

IN THE MATTER OF
NATIONAL CREPE PAPER ASSOCIATION
OF AMERICA, ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4606. Complaint, Oct. 7, 1941—Decision, Apr. 22, 1944

Where a trade association, and eight corporations, members or former members thereof comprising all the manufacturers in the United States of crepe paper, and in competition with one another except insofar as such competition has been suppressed as below set forth;

- (a) Continued in operation and effect, subsequent to the Supreme Court decision invalidating the National Industrial Recovery Act, agreements and understandings to restrain and suppress price competition in the sale of aforesaid products, originally inaugurated under said Act; and

Where aforesaid manufacturers, pursuant to and in furtherance of such conspiracy—

- (b) Agreed to and did, from time to time, file their price lists showing current and future prices for their products, and agreed that information disclosed thereby should be disseminated among them by the Association, which was so done, and in the case of some, filed with the Association copies of invoices showing details of specific sales; and

Where said Association and manufacturers, in further pursuance of their agreements—

- (c) Cooperatively established and maintained a "zoning plan," under which the United States was divided into geographical zones and uniform delivered prices were established for all purchasers located within a particular zone, with uniform price differentials among the several zones;
- (d) Classified purchasers as jobbers, syndicates, etc., depending upon the quantity of paper they purchased, and established uniform prices and price differentials for each class of purchasers;
- (e) Entered into and put into effect agreements governing various other matters affecting the prices of their products, including creping ratios, sizes, weights, and the sale of seconds or close-outs; and

Where, through use of such means and methods, aforesaid manufacturers—

- (f) Cooperatively established and maintained uniform prices for their products whereby competition in price was substantially restrained and suppressed;

Tendency and capacity and effect of which agreements, etc., and acts and things done in furtherance thereof, were unduly and unlawfully to prevent price competition among manufacturers concerned in the sale of crepe paper in commerce, and to restrain trade in such products therein:

Held, That their said acts and practices, as above set forth, were all to the prejudice of the public and constituted unfair methods of competition in commerce.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Reuben J. Martin for the Commission.

Mr. Joseph J. Brown, of Philadelphia, Pa., for National Crepe Paper Ass'n of America, *George J. Lincoln, Jr.*, American Tissue Mills, The Papyrus Co., C. A. Reed Co. and The Tuttle Press Co., and along with—
Mr. Randolph Montgomery, of New York City, for Charles T. Bainbridge's Sons.

Knapp, Cushing, Hershberger & Stevenson, of Chicago, Ill., for Fort Howard Paper Co.

Mr. Robert J. Keating and Mr. W. H. Leahy, of Framingham, Mass., for Dennison Manufacturing Co.

Wolf, Block, Schorr & Solis-Cohen, of Philadelphia, Pa., for The Reyburn Manufacturing Co.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (38 Stat. 717; as amended 52 Stat. 111; 15 U. S. C. A. Sec. 41) 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 more particularly 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 complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, National Crepe Paper Association of America, hereinafter referred to as respondent Association, is an unincorporated trade association having its principal office and place of business located at 1532 Lincoln-Liberty Building, Philadelphia, Pa. The membership of respondent Association is composed of six corporations engaged in the manufacture and sale of bulk and packaged crepe paper.

The business and affairs of respondent Association are conducted under the active management and supervision of an executive secretary and manager.

Respondent, George J. Lincoln, Jr., is executive secretary and manager of respondent Association, with an office at 1532 Lincoln-Liberty Building, Philadelphia, Pa.

PAR. 2. Respondent, American Tissue Mills, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located at 12 Crescent Street, Holyoke, Mass.

Respondent, Charles T. Bainbridge's Sons, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 12-26 Cumberland Street, Brooklyn, N. Y.

Respondent, Fort Howard Paper Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at Green Bay, Wis.

Respondent, The Papyrus Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Kenilworth, N. J.

Respondent, C. A. Reed Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Williamsport, Pa.

Respondent, The Tuttle Press Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at Appleton, Wis.

Respondent, Dennison Manufacturing Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the

State of Massachusetts, with its principal office and place of business located at Howard Street, Framingham, Mass.

Respondent, The Reyburn Manufacturing Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 32nd & Alleghany Avenue, Philadelphia, Pa.

Respondents, American Tissue Mills, Charles T. Bainbridge's Sons, Fort Howard Paper Company, The Papyrus Company, C. A. Reed Company and The Tuttle Press Company, are all respectively respondent-members of respondent Association. Said respondent-members, together with respondents, Dennison Manufacturing Company and The Reyburn Manufacturing Company, non-members of said respondent Association, will hereinafter be referred to as respondent manufacturers.

PAR. 3. In the course and conduct of their respective businesses respondent manufacturers sell and distribute bulk and packaged crepe paper to purchasers thereof located in various States of the United States, pursuant to which sales said commodities are shipped or transported to the purchasers thereof across State lines into States other than the State of origin of said shipments. Each of the respondent manufacturers, in the aforementioned manner, maintains a constant current of trade in commerce between and among different States of the United States.

PAR. 4. Respondent Association and respondent, George J. Lincoln, Jr., are not engaged in commerce, but have aided, abetted, furthered, cooperated with and were instrumentalities of, and parties to, some, or all, of the understandings, agreements, combinations and conspiracies herein-after set out and actively cooperated and participated in the performance of some or all of the acts and practices done in pursuance thereto and in furtherance thereof.

PAR. 5. Respondent manufacturers, in the regular course and conduct of their respective businesses, have been in competition with each other in the sale of crepe paper in commerce between and among the several States of the United States and in the District of Columbia, except to the extent to which such competition has been restrained, lessened, injured and suppressed by the understandings, agreements, combinations and conspiracies hereinafter set forth.

PAR. 6. Respondent Association, respondent, George J. Lincoln, Jr. and respondent manufacturers have entered into and for more than three years last past have been and are now carrying out a conspiracy, combination, agreement and understanding for the purpose and with the effect of restricting, restraining, suppressing and eliminating price competition among respondent manufacturers in the sale of crepe paper in commerce as aforesaid.

PAR. 7. Pursuant to said conspiracy, combination, agreement and understanding, and in furtherance thereof, said respondents have done and performed, and still do and perform, among others, the following acts and things:

1. Fixed and maintained uniform delivered prices at which crepe paper is to be sold, and is sold, by respondent manufacturers;
2. Established and maintained geographical zones of identical delivered prices, zone boundaries, and price differentials between such zones;
3. Arbitrarily computed or averaged delivery costs and freight allowances within each delivered price zone from some common shipping point or points to all delivery points therein, in order to prevent differences in

delivery cost from the various plants of respondent manufacturers to their customers from creating any differences in delivered prices.

4. Respondent manufacturers have

(a) agreed to file and in practice have actually filed with respondent Association their lists of delivered prices for crepe paper;

(b) agreed that they would not change or deviate from such filed prices until new and different prices were so filed by them;

(c) agreed to file and in practice have actually filed with respondent Association invoices and other private price information of respondent manufacturers;

(d) agreed that respondent Association could, and it did, disseminate the price information so filed to all of respondent manufacturers;

5. Fixed and maintained uniform discounts and other terms and conditions for the sale of crepe paper by respondent manufacturers;

6. Adopted and maintained standard uniform colors, sizes and ratios in order to facilitate and maintain identity of prices;

7. Established and maintained uniform classification of customers for pricing purposes;

8. Used other means and methods designed to suppress and prevent price competition and to accomplish uniformity of delivered price on the part of respondent manufacturers in the sale of crepe paper in commerce, as hereinabove described.

PAR. 8. Each of the respondents herein acted in concert and cooperation with one or more of the other respondents in doing and performing the acts and things hereinabove alleged in furtherance of said conspiracy, combination, agreement and understanding.

PAR. 9. As an incidental but necessary result of the collusive acts and practices set forth in Paragraphs Six, Seven and Eight, the respective respondent manufacturers deprived their nearby customers of the natural advantage which they would otherwise have in delivered prices by comparison with more distant customers. The respective respondent manufacturers thereby demanded, accepted and received different sums of money per unit of product from their respective customers and required their nearby customers to pay larger sums per unit than their more distant customers, after allowing for differences in cost of delivery. The aforesaid differences in treatment of their respective customers was for the purpose and with the effect of maintaining identity of delivered prices among respondent manufacturers.

PAR. 10. The conspiracy, combination, agreement and understanding, and the things done thereunder and pursuant thereto and in furtherance thereof, as hereinabove alleged, have had and do have the effect of unduly and unlawfully restricting, restraining, hindering and preventing price competition between and among respondent manufacturers in the sale of crepe paper in commerce within the intent and meaning of Section 4 of the Federal Trade Commission Act; of unduly and unlawfully restricting and restraining trade and commerce in said products in said commerce; of placing in respondent manufacturers the power to control and enhance prices; of unreasonably restraining such commerce in said products. The conspiracy, combination, agreement and understanding, and the things done thereunder and pursuant thereto and in furtherance thereof, as above alleged, constitute unfair methods of competition 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 October 7, 1941, issued and subsequently served its complaint in this proceeding upon the parties respondent named in the caption hereof, charging them with the use of unfair methods of competition in commerce in violation of the provisions of that act. After the filing by respondents of their answers to the complaint, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, answers, testimony and other evidence, report of the trial examiner upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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, National Crepe Paper Association of America, hereinafter frequently referred to as respondent Association or as the Association, is an unincorporated trade association with its principal office and place of business located at 1532 Lincoln-Liberty Building, Philadelphia, Pa. The present membership of the Association comprises six corporations engaged in the manufacture and sale of crepe paper.

Respondent, George J. Lincoln, Jr., is executive secretary and manager of respondent Association, with his office located at 1532 Lincoln-Liberty Building, Philadelphia, Pa. Respondent, Lincoln, is now and at all times mentioned herein has been in active charge of the Association's affairs and activities.

PAR. 2. Respondent, American Tissue Mills, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located at 12 Crescent Street, Holyoke, Mass.

Respondent, Charles T. Bainbridge's Sons, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 12-26 Cumberland Street, Brooklyn, N. Y.

Respondent, Fort Howard Paper Company, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at Green Bay, Wis.

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Respondent, C. A. Reed Company, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Williamsport, Pa.

Respondent, The Tuttle Press Company, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at Appleton, Wis.

Respondent, Dennison Manufacturing Company, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located at 300 Howard Street, Framingham, Mass.

Respondent, The Reyburn Manufacturing Company, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 32d and Allegheny Avenue, Philadelphia, Pa.

The first six corporations named in this paragraph comprise the present membership of respondent Association. Respondents, Dennison Manufacturing Company and The Reyburn Manufacturing Company, were formerly members of the Association but resigned from membership in November, 1939. All of the corporations named in this paragraph are frequently referred to hereinafter as respondent manufacturers or as the members of the Association.

PAR. 3. All of the respondent manufacturers are engaged in the manufacture and sale of crepe paper. Each of such manufacturers causes its products, when sold, to be shipped or transported to purchasers located in various States of the United States other than the State of origin of such shipments. Each of such manufacturers maintains a constant course and current of trade in its products in commerce among and between the various States of the United States.

PAR. 4. The respondent manufacturers comprise all of the manufacturers of crepe paper in the United States. In the course and conduct of their respective businesses, such manufacturers are and have been in competition with one another in the sale and distribution of crepe paper in commerce among and between the various States of the United States, except insofar as such competition has been restrained, injured, and suppressed as a result of the acts and practices hereinafter set forth.

PAR. 5. Respondent Association was organized by the respondent manufacturers on July 19, 1933, at which time an executive committee was elected and a constitution adopted. A few days later the Executive Committee, at a meeting held on July 26, 1933, drafted a "Code of Fair Competition" (under the National Industrial Recovery Act) and certain preliminary steps were taken by the Committee toward submitting the Code to the entire membership of the Association. The minutes of this meeting of the Executive Committee contain, under the heading "Trade Agreement," the following:

In addition to drawing up a Code of Fair Competition, the Committee felt that it would be necessary also to draw up a Trade Agreement which would contain standard practices in reference to terms, datings, contracts, freight allowances, standards of lengths, widths, weights, etc., of Crepe Paper, crepe paper put-ups, bulk and package, also crepe paper accessories, selling prices, etc. . . . (Comm. Ex. 4B).

That agreements along the lines contemplated by the Executive Committee were entered into and put into effect by the Association membership is evident from the minutes of various meetings of the Association, beginning with a meeting held on August 17-18, 1933. Copies of the minutes of the meetings of the Association were sent by the Secretary to all of

the members. The minutes of the meeting held on August 17-18, 1933, after reciting that the members had agreed to abide by the NRA Code as to wages and hours, set forth various other agreements entered into by the members. Among the recitals in the minutes are the following:

Seconds and Close-outs

The selling of obsolete, damaged or rejected Crepe Paper as seconds shall be limited to a period of six months from the date of this code. During this period seconds shall be sold only to Converters. Each manufacturer will send a list to the Secretary by September 1st showing the quantity of seconds, close-outs and discontinued lines which they have on hand and wish to dispose of. A period of six months will be allowed to dispose of this merchandise and at the next meeting an attempt will be made to fix a selling price for the goods. When the six-months' period has expired, the Executive Committee and the whole Association will review and recommend a method of disposal.

Pricing

No manufacturer shall deduct the 2% discount from prices when quoting customers.

Length of Crepe Paper

The maximum length of a fold of crepe paper shall be ten feet, four inches. The additional four inches are given to allow for contraction in the paper.

Creping Ratios

The following creping ratios are considered standard by all manufacturers.

2½ to 1-150% Stretch	1¾ to 1-75% Stretch
2¼ to 1-125% Stretch	1½ to 1-50% Stretch
2 to 1-100% Stretch	1¼ to 1-25% Stretch

[The term "creping ratio" as used in the crepe paper industry denotes the relationship as to length between paper before and after it has been subjected to the creping process. For example, a creping ratio of "2½ to 1" means that two and one-half inches of paper have been used in making one inch of crepe paper. It is the creping ratio which determines the elasticity or "stretch" of crepe paper.]

Standards of Tissue

The basis weight of creping tissue shall not be more than 10.44 lbs. to a ream size 24" × 36" with 5% tolerance and for each one-half pound additional weight an up-charge of 30¢ per gross shall be made.

* * * * *

Each manufacturer must publish a price schedule with differentials between sales in various quantities, such schedules to be based on manufacturers' weighted costs of all materials at prevailing market price.

All sales made to a jobber, broker, display company, commission broker or manufacturer to be made at the price governing the quantity to be shipped, billed, and delivered at one time to one point of destination. Prices to be same as manufacturers' published price list (Comm. Ex. 6B-C).

The minutes of this same meeting (August 17-18, 1933) further recite that:

The next order of business was the approval and adoption of prices, zoning plan, etc., as given below.

Zoning

That we adopt a zoning plan as presented to each manufacturer, of three zones—Zone 1, Zone 2 and Zone 3, for bulk crepe paper, plan and fireproof, jumbo rolls, window sets, duplex crepe paper in rolls and sheets and special printed decorated crepe paper.

Also the adoption of a zoning plan for packaged crepe paper, streamers, shelf paper, decorated crepe paper, duplex crepe paper, which consists of two zones, Eastern and Western. The Eastern Zone takes in the same territory as Zones 1 and 2 with the exception of Texas, and the Western Zone is the same as Zone 3, but with the addition of Texas. This is shown on map.

Price Schedule for Bulk Crepe Paper

It was recommended and approved to continue with Class 1 as heretofore, the same list of companies, etc. The price list for Class 1 is now in your possession. Eliminate from price list the twenty-five gross minimum quantity of a color of 2 to 1 Crepe Paper.

It was recommended and approved to put display companies and jobbers in a separate class to be known as Class 3, and to have Class 2 for Consumers, Converters, Flower and Novelty Manufacturers and Schools. Eliminate from Class 2 price list the twenty-five gross minimum quantity of a color of 2 to 1 Crepe Paper. Class 2 price list is also in your possession.

Class 3 is composed of jobbers and display companies. (A Display Company is one that employs one or more window trimmers.) On 1¼ to 1 ratio, the \$4.70 gross price applies on quantities of 25 to 99 gross. Class 3 price list is also in your possession.

On all of the above price schedules which have been sent you, complete information relative to terms, packing, freight allowance, etc., has been given.

Packaged Goods—Price and Put-Ups

The schedule you now have for package crepe paper, crepe shelf paper, decorated crepe paper, duplex crepe paper and crepe paper ribbon plain and decorated, has been approved. Additional consideration is to be given at a later meeting to decorated streamers.

* * * * *

Effective Dates on Prices

It was recommended and approved that prices go into effect as follows—

For Bulk Crepe Paper, Duplex Sheets, Jumbo Rolls, Fireproof Crepe Paper, Window Sets and Special Decorated Crepe Paper, prices to be effective Tuesday, August 22, 1933.

For Package Crepe Paper, Decorated Crepe Paper, Crepe Shelf Paper, Duplex Crepe Paper, Crepe Paper Ribbon, and Decorated Streamers, prices to be effective for Jobbers, Wednesday, August 23rd, 1933. For Syndicates, Friday, September 1, 1933.

* * * * *

Price Lists

Each manufacturer is to publish a price list at once on all prices adopted and to send a copy of price list to Mr. Lincoln, Secretary, Lincoln-Liberty Building, Philadelphia, Pa. (Comm. Ex. 6D-F).

The minutes of a meeting held on October 19, 1933, contain among other recitals the following:

The Trade Practice recommended by the Executive Committee of selling Bulk Crepe Paper to Syndicate and Chain Grocery Stores on the Class Three 100 gross lot of \$5.70 for 2½ to 1 ratio, and \$5.50 for 2¼ to 1 ratio, in any quantity, was confirmed (Comm. Ex. 7B).

The minutes of a meeting held on January 16, 1934, recite that:

The list as now constituted of Class 1 Buyers was discussed and, on motion duly made and seconded, the Premier-Pabst Corporation was added to the list. The list was then approved with this correction (Comm. Ex. 8B).

In the minutes of a meeting held on November 8, 1934, the following appears, under the heading "Crepe Paper Industry Price List":

The Executive Secretary was requested to have the Crepe Paper Industry price list re-edited and sent to the Industry, so that there would be no confusion as to the prices filed by the different members and in effect at this time (Comm. Ex. 11B).

PAR. 6. While the practices heretofore referred to had their origin during the period in which the National Industrial Recovery Act was in effect, the record affirmatively shows that the practices have by mutual agreement been continued by respondents since that time. The minutes of a meeting of the Association held on June 11, 1935, shortly after the decision of the United States Supreme Court invalidating the National Industrial Recovery Act, recite the following:

The Secretary addressed the meeting regarding the effect the recent Supreme Court decision eliminating the activities of the National Recovery Administration, would have on the Industry, and urged the cooperative effort be continued, as it was only through the medium of Association work, that the exchange of ideas and the working out of problems of the Industry could be accomplished. If the members of the Industry were desirous of continuing on a cooperative basis, it would be necessary that the Constitution and By-Laws as now written, be amended in certain respects, in order to eliminate those clauses having reference to Code activities.

A discussion was held on this subject, and it was suggested by Mr. Harney [a representative of respondent Dennison Manufacturing Company], that in redrafting the Constitution and By-Laws, the Secretary make the corrected instrument as simple and concise as possible.

The Chair then called for an expression from the members as to the advisability of the Industry continuing to operate under the same conditions as were in force prior to the elimination of NRA. A discussion was held, and it was moved by Mr. Crandall [a representative of respondent American Tissue Mills] that the Industry continue to operate on such basis. This motion was seconded and passed unanimously (Comm. Ex. 14A).

The minutes further recite that:

The Secretary addressed the meeting relative to the advisability of incorporating the Labor Provisions as provided for in the former Code in the Fair Trade Practices of the Industry. After discussion, it was decided that no definite decision should be made at this time, but that the Industry should await developments in Washington before formulating a definite policy.

All members present agreed that they would continue to operate under the same Labor Conditions and Fair Trade Practices, as were in effect prior to the elimination of NRA, at least until such time as a definite and specific policy had been adopted by the Administration (Comm. Ex. 14B).

Further evidence of the various agreements entered into by the respondents and of the continued operation of such agreements subsequent to the NRA period is found in the minutes of later meetings of the Association. Among the recitals found in these minutes are the following:

From the minutes of a meeting held on January 17, 1936:

Mr. Lincoln asked for a clarification as to what constituted the requirements of a buyer in order to come under the Class 1 classification. On motion duly made and passed, it was stated that Class 1 Buyers should qualify as follows:

The list would be reviewed January 1st and July 1st each year. Any National Advertiser having purchased at the rate of \$500.00 per month of Crepe Paper for the prior 6 months would be classified as a Class 1 buyer for the next 6 months. This Trade Practice would become effective beginning July 1, 1936 (Comm. Ex. 16B).

From the minutes of a meeting held on June 2-3, 1936:

... The meeting then discussed the question of adopting a new form of price structure which would eliminate Classes #1, #2 and #3, reduce the number of brackets, and in every respect simplify the old form. This new form was tentatively approved with the suggestion that it be brought before the meeting on the next day.

And on the next day (June 3):

The question of adopting a *new form* of price list which was tentatively approved on June 2nd, was brought before the meeting and a new form effective June 8, 1936, was unanimously adopted (Comm. Ex. 18A-B).

From the minutes of a meeting held on November 10, 1936:

The Executive Secretary then took up the subject of creping ratio. He said that it was his firm conviction that the situation had improved, but it was absolutely essential that efforts to correct the situation be continued. He emphasized the fact that excessive ratios have fully as bad an effect on the market as a violation of each manufacturer's own published price list, and the stability of the market would surely be wrecked if steps to correct the situation were not vigorously continued. Each manufacturer agreed to this statement and promised to take this matter up with his Production Department immediately and see that ratios received adequate and proper supervision (Comm. Ex. 20B).

From the minutes of a meeting held on January 21, 1937:

The Industry confirmed their action on the selling and publishing price on Bulk Crepe Paper in that the offering of Flooring Crepe Paper was discontinued and the only $1\frac{1}{2}$ to 1 ratio paper that would be offered for sale would be the Package (Comm. Ex. 21).

From the minutes of a meeting held on June 23-24, 1937:

The question of cutting charges for crepe paper was discussed next, and the meeting adopted the following Trade Practice.

It was decided that it would be in order for them to use Jobbers prices with no excess for cutting when quoting on crepe paper cut to pieces (Comm. Ex. 23C).

From the minutes of a meeting held on May 17-18, 1938:

In order to facilitate the operation of the Secretary's office in respect to their having prompt and accurate information as to the current conditions in the market, the following two motions were made:

1. Each member to telephone or telegraph the Secretary's office simultaneously when he changed his published price list. This motion was carried unanimously.

2. Copies of orders and invoices to be furnished the Secretary's office promptly. This motion was passed with the exception of one manufacturer who said that at this time he was not in a position to send in this data. Another manufacturer not now furnishing this data agreed to send in the information on bulk crepe only (Comm. Ex. 28B).

From the minutes of a meeting held on May 2-3, 1939:

The next question to be discussed was the classification of crepe paper customers, which work is now being undertaken by the Statistical Bureau. The Statistical Bureau was directed to compile a list of A Buyers, whose purchases average over 100-gross a month over a six-months' period, and a list of B Buyers whose purchases average from 25-99 gross over a six-months' period (Comm. Ex. 31A).

PAR. 7. The Commission finds from the evidence heretofore referred to and the other evidence in the record that the respondents have entered into and put into operation and effect an agreement, understanding, combination, and conspiracy to restrain and suppress price competition in the sale of crepe paper. Pursuant to and in furtherance of such conspiracy, the respondent manufacturers agreed to file and have from time to time filed with respondent Association their price lists showing current and future prices for their products, and the information disclosed by such lists has by mutual agreement been disseminated among all of the respondent manufacturers by the Association. Copies of invoices showing the details of specific sales have also been filed with the Association by some of the respondent manufacturers.

In further pursuance of their agreement, the respondents have cooperatively established and maintained a "zoning plan," under which the United States was divided into certain geographical zones with definite boundaries. Under this zone agreement, uniform delivered prices were established for all purchasers located within a particular zone, with uniform price differentials among the several zones.

Purchasers and prospective purchasers of crepe paper have by agreement among the respondents been divided into certain classes for pricing purposes, depending upon the quantity of paper purchased and upon whether they were regarded by the respondents as jobbers, syndicates, etc., with uniform prices and price differentials established for each class of purchasers.

As a further aid to the establishing and maintaining of uniform prices for their products, the respondent manufacturers have entered into and put into effect agreements governing various other matters affecting the prices of their products, including creping ratios, sizes, weights, and the sale of seconds or close-outs.

Through the use of these means and methods the respondent manufacturers have cooperatively established and maintained uniform prices for their products. Not only is this evident from the minutes of the meetings of the Association but the record is replete with correspondence between the Association and its members, and among a number of the members themselves, showing the existence of price agreements. The conclusion is inescapable that as a result of these agreements competition among the respondent manufacturers was substantially restrained and suppressed insofar as prices were concerned.

PAR. 8. Each of the respondents has acted in concert and cooperation with one or more of the other respondents in doing and carrying out the

acts and practices herein set forth in furtherance of such agreement, understanding, combination, and conspiracy.

PAR. 9. The tendency, capacity, and effect of the agreement, understanding, combination, and conspiracy entered into by the respondents, and of the acts and things done pursuant thereto and in furtherance thereof, as set forth herein, have been and are unduly and unlawfully to restrict, restrain, suppress, and prevent price competition among the respondent manufacturers in the sale of crepe paper in commerce among and between the various States of the United States, and unduly and unlawfully to restrict and restrain trade in such products in commerce as aforesaid.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, National Crepe Paper Association of America, an unincorporated association, George J. Lincoln, Jr., as Secretary and Manager of said Association, American Tissue Mills, Charles T. Bainbridge's Sons, Fort Howard Paper Company, The Papyrus Company, C. A. Reed Company, The Tuttle Press Company, Dennison Manufacturing Company, and The Reyburn Manufacturing Company, corporations, and respondents' officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of crepe paper 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, agreement, understanding, combination, or conspiracy between or among any two or more of said respondents, or between any one or more of said respondents and others not parties to this proceeding, to do or perform any of the following acts or things:

1. Establishing or maintaining uniform prices for crepe paper, or in any manner agreeing upon, fixing, or maintaining any prices at which crepe paper is to be sold.
2. Establishing or maintaining delivered price zones or price differentials between or among such zones.
3. Establishing or maintaining classifications of customers or prospective customers for pricing purposes.
4. Adopting or maintaining uniform standards governing creping ratios, sizes, or weights of crepe paper, or the sale of seconds or close-outs,

with the purpose or effect of establishing or maintaining, or assisting in the establishing or maintaining of, uniform prices for crepe paper.

5. Filing with respondent National Crepe Paper Association of America or respondent George J. Lincoln, Jr., or with any other agency or person, copies of invoices, or price lists showing current or future prices for crepe paper.

6. Engaging in any act or practice substantially similar to those set out in this order with the purpose or effect of establishing or maintaining uniform prices for crepe paper.

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

IN THE MATTER OF
AMERICAN CHEMICAL COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4956. Complaint, Apr. 29, 1943—Decision, Apr. 25, 1944*

Where a corporation engaged in the manufacture and interstate sale of its "Flexo" so-called anti-freeze solution, to jobbers, garages and service stations for resale to the purchasing public; through representations in advertising folders, pamphlets, display posters and other advertising material, directly or by implication—

- (a) Represented that its said "Flexo" furnished protection to the cooling systems of automobile and other types of combustion engines against freezing and other damaging effects; and protected the entire cooling system against corrosion, rust, and deterioration; that use thereof would prevent rust or other damage to the hose connections, radiator and other metal and rubber parts of the cooling system and finish of automobiles; and that it would not evaporate or clog passages in the cooling system; and
- (b) Represented that it was safe and dependable for use as recommended and had proved itself to be a superior permanent-type anti-freeze—

The facts being that product in question, composed of a calcium chloride base, was not a superior type of anti-freeze solution nor a safe, dependable product for use as recommended, but on the contrary, it would bring about corrosion on most metals, including iron, steel, bronze, solder, copper, brass, and aluminum; had caused rust, corrosion, clogged passages, and other serious damage to the engines, radiators, ignition wires, spark plugs, and hose connections and to the exterior finish of automobiles; and had resulted in leakage in the cooling systems of automotive engines; and use thereof, due to calcium chloride content, would give rise to persistent ignition troubles if any of the solution came in contact with spark plugs or ignition wires;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that such false statements and advertisements were true, and with tendency and capacity to induce it to purchase substantial quantities of product in question as a result thereof:

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

Before *Mr. Randolph Preston*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. George B. Tidwell, Mr. Frank W. Brandon and Mr. Abe Fitterman of Atlanta, Ga., 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 American Chemical Company, 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 the public interest, hereby issues its complaint stating its charges in that respect as follows: