

IN THE MATTER OF

WILLIAM M. IRVINE, TRADING AS CONSOLIDATED
SILVER COMPANY OF AMERICA

MODIFIED CEASE AND DESIST ORDER

Docket 3789. Order, September 23, 1944

Modified order, in proceeding in question—in which original order issued on March 29, 1940, 30 F. T. C. 866—requiring respondent, his representatives, etc., in connection with offer, etc., in commerce, of silverware or of sales promotional plans, including sales cards, gift cards, premium certificates or coupons redeemable in silverware or other articles of merchandise, to cease and desist from misrepresenting his connections and arrangements with others, goods as free, refunds, terms and conditions, and undertakings in general, as in said order specified.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having heretofore been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Webster Ballinger, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and brief on behalf of the Commission in support of the complaint (respondent not having filed brief and oral argument not having been requested), and the Commission having duly made and issued its findings as to the facts, conclusion and order to cease and desist dated March 29, 1940; and the Commission having further considered said order to cease and desist and having given due notice to the respondent to show cause why the proceeding should not be reopened for the purpose of modifying said order in the respects and to the extent set out in said notice, and the respondent having indicated in writing his intention not to oppose such modification; and the Commission having considered the matter and the record herein, and having concluded that the public interest requires the modification of said order in the respects and to the extent set out in said notice.

It is ordered, That the respondent, William M. Irvine, trading as Consolidated Silver Co. of America, or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of silverware or of sales promotional plans, including sales cards, gift cards, premium certificates or coupons redeemable in silverware or other articles of merchandise, do forthwith cease and desist from:

1. Representing that the respondent is a representative of, or has any connection with, the manufacturer of Wm. A. Rogers silverware; *provided, however*, that this order shall not be construed to prohibit the respondent from dealing in such silverware.

2. Representing that the respondent is conducting any special campaign or advertising campaign to introduce or advertise any article of mer-

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chandise on behalf of the manufacturer of Wm. A. Rogers silverware or on behalf of any other manufacturer or concern.

3. Representing that certificates, coupons or trading cards will be redeemed with certain articles of merchandise unless the merchandise described is delivered to the holders of such certificates, coupons or trading cards without cost or condition.

4. Representing that respondent will refund any sum of money to dealer purchasing said sales cards, gift cards, premium certificates or other and similar devices on the redemption of a specified number of cards or certificates unless said sales cards, gift cards, premium certificates or other and similar devices are redeemed without cost to the holder thereof and unconditionally, and said refund is made to said dealer upon the redemption of the specified number of sales cards, gift cards, premium certificates or other and similar devices.

5. Representing that respondent will give silverware or other merchandise free, when such silverware or other merchandise is not actually given free.

6. Representing that respondent will advertise his sales promotional plan locally for dealers purchasing such plan or that respondent will assist such dealers in putting such plan into operation, when in fact respondent does not conduct such advertising and render such assistance.

7. Representing that respondent will supply dealers purchasing respondent's sales promotional plan with display sets of silverware or other merchandise for use in putting such plan into operation, when respondent does not supply such display sets as represented.

8. Representing merchandise delivered in redeeming certificates, coupons or trading cards as "free" or as a gift or gratuity or as delivered without cost to the holders of said certificates, coupons or trading cards when said merchandise is not in fact delivered to the holders of said certificates, coupons or trading cards without cost and unconditionally.

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

IN THE MATTER OF

P. J. McBRIDE AND GEORGE B. McCLENNEN, TRADING
AS DELTA EQUIPMENT COMPANY¹COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4803. Complaint, Feb. 19, 1944²—Decision, Sept. 25, 1944*

Where two partners engaged in the interstate purchase and sale of machinery, including motor-driven iron-shearing and punching machines and pumps, in competition with others except insofar as said competition had been restricted or forestalled, as below set forth;

Following (1) arrangements by the Navy with a shipbuilding company for the construction of naval vessels and the rehabilitation of said company's facilities, including office buildings and shipways, at its shipyards, and agreement to advance funds for the purchase of the materials and the performance of the work involved, with the understanding that their expenditure would be under the supervision and subject to the approval of officials of the Navy; and (2) agreement by said shipbuilding company in contracting for such materials to obtain competitive offers from not less than two—or three where specified—reputable firms and to award a contract to the firm quoting the minimum price, such bids to be opened by or in the presence of the Navy Supervisor of Shipbuilding or his representative, and to be subject to his approval—

Cooperated, combined, agreed and conspired, together and with others, during a period of some fifteen months or more, to, and did, restrain and suppress competition in the purchase and sale of machinery, including motor-driven iron-shearing and punching machines and pumps, in commerce; and pursuant to and as a part of said understanding, etc.—

- (a) Promoted, established and carried out a practice of maintaining a false appearance of competition between and among themselves and other sellers of such products in their submission of price quotations and bids to buyers and prospective buyers;
- (b) Conveyed to such buyers, including official awarding authorities of the United States Government, and others involved in the purchase of such products, the representation that they and other sellers were rival bidders and competitors when in fact they were acting collusively in preparing and submitting bids;
- (c) Avoided and prevented competition in the sale and distribution of such products, including aforesaid machines and pumps, and prevented quotation of genuine competitive bids on said commodities to purchasers; and

Where said partners, on numerous occasions, with the cooperation of said shipbuilding company, its agents and employees including a certain two—

- (d) Secured from four certain sellers of machinery printed stationery bearing their respective letterheads, and made use thereof in the preparation, and submission

¹ The instant case is one of a group of eight having to do with the preparation and submission of sham, false, fictitious, fraudulent and non-competitive bids in connection with the Navy's arrangement for the construction of ships by the Cramp Shipbuilding Co. at its shipyards in Philadelphia. For list of these cases, see footnote to the case of the Grater-Bodey Co., et al., Docket 4799, p. 113.

² Amended.