

IN THE MATTER OF  
GOLD-TONE STUDIOS, INC. ET AL.

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

*Docket 4779. Complaint, July 2, 1942—Decision, Sept. 2, 1948*

Where a corporation and seven partners, including said corporation's president, vice president, and secretary-treasurer, who directed and controlled the corporate and partnership acts, practices and policies; engaged in the production and interstate sale and distribution of colored or tinted photographs, at the same premises and with the same telephone numbers, and in carrying on their operations through forty-four studios or branches operated under the corporate name, and seventeen under various other trade names, under a plan or program whereby each studio gave customers sittings and transmitted the negatives to the principal office where finished prints of the customers' selections were made and returned to the studio for delivery to the customer, with notation on the back that duplicates might be ordered "either through this studio or by writing direct to Camera Art Company, etc.—partnership trade name under which most of the work of developing negatives and finishing and supplying proofs and prints therefrom, was done;

In advertising their photographs, generally as "Gold-Tone Oil color portraits", in newspapers, contract forms, printed circulars, stationery, and other advertising material, including certificates and coupons which the headquarters offices supplied to their studios for house-to-house canvassers;

- (a) Falsely represented, through such use of the words "Gold-Tone" as a trade name and its use in the name of aforesaid corporation, together with the express representation upon such coupons, that the corporation produced, sold and distributed the more costly, genuine gold-tone photographs, finished by the use of a toning bath containing salts or chloride of gold;
- (b) Falsely described their said photographs through use in their aforesaid advertising matter of such statements as "oil painted portraits" and "colored in oil", "oil colored portrait",

The facts being that they were merely sepia prints produced from a photographic negative and thereafter—in the case of a major portion—tinted or colored; and they did not conform to the public's understanding of "oil colored portraits" and did not constitute such portraits as understood by artists who paint pictures or photographers who color photographs;

- (c) Falsely represented, as aforesaid, that their said photographs had a value of \$5 or \$5.50 through such statements as "Gold-Tone Finish \$2.75 reg. \$5 value", "offered for \$2.95 reg. \$5.50 value" and "formerly \$5 value"; when in fact they were regularly and consistently sold for \$2.75 and \$2.95; and
- (d) Falsely represented offer of their said products as a "special advertising offer" in their said coupons or certificates; notwithstanding the fact their

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so-called special advertising offers were not limited to the time stated; period stated in said coupons in many cases overlapped and might be extended upon request; and aforesaid offers constituted part of a continuous scheme of solicitation in the regular course of their business;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the belief that aforesaid representations were true, and with effect of causing it to purchase aforesaid photographs:

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

Before *Mr. J. Earl Cox*, trial examiner.

*Mr. S. F. Rose* and *Mr. Joseph Callaway* for the Commission.

*MacFarlane, Harris & Goldman*, of Rochester, N. Y., for respondents.

## 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 Gold-Tone Studios, Inc., a corporation, also trading as Camera Art Co.; Irving A. Stern, individually and as president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Co.; Paul A. McGuire, individually and as vice president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Co.; Berthold Eidlin, individually and as secretary-treasurer of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Co.; and Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, individuals and members of the firm trading as Camera Art Co., hereinafter referred to as respondents, 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 Gold-Tone Studios, Inc., hereinafter referred to as corporate respondent, is a corporation organized and doing business under and by virtue of the laws of the State of New York, having its principal office and place of business at 12 Andrews Street, Rochester, N. Y., with some 50 branch studios or places of business operated and maintained in as many cities located in various States of the Middle West and along the Atlantic Seaboard, said branch studios and places of business in turn, employing different trade names, and in some instances, the name of corporate respondent.

Individual respondents Irving A. Stern, Marion Stern, Paul A. McGuire, Doris McGuire, Berthold Eidlin, Emanuel Eidlin, and Ephraim

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Eidlin are individuals composing a partnership trading under the name and style Camera Art Co. Individual respondents Irving A. Stern, Paul A. McGuire and Berthold Eidlin are president, vice president and secretary-treasurer, respectively, of respondent corporation and they, acting in their official capacities and in conjunction with individual respondents Marion Stern, Doris McGuire, Emanuel Eidlin and Ephraim Eidlin, direct and control the respective acts, policies and affairs of corporate respondent and of Camera Art Co. Corporate respondent Gold-Tone Studios, Inc., and Camera Art Co. are operated from the same premises and address, to wit, 12 Andrews Street, Rochester, N. Y. Much of the business of Gold-Tone Studios, Inc., is transacted in the name of Camera Art Co., which said firm has more than 100 employees, and produces and ships the products sold by Gold-Tone Studios, Inc., through the medium of its various branch studios.

PAR. 2. Respondents are now, and for some time past have been engaged in the production, offering for sale and sale of tinted or colored photographs, or pictures generally designated as "Gold-Tone Oil Colored Portrait" and in the sale of frames therefor. Respondents cause and have caused their said photographs or pictures, when sold by them, to be transported from their place of business in Rochester, N. Y., to the purchasers thereof at the respective points of location of the latter in the various States of the United States other than the State of New York, and in the District of Columbia. Respondents maintain and at all times mentioned herein have maintained a course of trade in said tinted or colored photographs or pictures in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, in connection with and for the purpose of inducing the sale and distribution of their said products in commerce, respondents have made and are now making various advertising and sales representations concerning their said products. Customers and prospective customers are variously contacted through the medium of newspaper advertising, by the use of United States mails and by house-to-house canvassers or sales agents working out of the branch offices established as aforesaid by respondents in various cities of the States of the United States. Each said branch office or studio is equipped by respondents with a photographic outfit used only for the purpose of making a negative of a customer sitting for a photograph.

In printed circulars of general distribution, disseminated by corporate respondent the following representation, among others, is made:

Beautiful 8 x 10 Oil Painted Portrait.

In advertisements appearing in newspapers of general circulation respondents advertise and have advertised "3 LOVELY 8 x 10 PORTRAITS. In the beautiful GOLD-TONE FINISH \$2.75. Reg. \$5 Value."

In other advertising matter also inserted by respondents in newspapers of general circulation respondents advertise "3 8 x 10 PHOTOS. 1 HAND COLORED IN OILS," offered for "\$2.95 Reg. \$5.50 VALUE."

PAR. 4. Respondents' plan of operation is in substance as follows:

House-to-house salesmen or canvassers are equipped by respondents with sample photos and coupons. When a salesman contacts a customer and obtains an order for a "portrait" he delivers to the customer at the time a coupon or certificate of which the following is typical:

Special Advertising Offer  
ONE BEAUTIFUL 8 x 10 GOLD-TONE OIL COLORED PORTRAIT  
Suitable for Framing  
For \$1.00 only  
Pay Representative 50¢ \* \* \* Pay Bal. 50¢ at time of sitting  
Good Until August 15, 1941

Other coupons or certificates delivered to customers by respondents' salesmen upon taking orders read in part as follows:

|                           |
|---------------------------|
| FORMER<br>\$5.00<br>VALUE |
|---------------------------|

GOLD-TONE STUDIOS, INC.  
Saginaw, MICH.  
SPECIAL ADVERTISING OFFER  
ONE Beautiful 8 x 10 Fluor-A-Tone Portrait  
HAND COLORED IN OILS  
Pay Representative 50¢ \$1.00 Pay Bal. 50¢ at time of sitting

\* \* \* \* \*

This Offer Good Until Sep. 6, 1941.

The salesman collects 50 cents upon taking an order, the same being his commission. The remaining 50 cents or balance is paid by the customer at the studio at the time of the sitting for a picture or portrait.

The only work done by the branch studio or office consists in giving the customer a "sitting" and the making of a photographic negative. Said negative is immediately sent to the main office of respondents at 12 Andrews Street, Rochester, N. Y., where it is developed and a proof made therefrom. Respondents having made the proof, the same is then mailed back to the branch studio for the inspection of the cus-

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tomers. The particular proof selected by the customer is then mailed back by the branch studio to headquarters of respondents in Rochester, N. Y., where the print is made. The finished print is then mailed back to the branch studio for delivery to the purchaser. Certificates used by branch studios in obtaining and executing orders are sent to the branch offices or studios by and from the main office of respondents at Rochester. The development of negatives and the making and finishing of proofs and prints therefrom are done under the name of Camera Art Co.

Each branch office or studio remits once a week to the main office at Rochester all moneys collected for prints.

On the back of corporate respondents' finished prints that are delivered to purchasers is stamped an announcement reading as follows:

DUPLICATE PRINTS OF THIS PHOTOGRAPH IN ANY SIZE  
MAY BE ORDERED EITHER THRU THIS STUDIO OR BY WRIT-  
ING DIRECT TO CAMERA ART CO. 12 ANDREWS ST.  
ROCHESTER, N. Y.  
WHEN ORDERING PLEASE GIVE THIS NO \* \* \*

Various customers, believing to be true, the representations of respondents in respect of the character and type of their product and as to the terms and conditions of the sale thereof, have sent in additional orders to respondents at Rochester, N. Y., for duplicate prints and said orders are being and have been filled by respondents at Rochester and shipped by them from Rochester to said customers located in various States of the United States other than the State of New York.

PAR 5. The aforesaid representations and implications made and employed by respondents as aforesaid, are false, misleading and deceptive in that:

The tinted or colored photographs or pictures produced by respondents are not "oil painted portraits" or "oil colored portraits." Said photographs or pictures are not "paintings" nor "oil painted" and they do not conform to the established belief of the public as to what constitutes a "painting" or an "oil painted" production, nor do said photographs or pictures constitute "paintings" or "oil painted" products as understood by artists who paint pictures or photographers who color photographs. Said photographs or pictures, in truth and in fact, as produced and sold by respondents, are merely sepia prints produced from a photographic base and negative, and slightly tinted or colored thereafter.

The photographs or pictures represented as having had a \$5 value, have not had and do not have any such value and have not been sold for \$5, for in truth and in fact, photographs or pictures of the same kind, type and quality as those sold by respondents are regularly and ordinarily sold by popular price, coupon photographic studios for \$1 each.

The offers that are advertised as terminating on or as being limited to a given date, are not actually terminated or withdrawn at, or limited to, the time stated as to each, nor are any of said advertising or coupon offers "special advertising offers." Said offers, in truth and in fact, comprise only a part of a continuous scheme of solicitation in the regular course and conduct of the business of respondents.

PAR. 6. A genuine Gold-Tone print or picture is a product resulting from a process involving the use of a toning bath employing salts or chloride of gold. This process produces a much warmer tone than is true in the case of black and white or sepia, involves more labor and detail, comprehending the toning of a print or pictures a second time, and is considerably more expensive than the process employed in the production of black-and-white or sepia prints or pictures. The toning process employed by respondents is an ordinary one in universal use in the production of sepia effects.

The use by corporate respondent of the words "Gold-Tone" in its corporate name or as a trade name, printed on its stationery, contract forms, or in advertising, together with the express representation upon coupons used to obtain customers for the purchase of respondents' products, is a representation to customers that respondents produce and sell genuine Gold-Tone pictures. In truth and in fact, the colored photograph advertised and represented by respondents to be a Gold-Tone oil colored product is not in fact a Gold-Tone picture but is instead a slightly tinted or colored sepia print which costs much less to produce and which respondents do not actually color in oil. The use by corporate respondent Gold-Tone Studios, Inc., of the word "Gold-Tone" as a part of its corporate name constitutes within itself a false and misleading representation that said corporate respondent produces and sells in commerce genuine Gold-Tone pictures or photographs, when such is not the fact.

PAR. 7. The use by respondents of the said false and misleading statements and representations in connection with the sale of the aforesaid products has a tendency and capacity to, and does, mislead and deceive purchasers and prospective purchasers of respondents' said product into the erroneous and mistaken belief that such statements

and representations are true and into the purchase of substantial quantities of respondents' products as a result of such belief.

PAR. 8. Said acts and practices of respondents as described herein are all to the prejudice of the public and constitute unfair and deceptive acts and practices 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 July 2, 1942, issued and subsequently served its complaint in this proceeding upon the respondents, Gold-Tone Studios, Inc., a corporation, also trading as Camera Art Co.; Irving A. Stern, individually and as president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Co.; Paul A. McGuire, individually and as vice president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Co.; Berthold Eidlin, individually and as secretary-treasurer of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Co.; and Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, individuals and members of the firm trading as Camera Art Co., charging them with unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the respondents filed their answers, 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 upon the complaint, the answers thereto, testimony and other evidence, report of the trial examiner, and briefs and oral argument in support of and in opposition to the complaint; 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 Gold-Tone Studios, Inc., hereinafter referred to as the "corporate respondent," is a corporation organized and existing under and by virtue of the laws of the State of New York. It maintains its offices at 12 Andrews Street, Rochester, N. Y. In

April 1944 it operated 61 studios or branches, 44 of which were operated under its corporate name and 17 under various other trade names. Its gross business increased from \$96,206.98 in 1935 to \$3,369,213.54 in 1944, while its annual expenditure for advertising increased from \$2,792.18 in 1935 to \$83,120.19 in 1944.

PAR. 2. Individual respondents, Irving A. Stern, Marion Stern, Paul A. McGuire, Doris McGuire, Berthold Eidlin, Emanuel Eidlin, and Ephraim Eidlin, are individuals composing a partnership trading and doing business as Camera Art Co., with their principal place of business at 12 Andrews Street, Rochester, N. Y. Individual respondents Irving A. Stern, Paul A. McGuire, and Berthold Eidlin are president, vice president, and secretary-treasurer, respectively, of respondent corporation, and they, acting in their capacities as officers of said corporate respondent and in conjunction with the individual respondents Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, direct and control the respective acts, practices, and policies of the corporate respondent and of the Camera Art Co., both of which occupy the same premises and have the same telephone numbers.

PAR. 3. Respondents are now, and for more than 10 years last past have been, engaged in the production, offering for sale, sale, and distribution of colored or tinted photographs or pictures generally designated as "Gold-Tone oil colored portraits" and in the sale of frames therefor. Each branch office or studio of the corporate respondent is equipped by respondents with a photographic outfit used only for the purpose of making a negative of a customer sitting for a photograph. The only work done by a studio or branch office consists of giving the customer a "sitting" and the making of a photographic negative. The negative is immediately transmitted to the principal office of the respondents, where it is developed and a proof made. Said proof is then returned to the branch studios for inspection by the customer. The particular proof selected by the customer is then returned to the headquarters of the respondents, where a print is made. A finished print is then mailed back to the branch studio for delivery to the customer. More than 99 percent of the work of developing negatives and finishing proofs and prints therefrom is done under the name of Camera Art Co.

PAR. 4. In the course and conduct of the aforesaid business, respondents cause, and have caused, their said photographs or pictures, when sold, to be shipped from their place of business in the State of New York to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia, and maintaining, and at all times mentioned herein have main-

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tained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 5. (a) For the purpose of inducing the purchase of their photographs or pictures, respondents advertise in newspapers distributed throughout the United States and in contract forms, certificates, coupons, printed circulars, stationery, and other advertising material circulated and distributed, or caused to be circulated and distributed, by them among the purchasing public throughout the United States and in the District of Columbia. Among and typical of such statements are the following:

- (1) Beautiful 8 x 10 Oil Painted Portrait
- (2) 3 LOVELY 8 x 10 PORTRAITS. In the beautiful GOLD-TONE FINISH  
\$2.75. Reg. \$5 Value.
- (3) 3 8 x 10 PHOTOS. 1 HAND COLORED IN OILS, offered for 2.95. Reg.  
\$5.50 VALUE.
- (4) Special Advertising Offer  
ONE BEAUTIFUL 8 x 10 GOLD-TONE OIL COLORED PORTRAIT  
Suitable for Framing  
For \$1.00 only  
Pay Representative 50¢ \* \* \* Pay Bal. 50¢ at time of sitting  
Good Until August 15, 1941.

(5)

|                                    |
|------------------------------------|
| <p>FORMER<br/>\$5.00<br/>VALUE</p> |
|------------------------------------|

GOLD-TONE STUDIOS, INC.  
Saginaw, MICH.  
SPECIAL ADVERTISING OFFER  
ONE Beautiful 8 x 10 Fluor-A-Tone Portrait  
HAND COLORED IN OILS  
Pay Representative 50¢ \$1.00 Pay Bal. 50¢ at time of sitting

\* \* \* \* \*

This Offer Good Until Sept. 6, 1941.

(b) (4) and (5) above are typical of the representations made through the use of coupons or certificates supplied by the headquarters offices of respondents to their studios, which in turn supply them to house-to-house canvassers or salesmen. When such a salesman calls on a customer and obtains an order, he delivers one of these coupons to said customer and collects the deposit, which is his commission, and the balance is paid to the studio by the customer at the time of the sitting for a photograph or picture.

(c) On the back of corporate respondent's finished prints delivered to purchasers is stamped the following:

DUPLICATE PRINTS OF THIS PHOTOGRAPH IN ANY SIZE  
MAY BE ORDERED EITHER THRU THIS STUDIO OR BY  
WRITING DIRECT TO  
CAMERA ART CO. 12 ANDREWS ST.  
ROCHESTER, N. Y.  
WHEN ORDERING PLEASE GIVE THIS NO \* \* \*

Various customers, having reason to believe and believing to be true representations of respondents with respect to the character and type of their photographs or pictures and as to the terms and conditions of sale thereof, have sent in additional orders to respondents at Rochester, New York, for duplicate prints, and said orders are being, and have been, filled by respondents at Rochester and shipped by them from Rochester to said customers located in various States of the United States other than the State of New York.

(d) The use by corporate respondent of the words "Gold-Tone" in its corporate name and as a trade name printed on its stationery, contract forms, or in advertising, together with the express representation upon coupons used to obtain customers for the purchase of respondents' products, is a representation to said customers that respondents produce and sell genuine gold-tone pictures or photographs. The use by corporate respondent Gold-Tone Studios, Inc., of the words "Gold-Tone" as a part of its corporate name constitutes, within itself, a representation that said corporate respondent produces, sells, and distributes genuine gold-tone photographs or pictures finished by the use of a toning or developing bath containing salts or chloride of gold.

PAR. 6. Through the use of the above statements and representations and others of similar import and meaning not set out herein respondents represent, and have represented, directly and by implication, that pictures and photographs produced, sold, and distributed by them are "oil painted portraits," "oil colored portraits," "hand colored in oils," "Gold-Tone finished," and/or "Gold-Tone oil portraits," that they have a regular value of \$5 or \$5.50, and that \$2.75 and \$2.95 are special advertising offers for a limited time only.

PAR. 7. (a) The aforesaid statements and representations are false, deceptive, and misleading in the particulars hereinafter set out.

(b) The photographs or pictures produced and distributed by respondents are not "oil painted portraits" and are neither "paintings" nor "oil painted." Many of them are not "oil colored portraits." None of them conform to the established belief of the public as to what constitutes a "painting" or an "oil painted" production and do not

constitute "paintings" or "oil painted" products as understood by artists who paint pictures or photographers who color photographs. All of them are merely sepia prints produced from a photographic base and negative. A major portion of said photographs and pictures are thereafter slightly tinted or colored and do not conform to the established belief of the public as to what constitutes an "oil colored portrait" and do not constitute "oil colored portraits" as understood by artists who paint pictures or photographers who color photographs.

(c) A genuine gold-tone print or picture is a product resulting from a process involving the use of a toning bath employing salts or chloride of gold. This process produces a much warmer tone than is true in the case of black and white or sepia, involves more labor and detail, comprehending the toning of a print or picture a second time, and is considerably more expensive than the process employed in the production of black-and-white or sepia prints or pictures. Respondents do not produce, sell, or distribute genuine gold-tone pictures or photographs and do not in fact employ a toning bath containing salts or chloride of gold in finishing such pictures or photographs.

(d) Said photographs or pictures have not had, and do not have, a value of \$5 or \$5.50 and have not been sold at these prices. Respondents regularly and continuously sell them for \$2.75 and \$2.95.

(e) The "special advertising offers" are not in fact special offers for a limited time only. They are not limited to the time stated as to each and are not actually terminated or withdrawn at such time. Many of the time periods stated in such coupons overlap, and said periods may be extended upon request of the customer. Said offers, in truth and in fact, constitute only a part of a continuous scheme of solicitation in the regular course and conduct of respondents' business.

PAR. 8. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the statements and representations made are true and causes, has caused, and is likely to cause a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' pictures and photographs.

#### CONCLUSION

The acts and practices of the respondents as herein found are all to the injury and prejudice of the public and constitute unfair and deceptive acts and practices 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 the respondents, testimony and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner, and briefs and oral argument in support of and in opposition to the complaint; and the Commission having made its findings as to the facts and conclusion that the respondents have violated the provisions of the Federal Trade Commission Act:

*It is ordered*, That the respondent Gold-Tone Studios, Inc., a corporation, also trading as Camera Art Co., its officers, representatives, agents, and employees, and respondents Irving A. Stern, Paul A. McGuire, Berthold Eidlin, Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, individually or as copartners trading as Camera Art Co., or under any other name or names, their agents, representatives, 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 pictures or photographs, do forthwith cease and desist from directly or indirectly:

1. Using the words "oil painted portrait," "oil painted," or any other word or words of similar import or meaning, either alone or in combination with any other word or words, as a designation for, as descriptive of, or in connection with a tinted or colored photograph or picture made from a photographic base.

2. Using the words "oil colored portrait," "colored in oils," or any other word or words of similar import or meaning, either alone or in combination with any other word or words, as a designation for, as descriptive of, or in connection with a tinted photograph or picture made from a photographic base.

3. Using the words "Gold-Tone" or any other word or words of similar import or meaning, either alone or in combination with any other word or words, to designate, describe, or refer to a photographic reproduction which is not a product resulting from a finishing process involving the use of a toning or developing both employing salts or chloride of gold.

4. Using the words "Gold-Tone" or any other word or words of similar import or meaning, either alone or in combination with any other word or words, as a corporate or trade name or otherwise, to designate, describe, or refer to a photographic business not substan-

tially engaged in finishing photographic reproductions by a process involving the use of a toning or developing bath employing salts or chloride of gold.

5. Representing that the customary or usual price for any kind or type of photograph or picture is a special advertising offer or other special offer; that an offer of said photographs or pictures is limited in point of time when such offer is not in fact so limited; or that said photographs or pictures offered are of a value in excess of the usual or customary price.

*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 it.

## Syllabus

IN THE MATTER OF  
ASSOCIATION OF COUPON BOOK  
MANUFACTURERS ET AL.

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

*Docket 5532. Complaint, Apr. 1, 1948—Decision, Sept. 3, 1948*

Where some thirty-three corporate and partnership concerns which were engaged in the manufacture and interstate sale and distribution of different kinds of tickets, checks and coupons, classified in accordance with the special interest therein of their six trade associations, as (1) amusement tickets, (2) restaurant checks—clubs, cafes, hotels, soda fountains, etc., (3) coupons in strip or book form, redeemable in merchandise or services by commercial and industrial establishments, (4) clothing tickets, including also those employed by manufacturers to record piece work, etc., and by establishments engaged in agricultural activities whose employees are given checks or coupons redeemable in cash for work performed, (5) transit tickets—electric railways, buses, ferries, etc. and (6) railroad tickets—including railway affiliates, and airway systems; and which, with one exception, were members of one or more or all of said six corporate trade associations, and constituted so large and influential a group that they were able substantially to dominate and control the market and prices of the aforesaid products, and, except as below described, were normally in competition with one another and with others—

Entered into an unlawful agreement, understanding, combination and conspiracy to hinder, lessen, eliminate, restrict and restrain competition in price and otherwise between and among themselves in the manufacture, sale and distribution in commerce of the aforesaid products; and

Where said various manufacturers, their said associations, a partnership which was the secretary and industry counsel for said associations, and an individual partner therein, who dominated and controlled its operations—

Carried out the aforesaid unlawful agreement, understanding, etc.; and pursuant thereto and in furtherance thereof—

- (a) Agreed upon identical and uniform prices, discounts, surcharges and extra charges to be applied in the sale and distribution of the products concerned; and

Where said manufacturers, pursuant to aforesaid agreement, etc.,

- (b) Organized said associations for use as clearing houses or central agencies through which they could and did carry on and effectuate their unlawful agreements, etc.; and

Where said various associations, pursuant to aforesaid agreement, etc.,

- (c) Employed said partnership and individual to make plans for and to aid, assist and direct said manufacturers in effectuating and carrying out said agreement, etc.;

- (d) Adopted and carried out an open price filing plan whereby each manufacturer filed with the association of which it was a member, a price list