading under the firm name and style of Adorable Dance Frocks, with his office and principal place of business at 1357 Broadway, New York, N. Y.

Respondent, Darling Formals, Inc., was a corporation, organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1359 Broadway, New York, N. Y. Said respondent was dissolved and ceased doing business on May 1, 1942.

Respondent, Judy Formals, Inc., was a corporation, organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 134 West Thirty-seventh Street, New York, N. Y. Said respondent was dissolved and ceased doing business on July 23, 1942.

Respondent, Murray Oliphant, is an individual, with his office and principal place of business at 1395 Broadway, New York, N. Y. Said respondent never took any active part in the formation of respondent Guild and was never a member thereof.

The aforesaid respondents, Bouquet Formals, Inc., Clover Dance Frocks, Inc., Debonair Dance Frocks, Inc., Gaytime Frocks, Inc., Hollywood Formals, Inc., Patio Dress Co., Inc., Penelope Frocks, Inc., Seville Dress Manufacturing Co., Inc., Studio Dance Frocks, Inc., Tango Formals, Inc., S. Wicha, Inc., Harry Goodman and Herman Goodman, copartners, and Joseph Scafuri, trading as Adorable

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Dance Frocks, were members of respondent Evening Dress Guild, Inc., and, for convenience, will hereinafter be referred to as "respondent members."

PAR. 2. Respondent members are now, and have been, engaged in the manufacture, sale, and distribution of popular priced women's and misses' formal evening dresses. Said respondent members cause said formal evening dresses, when sold by them, to be transported from their respective places of business in the State of New York to the purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondent members maintain, and at all times mentioned herein have maintained, a course of trade in said formal evening dresses in commerce among and between the various States of the United States and in the District of Columbia.

The volume of business done by respondent members constituted, and constitutes, a substantial portion of the whole of such business done by this industry, particularly in the metropolitan area surrounding New York City.

PAR. 3. Said respondent members were, and are, in competition with one another in the manufacture, sale, and distribution of said articles of merchandise in various States of the United States and in the District of Columbia, except insofar as their said competition has been hindered, lessened, or restrained, or potential competition among them forestalled, by the acts, practices, methods, and policies of said respondents hereinafter set forth.

There are other corporations, partnerships, firms, and individuals not affiliated with respondent Guild and which are engaged in the manufacture, sale, and distribution of similar articles of merchandise in the area in which said respondent members trade, in competition with one another, and with one or more of said respondent members, except insofar as such competition has been hindred, lessened, or restrained, or potential competition among them forestalled, by the acts, practices, methods, and policies hereinafter described.

PAR. 4. Said respondent members, within the two years preceding the filing of the complaint, have entered into, maintained, and carried out agreements, understandings, combinations, and conspiracies between and among themselves to suppress, hinder, and lessen competition in the manufacture, sale, and distribution of said articles of merchandise in the course of said commerce in, among, and between the various States of the United States, and in the District of Columbia.

Pursuant, to and in furtherance of, and to make effective said agreements, understandings, combinations, and conspiracies, said respondent members and individuals have cooperatively, concertedly,

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and collectively adopted, engaged in, and carried out, among other things, the following methods, acts, and practices:

1. Organized respondent Guild to control and regulate the business of manufacturing, selling, and delivering the said articles of merchandise.

2. Fixed, established, and maintained prices and the terms and conditions of sale in connection with the marketing of the respective lines of their said articles of merchandise, in the various States of the United States, and in the District of Columbia.

3. Attended meetings held from time to time under the auspices of respondent Guild, at which the prices of said articles of merchandise manufactured or sold by respondent members were increased to retail dealer customers.

4. Adopted under the auspices of respondent Guild, trade practice rules forbidding certain trade deductions and allowances which had theretofore been permitted by said members to their customers.

PAR. 5. The capacity, tendency, and effect of the aforesaid agreements, understandings, combinations, and conspiracies and the methods, acts, and practices and things done and performed by respondents in pursuance thereof are, and have been, to unreasonably lessen, suppress, and restrain competition in the sale and distribution of said articles of merchandise in commerce among and between the various States of the United States and in the District of Columbia, and to deprive the public of the full benefit of competition in said commerce among and between the respondent members and between them and their competitors.

## CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice of the public; have a dangerous tendency to and have actually hindered, suppressed, lessened, restrained, and eliminated price competition in the sale and distribution of formal evening dresses 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 formal evening dresses; and constitute unfair acts and practices in commerce and unfair methods of competition in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of the

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respondents, in which answers the said respondents admit all the material allegations of fact set forth in said complaint and waive all intervening procedure and further hearings as to the facts; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That respondents, Bouquet Formals, Inc., a corporation; Clover Dance Frocks, Inc., a corporation; Debonair Dance Frocks, Inc., a corporation; Gaytime Frocks, Inc., a corporation; Hollywood Formals, Inc., a corporation; Patio Dress Co., Inc., a corporation; Penelope Frocks, Inc., a corporation; Seville Dress Manufacturing Co., Inc., a corporation; Studio Dance Frocks, Inc., a corporation; Tango Formals, Inc., a corporation; and S. Wicha, Inc., a corporation, and their respective officers, representatives, agents, and employees; and respondents, Harry Goodman and Herman Goodman, individually, and as copartners, Joseph Scafuri, individually, and trading as Adorable Dance Frocks, and Murray E. Gottesman, Meyer Schatzberg, Jack Levy, and Mike Reiter, individually, and their respective representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of formal evening dresses or other similar articles of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, mutual 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 formal evening dresses or other similar articles of merchandise, or adhering to or promising to adhere to prices, terms, or conditions of sale so fixed.
2. Holding or participating in any meeting or discussion among themselves or under the auspices of any association or other medium or agency when the intent, purpose, or effect of same is to fix, establish, maintain, or adhere to the prices to be charged dealers for formal evening dresses or other similar articles of merchandise.
3. Employing or utilizing any association or other medium or agency as an instrument, vehicle, or aid in establishing, fixing, or maintaining the prices, terms, or conditions of sale for formal evening dresses or other similar articles of merchandise.

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*It is further ordered*, That the complaint herein be, and the same hereby is, dismissed as to the respondents, Evening Dress Guild, Inc., a corporation; Darling Formals, Inc., a corporation; Judy Formals, Inc., a corporation; and Murray Oliphant, an individual.

*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.

## Syllabus

## IN THE MATTER OF

STANLEY J. REMUS, DOING BUSINESS AS STANLEY J. REMUS & COMPANY; P. E. HARRIS & COMPANY; KELLEY-CLARKE COMPANY<sup>1</sup>; AND OCEANIC SALES COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED

*Docket 4833. Complaint, Sept. 14, 1942—Decision, Nov. 20, 1943*

Where an individual engaged, principally as a jobber, in interstate buying and selling in his own name and for his own account of canned salmon, tuna, shrimp, and sardines which he purchased from a corporation operating canneries in Alaska and selling its pack and that of others; and from a Washington State distributor, also—

(a) Received and accepted from aforesaid sellers on said purchases of canned fish in his own behalf and on his own account, brokerage fees, and discounts in lieu thereof in substantial amounts through monthly rebates from them in amount equal to an agreed percentage of all such purchases in his own behalf during the preceding month; and

Where aforesaid canning corporation and said corporate distributor, engaged in interstate sale and distribution of canned fish—

(b) Paid and delivered to said individual brokerage fees, or allowances, or discounts in lieu thereof, in substantial amounts through payment, among other ways, of monthly rebate checks in amounts determined as aforesaid:

*Held*, That such receipt and acceptance by said individual of brokerage fees or commissions in lieu of brokerage, and such payment thereof by said concerns, violated the provisions of section 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act.

*Mr. Edward S. Ragsdale* for the Commission.

*Mr. Edward M. Keating*, of Chicago, Ill., for Stanley J. Remus.

*Bogle, Bogle & Gates and Eggerman, Rosling & Williams*, of Seattle, Wash., for P. E. Harris & Co.

*Medley & Haugland*, of Seattle, Wash., for Kelley-Clarke Co.

<sup>1</sup> Order of Commission dismissing complaint as to Kelley-Clarke Co. made as of November 5, 1942, follows:

This matter coming on to be heard by the Commission upon the motion of respondent Kelley-Clarke Company through its attorneys, Eggerman, Rosling & Williams of 1824 Exchange Building, Seattle, Wash., to dismiss the complaint against said respondent on the grounds that the respondent was a corporation which has been voluntarily dissolved and the assets distributed to shareholders on September 15, 1942, and the Commission having duly considered the matter and now being fully advised in the premises;

*It is ordered*, That the complaint herein be, and the same hereby is, dismissed without prejudice as to Kelley-Clarke Co.