

Syllabus

IN THE MATTER OF
NATIONAL RETAIL LIQUOR PACKAGE STORES
ASSOCIATION, INC., ET AL.¹

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

Docket 4168. Complaint, June 20, 1940—Decision, Apr. 9, 1947

Where a corporate membership association, the members of which consisted of some 29 state, county, municipal, and local associations of retail dealers in wine, spirits and liquors, and which was engaged, among other things, in promoting the country-wide organization of such retail liquor dealers' associations—

Entered into, continued and carried out an agreement, understanding, combination and conspiracy with (1) its member associations of retail liquor dealers, engaged in interstate purchase and sale of wines, spirits and liquors, and which constituted so large and influential a group in the trade as to be able to influence the flow of said products within, to, and from the various states and localities in which the dealers concerned were located, carried on collectively a volume of trade and commerce which amounted to an important part of that of the United States in said products, and did a substantial part of all the retail liquor business in the large and important trade area in which the membership did business; and (2) with others to act as a medium or central agency to fix and maintain uniform prices for wines, spirits and liquors when sold by manufacturers, importers, and wholesalers, and to fix and maintain uniform prices and to eliminate competition in the sale and distribution of said products by the retail liquor dealers who comprised the membership of the various member associations, and by others who were not members; and

In furtherance of the aforesaid agreement, etc., acted as a medium or central agency and cooperated with and assisted said associations, the members, and others to—

(a) Fix and maintain uniform prices for the resale of wines, spirits and liquors by retail liquor dealers who comprised the membership of the various member associations;

¹ The Commission on July 23, 1942, issued an order dismissing complaint as to respondent Phil Taylor, as follows:

This matter, as to respondent Phil Taylor, coming on to be heard by the Commission on the record, and it appearing that respondent Phil Taylor was president of respondent Louisville Retail Liquor Package Stores Association only from April 1937 until on or about November 23, 1937, when he resigned as such president and when he resigned also from said association as a representative of T. P. Taylor Drug Stores, a member thereof; that since the last-mentioned date he has had no connection with said Louisville Retail Liquor Package Stores Association; and that said Louisville Retail Liquor Package Stores Association did not become a member of respondent National Retail Liquor Package Stores Association until May 15, 1939; and the Commission having duly considered the matter, and being now fully advised in the premises;

It is ordered, That the complaint herein be, and the same is hereby dismissed as to said respondent Phil Taylor.

The complaint was also dismissed in the cease-and-desist order (see p. 401) as to a large number of other respondents joined in the proceeding.

- (b) Fix under threat of boycott, the prices at which manufacturers and importers should sell said products and the prices at which wholesalers and retailers respectively should resell the same;
- (c) Compel or attempt to compel manufacturers and importers by threats of boycott to sell said products in states having fair trade acts only under resale-price-maintenance contracts and at prices and differentials fixed by it and its members;
- (d) Compel or attempt to compel manufacturers, importers and wholesalers by threats of boycott not to resell to retailers reselling or offering to resell such products at prices less than those fixed by its members and in states having fair trade acts, fixed by resale-price-maintenance contracts;
- (e) Compel or attempt to compel such manufacturers, importers and wholesalers, by threats of boycott, to grant uniform discounts to the members of its member associations;
- (f) Compel or attempt to compel such manufacturers, importers and wholesalers, by threats of boycott, to institute and prosecute suits against retailers for reselling such products at prices less than those provided for in fair trade contracts;
- (g) Spy upon and report to such suppliers, retailers who resold below the prices fixed by them, and demand, on threats of boycott, that the former refuse to supply further such price-cutting retailers; and
- (h) Bring about and attempt to bring about the revocation or suspension of the licenses of such price-cutting retailers;

Capacity, tendency, and effect of which agreement, etc., and acts and practices performed in connection therewith had been and were to hinder and prevent price competition in the sale and distribution of wines, spirits and liquors to the purchasing public, and place in it and its members, the power to control and enhance prices:

Held, That such agreement, understanding, combination and conspiracy and the acts and practices performed thereunder or in connection therewith by it and its members, under the conditions and circumstances set forth, were all to the prejudice of the public and of competitors, and constituted unfair methods of competition in commerce.

In a proceeding in which the Commission found that a corporate membership association had entered into a combination, conspiracy and understanding with its retail dealer members, to fix and maintain through coercion, boycott and other methods, the prices and terms at which the products involved should be uniformly sold by manufacturers and importers thereof and by wholesalers and retailers involved, but in which the finding was limited to the acts and practices of said corporate membership association, the Commission was of the opinion that the complaint should be dismissed without prejudice as to the other respondents, including state, county, municipal and local member associations, and various individuals, officers and directors as the case might be in said corporate membership and member associations.

Before *Mr. John L. Hornor*, trial examiner.

Mr. Edward L. Smith, *Mr. Edw. W. Thomerson* and *Mr. DeWitt T. Puckett* for the Commission.

Mr. Herman C. Silverstein and *Mr. Manuel J. Davis*, of Washington, D. C., for National Retail Liquor Package Stores Association, Inc.

Mr. Herman C. Silverstein, of Washington, D. C., and *Mr. Bernard Burstein*, of Closter, N. J., for Peter H. Agins, Ruth Schlanger, Fred Scharfenstein, J. Fitzsimmons, Ashton Blum, New Jersey Retail Liquor Package Stores Association, R. G. Drown, Jr., Herman C. Silverstein, and Retail Liquor Dealers Association of Louisiana; and, along with—

Mr. Henry G. Young, of Minneapolis, Minn., for A. P. Nolander.

Mr. Herman C. Silverstein, of Washington, D. C., for A. L. Waldron.

Mr. Jacob H. Steinberg, of New York City, for William Steinberg, Gerald F. Dunne, Marcel Krone, and Federated Retail Liquor Dealers of Kings County.

Mr. Herman I. Weiss, of Chicago, Ill., for Irving Wilchins, Tom Engle, Richard Birch, and Illinois Retail Liquor Package Stores Association; and, along with—

Mr. Irving I. Brenman, of Gary, Ind., for Barney Needleman.

Mr. Theodore Jaffee, of Providence, R. I., for Theodore A. Jaffee and Rhode Island Retail Liquor Dealers Association; and, along with—

Mr. Marshall B. Marcus, of Providence, R. I., for Henry McCusker and Philip Ryan.

Quiat & Cummings, of Denver, Colo., for I. E. Eber and Colorado Package Liquor Association; and, along with—

Mr. Manuel J. Davis, of Washington, D. C., for Bill Stein and William E. Stein.

Rover, Rafferty, Horning & Burrows, and *Mr. Manuel J. Davis*, of Washington, D. C., for Manuel Lipsky.

Mr. Daniel J. Young, of Boston, Mass., for Joseph L. Regan, David Shir, R. J. Dwyer, and Samuel Levey.

Mr. Sol J. Kahn, of Milwaukee, Wis., for S. J. Kahn, J. Dworkus, A. Bernard Cohn, and Wisconsin Retail Liquor Dealers Association.

Mr. Arthur A. Kestler, of New York City, for Abe Shapiro, Harry L. Dougherty, and Long Island Wine and Liquor Dealers Association.

Scheiberling & Schneider, of Albany, N. Y., for Adam Gander and R. W. Schwartz; and, along with—

Mr. James J. Devine, of Albany, N. Y., for Capitol District Liquor Stores Association, Inc.

Mr. I. William Schimmel, of Baltimore, Md., for Charles O. Needles, G. Wagner, A. V. Rettaliata and Baltimore Retail Liquor Dealers Association.

Appearances

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Fisher & Seidman, of Louisville, Ky., for Gerald Rosenberg, William Weber, Leon Seidman, and Louisville Retail Liquor Package Stores Association; and, along with—

Crawford, Middleton, Milner & Seelbach, of Louisville, Ky., for Phil Taylor.

Mr. Irving I. Brenman, of Gary, Ind., for Sam Rosen, Paul Pickett, Edward Ogle, and Indiana Retail Liquor Dealers Association.

Talley, Owen & Talley, of Little Rock, Ark., for Phil Schwartz.

Mr. Theodore I. Taylor, of Bridgeport, Conn., for Connecticut Retail Liquor Package Stores Association and Edward Broof.

Mr. Seymour Groshut, of New York City, for Greater New York Licensed Liquor Stores Association; and, along with—

Mr. Jacob H. Steinberg, of New York City, for David Herman and George Winkler.

House, Moses & Holmes, of Little Rock, Ark., for Harold Lawson and Carl E. Bopp.

Mr. Charles E. Markeles, of Atlanta, Ga., for Jack Posner, Mr. L. Ehrman, and Atlanta Retail Liquor Package Stores Association.

Shapiro & Sikawitt, of Bronx, N. Y., for Adolph Halperin, Murray Bernhard, Sidney Weisfeld, and Bronx Wine & Liquor Stores Associates, Inc.

Costello & Gorman, of Syracuse, N. Y., for Paul V. O'Neill, Fred J. Larock, and Central New York Liquor Dealers Association.

Mr. Philip A. Mylod, of Poughkeepsie, N. Y., for George Amato, Frank Degilio, and Dutchess County Retail Liquor Dealers Association.

Mr. Jacob Ark, of Rochester, N. Y., for Joseph B. Roach, J. Leo McGreal, and Genesee Valley Retail Liquor Stores Association.

Levene & Levene, of Binghamton, N. Y., for Thomas J. McAvoy, and Abraham Aron; and Southern Tier Retail Liquor Stores Association; and, along with—

Mr. Leo M. Cooney and *Mr. Theodore Jaffee*, of Providence, R. I., for Aaron Bilgor.

Boyce, Warren & Fairbank, of Sioux Falls, S. Dak., for Thomas Gaffney, Edward Townsend, and South Dakota Retail Liquor Dealers Association.

Mr. William C. Egan, of Fairlawn, N. J., for William G. Wellhofer, John J. Callahan, and Neil F. Deighan; and, along with—

Mr. William P. Murtagh, of Jersey City, N. J., for New Jersey Licensed Beverage Association and National Council of State Liquor Dealers Association.

Chase, Lyons & Honeycutt, of Minneapolis, Minn., for Minnesota Council of Wine & Spirits Merchants, Inc.

Mr. Joseph L. Regan, of Boston, Mass., for Massachusetts Federation of Retail Package Stores Association.

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 respondents named and referred to in the caption hereof have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, National Retail Liquor Package Stores Association, Inc., hereinafter referred to as respondent, National Association, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, and has its office at 11 West Forty-second Street, New York, N. Y. It was organized in December 1933, or thereabouts, and is constituted of various State, county, municipal, and local retail liquor dealers' associations or organizations connected with the retail wine, spirits, and liquor industry, which said associations are hereinafter referred to as member associations. It is now, and since its organization has been, engaged, among other things, in promoting the organization of local retail liquor dealers' associations in various States of the United States and in the District of Columbia.

PAR. 2. Respondents, William Steinberg, Barney Needleman, Theodore A. Jaffee, Peter H. Agins, Ruth Schlanger, John Megson, I. E. Eber, and Gerald F. Dunne are president, first vice president, second vice president, treasurer, secretary, vice president, vice president, and chairman of the board of directors, respectively, of the aforesaid respondent, National Association. The members of said respondent, National Association, constitute a class so numerous as to make it impractical to name all of them as parties respondent herein. However, in addition to the members of respondent, National Association, specifically named herein as respondents, all members of respondent, National Association, are made parties respondent herein as a class, of which respondents, William Steinberg, Barney Needleman, Theodore A. Jaffee, Peter H. Agins, Ruth Schlanger, are representative of the entire membership of said respondent, National Association, not specifically named herein as respondents.

PAR. 3. The directors of respondent, National Association, are respondents Fred Scharfenstein, M. H. Block, J. Fitzsimmons, Irving Wilchins, Manuel Linskv. Joseph L. Regan, S. J. Kahn. Henry Mc-

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Cusker, Abe Shapiro, Adam Gardner, Theodore I. Taylor, Charles O. Needles, Gerald Rosenberg, Sam Rosen, Paul Pickett, A. P. Nolander, Joe Gordon, G. Wagner, David Shir, Adam Gordon, Phil Schwartz, Mel Flocks, Philip Ryan, J. Dworkus, R. J. Dwyer, Louis Brown, Tom Engle, A. L. Waldron, William Weber, Bill Stein, and Ashton Blum.

Respondent, Gerald F. Dunne, chairman of the board of directors of respondent, National Association, is also president of respondent, Federated Retail Liquor Dealers of King's County, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Federated Retail Liquor Dealers of King's County, are made parties respondent herein as a class, of which said respondent, Gerald F. Dunne, is representative.

Respondent, Fred Scharfenstein, director of respondent, National Association, is also president of respondent, Retail Liquor Dealers Association of Louisiana, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Retail Liquor Dealers Association of Louisiana, are made parties respondent herein as a class, of which said respondent, Fred Scharfenstein, is representative.

Respondent, M. H. Block, director of respondent, National Association, is also executive secretary of respondent Colorado Package Liquor Association.

Respondent, J. Fitzsimmons, director of respondent, National Association, is also president of respondent, New Jersey Retail Liquor Package Stores Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, New Jersey Retail Liquor Package Stores Association, are made parties respondent herein as a class, of which said respondent, J. Fitzsimmons, is representative.

Respondent, Irving Wilchins, director of respondent, National Association, is also president of respondent, Illinois Retail Liquor Package Stores Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Illinois Retail Liquor Package Stores Association, are made parties respondent herein as a class, of which said respondent, Irving Wilchins, is representative.

Respondent, Manuel Lipsky, director of respondent, National Association, is also president of respondent, D. C. Retail Liquor Dealers

Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, D. C. Retail Liquor Dealers Association, are made parties respondent herein as a class, of which said respondent, Manuel Lipsky, is representative.

Respondent, Joseph L. Regan, director of respondent, National Association, is also president of respondent, Massachusetts Federation of Retail Package Stores Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Massachusetts Federation of Retail Package Stores Association, are made parties respondent herein as a class, of which said respondent, Joseph L. Regan, is representative.

Respondent, S. J. Kahn, director of respondent, National Association, is also secretary of respondent, Wisconsin Retail Liquor Dealers Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Wisconsin Retail Liquor Dealers Association, are made parties respondent herein as a class, of which said respondent, S. J. Kahn, is representative.

Respondent, Henry McCusker, director of respondent, National Association, is also president of respondent, Rhode Island Retail Liquor Dealers Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Rhode Island Retail Liquor Dealers Association, are made parties respondent herein as a class, of which said respondent, Henry McCusker, is representative.

Respondent, Abe Shapiro, director of respondent, National Association, is also president of respondent, Long Island Wine & Liquor Dealers Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Long Island Wine & Liquor Dealers Association, are made parties respondent herein as a class, of which said respondent, Abe Shapiro, is representative.

Respondent, Adam Gander, director of respondent, National Association, is also president of respondent, Capitol District Liquor Stores Association, Inc., which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said re-

spondent, Capitol District Liquor Stores Association, Inc., are made parties respondent herein as a class, of which said respondent, Adam Gander, is representative.

Respondent, Theodore I. Taylor, director of respondent, National Association, is also executive secretary of respondent, Connecticut Retail Liquor Package Stores Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Connecticut Retail Liquor Package Stores Association, are made parties respondent herein as a class, of which said respondent, Theodore I. Taylor, is representative.

Respondent, Charles O. Needles, director of respondent, National Association, is also secretary of respondent, Baltimore Retail Liquor Dealers Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Baltimore Retail Liquor Dealers Association, are made parties respondent herein as a class, of which said respondent, Charles O. Needles, is representative.

PAR. 4. Respondent, John Megson, vice president of respondent, National Association, is also president of respondent, Minnesota Council of Wine & Spirits Merchants, Inc., which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Minnesota Council of Wine & Spirits Merchants, Inc., are made parties respondent herein as a class, of which said respondent, John Megson, is representative.

Respondent, I. E. Eber, vice president of respondent, National Association, is also president of respondent, Colorado Package Liquor Association, which said last-mentioned association is made up of a membership so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Colorado Package Liquor Association, are made parties respondent herein as a class, of which said respondent, I. E. Eber, is representative.

Among the members of respondent, National Association, are respondents, Connecticut Retail Liquor Package Stores Association, Greater New York Licensed Liquor Stores Association, D. C. Retail Liquor Dealers Association, and New Jersey Retail Liquor Package Stores Association, all of which are trade associations constituted of members engaged in the retailing of wines, spirits, and liquors.

PAR. 5. Respondents, Harold Lawson and Carl E. Bopp, are president and secretary, respectively, of respondent, Arkansas Retail

Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Arkansas Retail Liquor Dealers Association, are made parties respondent herein as a class, of which respondents, Harold Lawson and Carl E. Bopp, are representative of the whole.

Respondent, William E. Stern, is treasurer of respondent, Colorado Package Liquor Association.

Respondent, Edward Broff, is president of respondent, Connecticut Retail Liquor Package Stores Association.

Respondent, Richard Birch, is secretary of respondent, Illinois Retail Liquor Package Stores Association.

Respondents, Jack Posner and M. L. Ehrman, are president and secretary, respectively, of respondent, Atlanta Retail Liquor Package Stores Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Atlanta Retail Liquor Package Stores Association, are made parties respondent herein as a class, of which respondents, Jack Posner and M. L. Ehrman, are representative of the whole.

Respondent, R. G. Drown, Jr., is secretary of respondent, Retail Liquor Dealers Association of Louisiana, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Retail Liquor Dealers Association of Louisiana, are made parties respondent herein as a class, of which respondent, R. G. Drown, Jr., is representative of the whole.

Respondent, Edward Ogle, is president of respondent, Indiana Retail Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them respondents herein. However, all members of said respondent, Indiana Retail Liquor Dealers Association, are made parties respondent herein as a class, of which respondent, Edward Ogle, is representative of the whole.

Respondent, Samuel Levey, is secretary of respondent, Massachusetts Federation of Retail Package Stores Association.

Respondent, Fred Garling, is executive secretary of respondent, Minnesota Council of Wine and Spirits Merchants, Inc.

Respondent, R. W. Schwartz, is secretary of respondent, Capitol District Liquor Stores Association, Inc.

Respondents, Adolph Halperin, Murray Bernhard, and Sidney Weisfeld are president, treasurer, and secretary, respectively, of re-

spondent, Bronx Wine & Liquor Stores Associates, Inc., the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Bronx Wine & Liquor Stores Associates, Inc., are made parties respondent herein as a class, of which respondents, Adolph Halperin, Murray Bernhard, and Sidney Weisfeld, are representative of the whole.

Respondents, Paul V. O'Neill and Fred J. Larock, are president and secretary, respectively, of respondent, Central New York Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Central New York Liquor Dealers Association, are made parties respondent herein as a class, of which respondents, Paul V. O'Neill and Fred J. Larock, are representative of the whole.

Respondent, Marcel Krone is secretary of respondent, Federated Liquor Dealers of King's County, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Federated Liquor Dealers of King's County, are made parties respondent herein as a class, of which respondent, Marcel Krone, is representative of the whole.

Respondents, David Herman and George Winkler, are president and secretary, respectively, of respondent, Greater New York Licensed Liquor Stores Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Greater New York Licensed Liquor Stores Association, are made parties respondent herein as a class, of which respondents, David Herman and George Winkler, are representative of the whole.

Respondents, George Amato and Frank Degilio, are president and secretary-treasurer, respectively, of respondent, Dutchess County Retail Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However; all members of said respondent, Dutchess County Retail Liquor Dealers Association, are made parties respondent herein as a class, of which respondents, George Amato and Frank Degilio, are representative of the whole.

Respondent, Harry L. Dougherty, is secretary of respondent, Long Island Wine & Liquor Dealers Association.

Respondents, Leon Wylegalo and William Tenjost, are president and secretary, respectively, of respondent Retail Liquor Stores Asso-

ciation of Western New York, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Retail Liquor Stores Association of Western New York, are made parties respondent herein as a class, of which respondents, Leon Wylegalo and William Tenjost, are representative of the whole.

Respondents, Joseph B. Roach and J. Leo McGreal, are president and secretary, respectively, of respondent, Genesee Valley Retail Liquor Stores Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Genesee Valley Retail Liquor Stores Association, are made parties respondent herein as a class, of which respondents, Joseph B. Roach and J. Leo McGreal, are representative of the whole.

Respondents, Thomas J. McAvoy, Paul Hilbert, and Abraham Aron, are president, secretary, and treasurer, respectively, of respondent, Southern Tier Retail Liquor Stores Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Southern Tier Retail Liquor Stores Association, are made parties respondent herein as a class, of which respondents, Thomas J. McAvoy, Paul Hilbert, and Abraham Aron, are representative of the whole.

Respondents, Abe Levine and Joseph Gioffre, are president and secretary, respectively, of respondent, Westchester Package Stores Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Westchester Package Stores Association, are made parties respondent herein as a class, of which respondents, Abe Levine and Joseph Gioffre, are representative of the whole.

Respondents, Phil Taylor and Leon Seidman, are president and executive secretary, respectively, of respondent, Louisville Retail Liquor Package Stores Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, Louisville Retail Liquor Package Stores Association, are made parties respondent herein as a class, of which respondents, Phil Taylor and Leon Seidman, are representative of the whole.

Respondent, Aaron Bilgor, is secretary of respondent, Rhode Island Retail Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them as

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respondents herein. However, all members of said respondent, Rhode Island Retail Liquor Dealers Association, are made parties respondent herein as a class, of which respondent, Aaron Bilgor, is representative of the whole.

Respondents, Thomas Gaffney and Edward Townsend, are president and secretary, respectively, of respondent, South Dakota Retail Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, South Dakota Retail Liquor Dealers Association, are made parties respondent herein as a class, of which respondents, Thomas Gaffney and Edward Townsend, are representative of the whole.

Respondent, A. Bernard Cohn, is president of respondent, Wisconsin Retail Liquor Dealers Association.

Respondent, A. V. Rettaliata, is president of respondent, Baltimore Retail Liquor Dealers Association.

Respondent, William G. Wellhofer, is an officer of respondent, New Jersey Licensed Beverage Association.

Respondents, Herman Silverstein, John J. Callahan, and John J. Daly, are officers of respondents, National Council of State Liquor Dealers Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, National Council of State Liquor Dealers Association, are made parties respondent herein as a class, of which respondents, Herman Silverstein, John J. Callahan, and John J. Daly, are representative of the whole.

Respondent, Neil F. Deighan, an officer of respondent, National Council of State Liquor Dealers Association, is also president of respondent, New Jersey Licensed Beverage Association, the members of which constitute a class so numerous as to make it impractical to name all of them as respondents herein. However, all members of said respondent, New Jersey Licensed Beverage Association, are made parties respondent herein as a class, of which respondent, Neil F. Deighan, is representative of the whole.

PAR. 6. The member associations of respondent, National Association, are the following respondents, viz:

Minnesota Council of Wine and Spirits Merchants, Inc.

Colorado Package Liquor Association.

Federated Retail Liquor Dealers of King's County.

Retail Liquor Dealers Association of Louisiana.

New Jersey Retail Liquor Package Stores Association.

Illinois Retail Liquor Package Stores Association.

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D. C. Retail Liquor Dealers Association.
 Massachusetts Federation of Retail Package Stores Association.
 Wisconsin Retail Liquor Dealers Association.
 Rhode Island Retail Liquor Dealers Association.
 Long Island Wine and Liquor Dealers Association.
 Capitol District Liquor Stores Association, Inc.
 Connecticut Retail Liquor Package Stores Association.
 Baltimore Retail Liquor Dealers Association.
 Arkansas Retail Liquor Dealers Association.
 Atlanta Retail Liquor Package Stores Association.
 Indiana Retail Liquor Dealers Association.
 Bronx Wine & Liquor Stores Associates, Inc.
 Central New York Liquor Dealers Association.
 Greater New York Licensed Liquor Stores Association.
 Dutchess County Retail Liquor Dealers Association.
 Retail Liquor Stores Association of Western New York.
 Genesee Valley Retail Liquor Stores Association.
 Southern Tier Retail Liquor Stores Association.
 Westchester Package Stores Association.
 Louisville Retail Liquor Package Stores Association.
 South Dakota Retail Liquor Dealers Association.
 New Jersey Licensed Beverage Association.
 National Council of State Liquor Dealers Association.

The said member associations are composed of retail dealers in wines, spirits, and liquors who purchase such products in commerce between and among the various States of the United States, the Territories thereof, and in the District of Columbia for resale, and such wines, spirits, and liquors, when purchased by them, are shipped to them by the sellers thereof from the places of business of such sellers located in States other than the States in which the aforesaid retail dealers have their places of business; and there is now, and for more than 5 years last past has been, a constant current of trade and commerce in the purchase by the said retail dealers of wines, spirits, and liquors. Such retail dealer members of said member associations are also now engaged, and for more than 5 years last past have been engaged, in the resale of wines, spirits, and liquors between and among the various States of the United States, the Territories thereof, and in the District of Columbia, and cause such wines, spirits, and liquors, when sold by them, to be transported from their respective places of business to the purchasers thereof, some located in States of the United States other than those in which such retail dealer members have their respective places of business, in the Territories

thereof, and in the District of Columbia; and there is now, and for more than 5 years last past has been, a constant current of trade and commerce by such retail dealers, between and among the various States of the United States, the Territories thereof, and in the District of Columbia. The retail dealers constituting the respondent member associations constitute a group so large and influential in the trade as to be able to influence the flow of wines, spirits, and liquors within, to and from the various States and localities in which such retail dealers are located. The volume of trade and commerce done by the members of respondent member associations constitutes an important part of the trade and commerce of the United States in wines, spirits, and liquors. The trade area in which the members of the said respondent member associations do business is a large and important outlet and market for the sale of wines, spirits, and liquors, and the volume of business done by the members of respondent member associations is a substantial part of all the business done by retailers of wines, spirits, and liquors in the various localities in which said members of said respondent member associations have their respective places of business. The retail dealers constituting the respondent member associations would be in free and active price competition with one another and with other retail liquor dealers in their respective localities who are not members of said associations, but for the unlawful agreement, combination, understanding, and conspiracy herein-after described.

PAR. 7. The respondents named in paragraphs 1, 2, 3, 4, 5, and 6 hereof, by and through the means of respondent National Association, in 1933 or thereabouts entered into and have since carried out and are still carrying out an agreement, combination, understanding, and conspiracy among themselves for the purpose and with the effect of eliminating price competition among themselves in the resale of wines, spirits, and liquors in commerce between and among the various States of the United States, the Territories thereof, and in the District of Columbia, for the purpose and with the effect of increasing their profits in the resale of wines, spirits, and liquors, and for the purpose and with the effect of fixing prices at which manufacturers, importers, and wholesalers of wines, spirits, and liquors shall sell such products. Pursuant to and for the purpose of carrying out the aforesaid agreement, combination, understanding, and conspiracy, and of making it effective, the respondents, among other things, have done the following:

1. By agreement among themselves, have fixed and maintained uniform prices for the resale by them of wines, spirits, and liquors.

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2. Have agreed among themselves to fix, and pursuant to such agreement have fixed, under threat of boycott, the prices at which manufacturers and importers of wines, spirits, and liquors shall sell their products, the prices at which wholesalers thereof shall resell, and the prices at which said respondents shall resell, such products.

3. Have agreed among themselves to compel, and pursuant to such agreement have compelled, under threat of boycott, and have sought to compel, under threat of boycott, manufacturers and importers of wines, spirits, and liquors to sell such products in States having fair trade acts, only under resale price maintenance contracts, and at prices and differentials fixed by the respondents.

4. Have agreed among themselves to compel, and pursuant to such agreement have compelled and sought to compel, under threat of boycott, manufacturers, importers, and wholesalers of wines, spirits, and liquors not to sell to retailers reselling or offering to resell wines, spirits, and liquors at prices less than those fixed by the aforesaid members of respondent National Association and fixed by resale price maintenance contracts, in States having fair trade acts.

5. Have agreed among themselves to compel, and pursuant to such agreement have compelled and have sought to compel, under threat of boycott, manufacturers, importers, and wholesalers of wines, spirits, and liquors not to sell to retailers reselling and offering to resell wines, spirits, and liquors at prices less than those fixed by the aforesaid members of said respondent National Association.

6. Have agreed among themselves to compel, and pursuant to such agreement have compelled and have sought to compel, under threat of boycott, manufacturers, importers, and wholesalers of wines, spirits, and liquors to grant to the members of said member associations uniform discounts and allowances in the purchase by them of wines, spirits, and liquors.

7. Have agreed among themselves to compel, and pursuant to such agreement have compelled and have sought to compel, under threat of boycott, manufacturers, importers, and wholesalers of wines, spirits, and liquors to institute and prosecute suits against retailers for reselling wines, spirits, and liquors at prices less than those provided for in fair trade contracts.

8. Have agreed among themselves to spy upon, and pursuant to such agreement have spied upon and have reported to manufacturers, importers, and wholesalers of wines, spirits, and liquors, retailers reselling below the prices fixed by them, and have demanded, under threat of boycott, that such manufacturers, importers, and wholesalers refuse to supply further such price-cutting retailers.

9. Have agreed among themselves to bring about, and pursuant to such agreement have attempted to bring about the revocation or suspension of the licenses of retailers reselling wines, spirits, and liquors at prices lower than those fixed by the members of the member associations.

PAR. 8. The acts and practices of the respondents as herein alleged are all to the prejudice of the public; have a dangerous tendency to and have actually hindered and prevented price competition between and among respondents in the resale of wines, spirits, and liquors in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in respondents the power to control and enhance prices; have increased the prices of wines, spirits, and liquors paid by the purchasing public; have created in the respondents a monopoly in the resale of wines, spirits, and liquors in such commerce; have unreasonably restrained such commerce in wines, spirits, and liquors, and constitute unfair methods of competition in commerce within the intent and meaning 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 June 20, 1940, issued and subsequently served its complaint in this proceeding upon the respondents named and referred to in the caption hereof, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Thereafter, the respondents, National Retail Liquor Package Stores Association, Inc., a corporation; I. E. Eber, individually and as vice president of National Retail Liquor Package Stores Association, Inc., and as president of, and as representative of the entire membership of, the Colorado Package Liquor Association; M. H. Block, individually and as a director of National Retail Liquor Package Stores Association, Inc., and as executive secretary of Colorado Package Liquor Association; and William E. Stein (named in the complaint herein as William E. Stern), individually and as director of the National Retail Liquor Package Stores Association, Inc., and as treasurer of Colorado Package Liquor Association, filed their separate motions with the Commission asking leave to withdraw their answers heretofore filed and to file in lieu thereof a substitute answer admitting all the material allegations of fact set forth in the complaint and waiving all intervening procedure and further hearing as to said facts, which motions were duly granted by the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answers, 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 Retail Liquor Package Stores Association, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York and has its office at 11 West Forty-second Street, New York, N. Y. It was organized in December 1933 or thereabouts and at the time of the filing of the complaint herein was constituted of various State, county, municipal, and local retail liquor associations or organizations connected with the retail wine, spirits, and liquor industry. Since its organization it has been engaged, among other things, in promoting the organization of retail liquor dealers' associations in various States of the United States and in the District of Columbia.

PAR. 2. At the time of the filing of the complaint herein, the membership of respondent, National Retail Liquor Package Stores Association, Inc., consisted of the following member associations:

Minnesota Council of Wine and Spirits Merchants, Inc.

Colorado Package Liquor Association.

Federated Retail Liquor Dealers of Kings County.

Retail Liquor Dealers Association of Louisiana.

New Jersey Retail Liquor Package Stores Association.

Illinois Retail Liquor Package Stores Association.

D. C. Retail Liquor Dealers Association.

Massachusetts Federation of Retail Package Stores Association.

Wisconsin Retail Liquor Dealers Association.

Rhode Island Retail Liquor Dealers Association.

Long Island Wine & Liquor Dealers Association.

Capitol District Liquor Stores Association, Inc.

Connecticut Retail Liquor Package Stores Association.

Baltimore Retail Liquor Dealers Association.

Arkansas Retail Liquor Dealers Association.

Atlanta Retail Liquor Package Stores Association.

Indiana Retail Liquor Dealers Association.

Bronx Wine & Liquor Stores Associates, Inc.

Central New York Liquor Dealers Association.

Greater New York Licensed Liquor Stores Association.

Dutchess County Retail Liquor Dealers Association.

Retail Liquor Stores Association of Western New York.

Genesee Valley Retail Liquor Stores Association.
Southern Tier Retail Liquor Stores Association.
Westchester Package Stores Association.
Louisville Retail Liquor Package Stores Association.
South Dakota Retail Liquor Dealers Association.
New Jersey Licensed Beverage Association.
National Council of State Liquor Dealers Association.

PAR. 3. The individual respondents, I. E. Eber, M. H. Block, and William E. Stein, were, respectively, president, executive secretary, and treasurer of the Colorado Package Liquor Association, and, in addition thereto, I. E. Eber was president and M. H. Block and William E. Stein were directors of respondent, National Retail Liquor Package Stores Association, Inc.

PAR. 4. The member associations of respondent, National Retail Liquor Package Stores Association, Inc., were in turn composed of retail dealers in wines, spirits, and liquors who purchased such products in commerce among and between the various States of the United States, the territories thereof, and in the District of Columbia for resale, and such wines, spirits, and liquors, when purchased by them, were shipped to them by the sellers thereof from the places of business of such sellers located in States other than the States in which the aforesaid retail dealers have their places of business. There is now, and for more than 5 years last past has been, a constant current of trade and commerce in the purchase by said retail dealers of wines, spirits, and liquors. Such retail dealer members of said member associations were at the time of the filing of the complaint herein and prior thereto engaged in the resale of wines, spirits, and liquors between and among the various States of the United States and caused such wines, spirits, and liquors, when sold by them, to be transported from their respective places of business to the purchasers thereof, some located in States of the United States other than those in which such retail dealer members had their respective places of business, and there is now, and for more than 5 years last past has been, a constant current of trade and commerce by such retail dealers among and between the various States of the United States. The retail dealers constituting the respondent member associations constituted a group so large and influential in the trade as to be able to influence the flow of wines, spirits, and liquors within, to, and from the various States and localities in which such retail dealers were located. The volume of trade and commerce done by the members of respondent member associations constituted an important part of the trade and commerce of the United States in wines, spirits, and liquors.

The trade area in which the members of said respondent member associations do business is a large and important outlet and market for the sale of wines, spirits, and liquors, and the volume of business done by the members of respondent member associations was a substantial part of all the business done by retailers of wines, spirits, and liquors in the various localities in which said members of said respondent member associations had their respective places of business.

PAR. 5. The Commission finds that the respondent, National Retail Liquor Package Stores Association, Inc., has entered into, continued, and carried out an agreement, understanding, combination, and conspiracy with its members and others to act as a medium or central agency to fix and maintain uniform prices for wines, spirits, and liquors when sold by manufacturers, importers, and wholesalers and to fix and maintain uniform prices and to eliminate competition in the sale and distribution of wines, spirits, and liquors by retail liquor dealers who comprise the membership of the various member associations of respondent association and others who were not members.

In furtherance of the aforesaid agreement, understanding, combination, and conspiracy and as a part thereof and for the purpose of making it effective, the respondent, National Retail Liquor Package Stores Association, Inc., in agreement with its membership associations, their respective members, and others, acted as a medium or central agency and cooperated with and assisted said associations, the members thereof, and others to do and perform the following acts and practices:

1. Fix and maintain uniform prices for the resale of wines, spirits, and liquors by retail liquor dealers who comprise the membership of the various member associations of respondent, National Association.

2. Fix, under threat of boycott, the prices at which manufacturers and importers of wines, spirits, and liquors shall sell their products, the prices at which such wholesalers thereof shall resell, and the prices at which retail dealers shall resell such products.

3. Compel or attempt to compel manufacturers and importers of wines, spirits, and liquors by threats of boycott to sell such products in States having fair trade acts only under resale-price-maintenance contracts and at prices and differentials fixed by the respondent, National Association, and its members.

4. Compel or attempt to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott not to sell to retailers reselling or offering to resell wines, spirits, and liquors at prices less than those fixed by the members of respondent, National

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Association, and fixed by resale-price-maintenance contracts in States having fair trade acts.

5. Compel or attempt to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott not to sell to retailers reselling and offering to resell wines, spirits, and liquors at prices less than those fixed by the members of respondent, National Association.

6. Compel or attempt to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott to grant to the members of the member associations of respondent, National Association, uniform discounts and allowances in the purchase by them of wines, spirits, and liquors.

7. Compel or attempt to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott to institute and prosecute suits against retailers for reselling wines, spirits, and liquors at prices less than those provided for in fair trade contracts.

8. Spy upon, and report to manufacturers, importers, and wholesalers of wines, spirits, and liquors, retailers reselling below the prices fixed by them, and demand, under threats of boycott, that such manufacturers, importers, and wholesalers refuse to supply further such price-cutting retailers.

9. Bring about and attempt to bring about the revocation or suspension of the licenses of retailers reselling wines, spirits, and liquors at prices lower than those fixed by the members of the member associations.

PAR. 6. The capacity, tendency, and effect of the aforesaid agreement, understanding, combination, and conspiracy and the acts and practices performed thereunder and in connection therewith by the respondent, National Retail Liquor Package Stores Association, Inc., in agreement with its membership associations and acting as a medium or central agency to cooperate with and assist said associations, the members thereof, and others, have been, and are, to hinder and prevent price competition in the sale and distribution of wines, spirits, and liquors to the purchasing public and have placed in the respondent, National Retail Liquor Package Stores Association, Inc., and its members the power to control and enhance prices.

CONCLUSION

The aforesaid agreement, understanding, combination, and conspiracy and the acts and practices performed thereunder or in connection therewith by the respondent, National Retail Liquor Package

Stores Association, Inc., and its members under the conditions and circumstances set forth are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

Inasmuch as the finding herein is limited to the acts and practices of the National Retail Liquor Package Stores Association, Inc., it is the opinion of the Commission that the complaint should be dismissed without prejudice as to the remaining respondents, including the individual respondents I. E. Eber, M. H. Block, and William E. Stein.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the substitute answers filed by the respondents, National Retail Liquor Package Stores Association, Inc., a corporation; I. E. Eber, individually and as vice president of National Retail Liquor Package Stores Association, Inc., and as president of, and as representative of the entire membership of, the Colorado Package Liquor Association; M. H. Block, individually and as a director of National Retail Liquor Package Stores Association, Inc., and as executive secretary of Colorado Package Liquor Association; and William E. Stein (named in the complaint herein as William E. Stern), individually and as director of National Retail Liquor Package Stores Association, Inc., and as treasurer of Colorado Package Liquor Association, in which substitute answers said respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and its conclusion that the respondent, National Retail Liquor Package Stores Association, Inc., a corporation, has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent National Retail Liquor Package Stores Association, Inc., a corporation, and its officers, directors, representatives, agents, and employees in connection with the sale and distribution of wines, spirits, and liquors in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from either directly or indirectly entering into, continuing, cooperating in, or carrying out any agreement, understanding, combination, or conspiracy with any one or more of its membership associations, their respective members, or others to act as a medium or central agency for the purpose of cooperating with or assisting said

associations, the members thereof, or others to do or perform any of the following acts or practices:

1. Establishing, fixing, or maintaining prices for wines, spirits, or liquors or adhering to or promising to adhere to the prices so fixed.

2. Maintaining or attempting to maintain uniform prices for the resale of wines, spirits, and liquors by retail liquor dealers.

3. Fixing, under threat of boycott, the prices at which manufacturers and importers of wines, spirits, and liquors shall sell their products, the prices at which such wholesalers thereof shall resell, and the prices at which retail dealers shall resell such products.

4. Compelling or attempting to compel manufacturers and importers of wines, spirits, and liquors by threats of boycott to sell such products in States having fair trade acts only under resale-price-maintenance contracts and at prices and differentials fixed by the respondent, National Retail Liquor Package Stores Association, Inc., and its members.

5. Compelling or attempting to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott not to sell to retailers reselling or offering to resell wines, spirits, and liquors at prices less than those fixed by the members of respondent, National Retail Liquor Package Stores Association, Inc., and fixed by resale-price-maintenance contracts in States having fair trade acts.

6. Compelling or attempting to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott not to sell to retailers reselling and offering to resell wines, spirits, and liquors at prices less than those fixed by the members of respondent, National Retail Liquor Package Stores Association, Inc.

7. Compelling or attempting to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott to grant to retail liquor dealers who are members directly, or indirectly as members of membership associations of respondent, National Retail Liquor Package Stores Association, Inc., uniform discounts and allowances in the purchase by them of wines, spirits, and liquors.

8. Compelling or attempting to compel manufacturers, importers, and wholesalers of wines, spirits, and liquors by threats of boycott to institute and prosecute suits against retailers for reselling wines, spirits, and liquors at prices less than those provided for in fair-trade contracts.

9. Spying upon, and reporting to manufacturers, importers, and wholesalers, of wines, spirits, and liquors, retailers selling below the prices fixed by respondent, National Retail Liquor Package Stores Association, Inc., and its members, and demanding, under threats of

boycott, that such manufacturers, importers, and wholesalers refuse to supply further such price-cutting retailers.

10. Bringing about or attempting to bring about the revocation or suspension of the licenses of retailers reselling wines, spirits, and liquors at prices lower than those fixed by respondent, National Retail Liquor Package Stores Association, Inc., and its members.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to the following-named respondents: William Steinberg, Barney Needleman, Theodore A. Jaffee, Peter H. Agins, Ruth Schlanger, John Megson, I. E. Eber, Gerald F. Dunne, Fred Scharfenstein, M. H. Block, J. Fitzsimmons, Irving Wilchins, Manuel Lipsky, Joseph L. Regan, S. J. Kahn, Henry McCusker, Abe Shapiro, Adam Gander, Theodore I. Taylor, Charles O. Needles, Gerald Rosenberg, Sam Rosen, Paul Pickett, A. P. Nolander, Joe Gordon, G. Wagner, David Shir, Adam Gordon, Phil Schwartz, Mel Flocks, Philip Ryan, J. Dworkus, R. J. Dwyer, Louis Brown, Tom Engle, A. L. Waldron, William Weber, Bill Stein, Ashton Blum, Connecticut Retail Liquor Package Stores Association, Greater New York Licensed Liquor Stores Association, D. C. Retail Liquor Dealers Association, New Jersey Retail Liquor Package Stores Association, Harold Lawson, Carl E. Bopp, William E. Stein (named in the complaint as William E. Stern), Edward Broff, Richard Birch, Jack Posner, M. L. Ehrman, R. G. Drown, Jr., Edward Ogle, Samuel Levey, Fred Garling, R. W. Schwartz, Adolph Halperin, Murray Bernhard, Sidney Weisfeld, Paul V. O'Neill, Fred J. Larock, Marcel Krone, David Herman, George Winkler, George Amato, Frank Degilio, Harry L. Dougherty, Leon Wylegalo, William Tenjost, Joseph B. Roach, J. Leo McGreal, Thomas J. McAvoy, Paul Hilbert, Abraham Aron, Abe Levine, Joseph Gioffre, Phil Taylor, Leon Seidman, Aaron Bilgor, Thomas Gaffney, Edward Townsend, A. Bernard Cohn, A. V. Rettaliata, William G. Wellhofer, Herman Silverstein, John J. Callahan, John J. Daly, Neil F. Deighan, Minnesota Council of Wine and Spirits Merchants, Inc., Colorado Package Liquor Association, Federated Retail Liquor Dealers of Kings County, Retail Liquor Dealers Association of Louisiana, Illinois Retail Liquor Package Stores Association, Massachusetts Federation of Retail Package Stores Association, Wisconsin Retail Liquor Dealers Association, Rhode Island Retail Liquor Dealers Association, Long Island Wine & Liquor Dealers Association, Capitol District Liquor Stores Association, Inc., Baltimore Retail Liquor Dealers Association, Arkansas Retail Liquor Dealers Association, Atlanta Retail Liquor Package Stores Association, Indiana Retail Liquor Dealers Association, Bronx Wine & Liquor Stores

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Associates, Inc., Central New York Liquor Dealers Association, Dutchess County Retail Liquor Dealers Association, Retail Liquor Stores Association of Western New York, Genesee Valley Retail Liquor Stores Association, Southern Tier Retail Liquor Stores Association, Westchester Package Stores Association, Louisville Retail Liquor Package Stores Association, South Dakota Retail Liquor Dealers Association, New Jersey Licensed Beverage Association, and National Council of State Liquor Dealers Association.

It is further ordered, That the respondent, National Retail Liquor Package Stores Association, Inc., shall, within 60 days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

Syllabus

IN THE MATTER OF
CENTRAL UNIVERSITY

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

Docket 5326. Complaint, May 28, 1945—Decision, Apr. 21, 1947

The term "University," as generally understood and accepted by those engaged in the educational field and by the general public, designates an institution of higher learning with power to confer degrees, with an adequate resident faculty of learned persons possessing degrees in the subjects which they purport to teach, and with the necessary buildings equipped with libraries, laboratories, and other facilities for the instruction of resident and non-resident students.

Where a corporation long engaged in the competitive interstate sale and distribution of courses of study and instruction in various subjects, including science, sociology, languages, education, history, and theology; through advertisements in religious magazines, and in catalogs descriptive of the various courses of study and instruction offered by it—

- (a) Falsely represented and implied through use of the word "University" in its corporate name and in other ways through statements therein, that it was a university offering extension training in various subjects of higher learning and had the necessary buildings, libraries, and laboratories, and a resident faculty competent and qualified to teach the subjects described in its catalogs; and that it was headed by a board of directors, an advisory board, and a faculty actively engaged in the management and administration of its affairs;

The facts being its business was that of a correspondence school and it was operated from the residence of and solely by its secretary; courses of instruction were prepared by her and members of the faculty and mailed to enrollees, and, upon return, the answers were similarly sent to members of the faculty for review and correction; there was no resident faculty, the members being located in various cities and engaged in pursuits other than and in addition to the reviewing and correction of lessons of students enrolled in its courses; it had no resident student body and no educational facilities such as libraries or laboratories; and neither the credits earned by its students nor the degrees conferred by it on them, were recognized by reputable accredited colleges or universities:

- (b) Represented and implied through a list of some 300 names entitled "Students and Graduates—A Partial List from Recent Years" that it had a large and substantial number of students;

The facts being that such "Partial List" included the names of a substantial number of persons who had purchased its courses many years prior to the issuance of the catalog in which such lists appeared, whereby the apparent size of its business and the number of students enrolled were grossly exaggerated;