

Syllabus

IN THE MATTER OF
BOBBIN MANUFACTURERS ASSOCIATION 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 5543. Complaint, May 18, 1948—Decision, Mar. 8, 1949

Where some twelve corporate or partnership concerns, makers of a very substantial portion of the bobbins, spools, cones, rolls, tubes, skewers and kindred products, made in the United States, in a wide variety of sizes for use in the spinning of yarn and the weaving of cloth; members of an association which they made use of in furthering the acts and practices below set out, and in a position, to the extent that they acted collusively or collectively, or engaged in monopolistic practices in the production, pricing, or sale of such products, to dominate and manipulate the price quotations made to unorganized purchasers of a substantial portion thereof—

Acting between and among themselves and through their said association, and by other means—

Entered into and carried out an unlawful understanding and conspiracy, with the intent and effect of substantially restricting and frustrating actual and potential competition in the sale and distribution of said products; and in pursuance thereof—

- (a) Concertedly established, fixed and maintained prices, discounts, terms and conditions of sale for said products;
- (b) Agreed to and did cooperate with each other in utilizing the facilities of their said association in formulating and cooperatively using "open price plans" and "reporting plans," pursuant to which they advised and informed agents of said association—who in turn, along with association employees, disseminated the information among the manufacturers—as to intimate details of their business transactions, including current and future price lists, every sale made at any variation from quoted price lists, and orders received monthly;
- (c) Reported, filed and exchanged the intimate details of particular transactions handled and expected to be handled by them, including information as to prices, price lists, and price conditions; and
- (d) Agreed to and did open their books and other records for examination by their common agents, and reported, filed and exchanged, through common agents and otherwise, information regarding the sales of individual respondent manufacturers and the prices at which such sales were made, with intent and effect of securing a collective and cooperative comparison with the price quotations previously announced by the manufacturers making the sales;

Capacity, tendency and effect of which understandings, etc., were—

(1) To substantially restrain and suppress competition between and among said manufacturers, in the manufacture and pricing, sale and distribution of their products in commerce;

(2) To unreasonably restrict trade in commerce therein; and

(3) To empower and enable said manufacturers to control the market and enhance the prices of said products above those which would prevail under a condition of natural, normal, and free competition:

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

Mr. Paul R. Dixon for the Commission.

Hale & Dorr, of Boston, Mass., for respondents generally, with the exception of—

Montgomery, McCracken, Walker & Rhoads, of Philadelphia, Pa., for *Jas. H. Billington Co.*; and

McLane, Davis, Carleton & Graf, of Manchester, N. H., for *George M. Hambleton* and *Winston P. Hambleton*.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, as amended, the Federal Trade Commission having reason to believe that the individuals, partnerships, corporations, and association named in the caption hereof and more particularly hereinafter described or referred to as respondents, have violated the provisions of section 5 of the said act; and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint against each of said parties, stating its charges in that respect as follows:

PARAGRAPH 1. Each of the following individuals, partnerships, corporations, and association, more particularly named and described in a subparagraph of this paragraph, are named as respondent herein:

(1) Respondent Bobbin Manufacturers Association, hereinafter referred to sometimes as respondent Association, is an unincorporated trade association with its offices and principal place of business located at 30 State Street, Boston, Mass. It was formed in 1932 to promote the mutual interests of its members and has since that time included among its membership manufacturers of bobbins, spools, cones, rolls, tubes, skewers, and kindred products, hereinafter sometimes designated and referred to as "the products." Said membership has included respondents *American Bobbin Co., Inc.*, *James H. Billington Co., Inc.*, *Lloyd W. Street*, *Ernest W. Bowen*, *Harry G. Hunter*, and *Bert T. Holland, Jr.*, copartners doing business as *Bowen-Hunter Bobbin Co.*, *The Dana S. Courtney Co.*, *The David Brown Co.*, *Lowell Shuttle Co.*, *George M. Hambleton* and *Winston P. Hambleton*, copartners doing business as *New England Bobbin & Shuttle Co.*, *Walter L. Parker Bobbin & Spool Co.*, *H. & P. Spool & Bobbin Co.*, *U. S. Bobbin & Shuttle Co.*, and *Vermont Spool & Bobbin Co.*

(2) Respondent William Borassa, during 7 years last past has, as its president and as a member of its executive committee, participated in directing the affairs of the respondent Bobbin Manufacturers Association, 30 State Street, in the city of Boston, Mass., and is general manager and assistant treasurer of respondent American Bobbin Co., 47 Whipple Street, Lewiston, Maine.

(3) Respondent George G. Brown, Sr., during the 7 years last past, functioned as vice president and as a member of the executive committee of respondent Bobbin Manufacturers Association, 30 State Street, in the city of Boston, Mass., and is treasurer of respondent The David Brown Co., Lawrence, Mass.

(4) Respondent Matthew E. Ward since April 10, 1947, has functioned as secretary of respondent Bobbin Manufacturers Association, 30 State Street, in the city of Boston, Mass. He succeeded one Campbell Bosson, who served as secretary-treasurer of respondent Bobbin Manufacturers Association, having been employed by said association on or about July 1, 1940. Campbell Bosson had succeeded one George L. Sawyer, who served as secretary of respondent Bobbin Manufacturers Association from the time of its formation in 1932.

(5) Respondent William J. McGeough during the 7 years last past, has served as a member of the executive committee of the respondent Bobbin Manufacturers Association, 30 State Street, in the city of Boston, Mass., and is president of respondent U. S. Bobbin & Shuttle Co., Lawrence, Mass.

(6) Respondent American Bobbin Co. is a corporation organized and existing under the laws of the State of Maine, with its office and principal place of business located at 47 Whipple Street, in the city of Lewiston, Maine. This respondent corporation was organized in 1945, at which time it took over the good will and physical assets of the Rhode Island corporation of the same name, which was organized in 1920. Since said date in 1945 it has continued the business and the business practices formerly carried on by its predecessor. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(7) Respondent James H. Billington Co., Inc., is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 1533 North Randolph Street in the city of Philadelphia, Pa. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(8) Respondents Lloyd W. Street, Ernest M. Bowen, Harry G. Hunter, and Bert T. Holland, Jr., are copartners doing business as

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Bowen-Hunter Bobbin Co., with their principal office and place of business located in the city of East Corinth, Vt. They manufacture "the products" and sell and distribute the same throughout several of the States of the United States.

(9) Respondent The Dana S. Courtney Co. is a corporation organized and existing under the laws of the State of Massachusetts, with its principal office and place of business located in the city of Chicopee, Mass. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(10) Respondent The David Brown Co. is a corporation organized and existing under the laws of the State of Massachusetts, with its principal office and place of business located in the city of Lawrence, Mass. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(11) Respondent Lowell Shuttle Co. is a corporation organized and existing under the laws of the State of Massachusetts, with its principal office and place of business located in the city of Lowell, Mass. It manufactures "the products" and sells and distributes the same throughout several States of the United States.

(12) Respondents George M. Hambleton and Winston P. Hambleton are copartners doing business as New England Bobbin & Shuttle Co., with their principal office and place of business located in the city of Nashua, N. H. This partnership was organized on or about March 1, 1946, at which time it took over the good will and physical assets of a partnership operating under the same name which was conducted by George M. Hambleton and Mrs. Alice E. Hambleton. Since said date in 1946 it has continued the business and the business practices formerly carried on by its predecessor. These respondents manufacture "the products" and sell and distribute the same throughout several of the States of the United States.

(13) Respondent Walter L. Parker Bobbin & Spool Co. is a corporation organized and existing under the laws of the State of Massachusetts, with its principal office and place of business located in the city of Lowell, Mass. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(14) Respondent H. & P. Spool & Bobbin Co. is a corporation organized and existing under the laws of the State of Massachusetts, with its principal office and place of business located in the city of Lawrence, Mass. This corporation was organized in January 1946 at which time it took over the good will and physical assets of a business of the same name which was conducted by the estate of the late Herbert

Hambleton. Since said date in 1946 it has continued the business and the business practices formerly carried on by his predecessor. Said respondent corporation manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(15) Respondent U. S. Bobbin & Shuttle Co. is a corporation organized and existing under the laws of the State of Rhode Island, with its principal office and place of business located at 1350 Bradford Street in the city of Lawrence, Mass. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

(16) Respondent Vermont Spool & Bobbin Co. is a corporation organized and existing under the laws of the State of Vermont, with its principal office and place of business located in the city of Burlington, Vt. It manufactures "the products" and sells and distributes the same throughout several of the States of the United States.

All of the respondent manufacturers described hereinbefore in subparagraphs (6) through (16), inclusive, of paragraph 1, have for a period of time more than 7 years last past engaged in the manufacture of "the products" or caused them to be manufactured and shipped for them from the respective places of manufacture to their respective customers located in the States of the United States other than the States of origin of such shipments. Each of said respondent manufacturer has been, and is, in competition with one or more of the other respondent manufacturers in making or seeking to make sales in commerce between and among the various States of the United States of "the products," except insofar as competition has been hindered, lessened, restricted or forestalled by the understanding, agreement, combination or conspiracy and acts, things, practices and methods done and carried on in pursuance thereto and in furtherance thereof as hereinafter set forth.

To the extent that they act collusively and collectively or engage in monopolistic practices in the production, price, or sale of "the products," respondent manufacturers have been and are in a position to dominate and manipulate the price quotations which are made to unorganized purchasers of "the products."

Up to and including the present time, the said respondent members made use of the offices and other facilities of said respondent Bobbin Manufacturers Association for actively advising, assisting and cooperating with all members of that association in furtherance of the unlawful acts, things, practices, and methods hereinafter set forth.

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PAR. 2. Bobbins, spools, cones, rolls, tubes, skewers, and kindred products, said products as aforesaid being sometimes hereinafter designated and referred to as "the products," are the commodities with which this proceeding is concerned. These commodities are specially constructed for use in the spinning of yarn and the weaving of cloth. They are manufactured in a wide variety of sizes from well seasoned beech, birch, or maple rough lumber to customer specifications. They are therefore an important item in commerce and trade. Said respondent manufacturers manufacture substantially all "the products" produced in the United States.

PAR. 3. For more than 7 years last past, respondent manufacturers acting between and among themselves, through and by means of respondent Bobbin Manufacturers Association, through and by means of respondents William Borassa, George G. Brown, Sr., Matthew E. Ward, William J. McGeough, and others, while they and others were acting in their official positions with respondent Bobbin Manufacturers Association and by other means and methods, have entered into and thereafter engaged in and carried out, and are still engaged in and carrying out, a wrongful and unlawful understanding, agreement, combination and conspiracy, for the purpose and with the effect of substantially restricting, suppressing, eliminating, and frustrating actual and potential competition as to price, and otherwise, in the sale and distribution of "the products" in trade and commerce between and among the various States of the United States.

PAR. 4. Pursuant to said understanding, agreement, combination and conspiracy, and in furtherance thereof, said respondents acting in cooperation with each other, in the manner and by the methods herein set forth, have done and performed, and still do and perform, among other acts, things, practices and methods, the following:

1. Concertedly established, fixed and maintained prices, discounts, terms, and conditions of sale.

2. Agreed to cooperate with each other in utilizing, and have cooperated with each other, and in connection therewith have utilized the facilities and offices of the respondent association and respondent Matthew E. Ward, and other agents of respondent association, in formulating and cooperatively using "open price plans" and "reporting plans," pursuant to which the various manufacturing respondents have advised and informed respondent Matthew E. Ward, and other agents of respondent association and each other concerning the intimate details of their respective business transactions, including lists of prices to be quoted and charged on current and future sales transactions, every sale made at any variation from quoted price lists, orders received

monthly, which information and advice has in turn been disseminated by respondent Matthew E. Ward and other agents and employees of respondent association to and among various manufacturing respondents.

3. Reported, filed, and exchanged and are now reporting, filing, and exchanging between and among themselves the intimate details of particular transactions handled by the manufacturing respondents and transactions expected to be handled by the manufacturing respondents, including information as to prices, price lists, and price quotations.

4. Agreed to open and did open books and other records of the manufacturing respondents for examination by their common agents, and reported, filed and exchanged between and among the manufacturing respondents, through common agents and otherwise, information regarding the sales of individual manufacturing respondents, including the prices at which such sales were made, for the purpose and with the effect of securing a collective and cooperative comparison and consideration through common agents, and otherwise, of the prices at which the manufacturing respondents made sales and were making sales with the price quotations previously announced by the same manufacturing respondent.

PAR. 5. When the manufacturing respondents filed their current and future price lists, price quotations, and other information explaining or modifying the same with respondent Matthew E. Ward, and other agents of respondent association, as a common agent, for distribution by him among their respective competitors, filed the intimate details, including prices, of their respective sales transactions for similar distribution by said respondent Ward or common agent and agreed to open, or opened, their books and records for examination by their common agent for the purpose and with the effect of making a cooperative comparison between the prices received in actual sales transactions and the price lists or price quotations and explanations or modifications of the same previously filed and distributed through said respondent Ward or other agents as their common agent, there existed under such circumstances an agreement, understanding, or meeting of the minds of the manufacturing respondents that they would and should adhere to the same price lists or price quotations and explanations or modifications of the same so filed and distributed until and unless notice of intention to depart therefrom was given to their competitors by similar filing and distribution of other and different price lists or price quotations, explanations or modifications of the same.

PAR. 6. The acts and practices of the respondents as herein alleged are all and singly to the prejudice of the public; have a dangerous tendency to and have actually hindered and prevented price competition between and among the respondents in the sale of "the products" and each of them, in commerce within the intent and meaning of the Federal Trade Commission Act; have placed in respondents the power to control and enhance prices on said products; have unreasonably restrained such commerce in said products, and constitutes unfair acts, practices and methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act and in violation of said law.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on May 18, 1948, issued and subsequently served upon the respondents named in the caption hereof its complaint in this proceeding, charging said respondents with the use of unfair methods of competition in commerce in violation of the provisions of that act. On June 29, 1948, the respondents filed their joint answer to said complaint in which they admitted, with certain exceptions, all of the material allegations of fact set forth therein, waived all hearings as to said facts, and consented that the Commission may, without the taking of evidence and without further procedure, make its findings as to the facts, including inferences which it may draw from the facts admitted, and issue and serve upon the respondents an order to cease and desist from the acts, practices, and methods alleged in the complaint to be in violation of law.

Thereafter, this proceeding regularly came on for final hearing before the Commission upon the complaint, the answer thereto and a memorandum proposing disposition of the case, filed by counsel in support of 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.(a) Respondent Bobbin Manufacturers Association, hereinafter sometimes referred to as "respondent association," is an unincorporated trade association, with its offices and principal place of business located at 30 State Street, in the city of Boston, State of Massachusetts. Said respondent was formed in 1932 to promote the

mutual interests of its members, and since that time has included among its membership manufacturers of bobbins, spools, cones, rolls, tubes, skewers, and kindred products. The membership in said association has included respondents American Bobbin Co. (named in the complaint as American Bobbin Company), Jas. H. Billington Co. (named in the complaint as James H. Billington Company, Inc.), Lloyd W. Sweet (named in the complaint as Lloyd W. Street), Ernest M. Bowen, Harry G. Hunter, and Bert T. Holland, Jr., copartners doing business as Bowen-Hunter Bobbin Co., The Dana S. Courtney Co., The David Brown Co., Lowell Shuttle Co., George M. Hambleton and Winston P. Hambleton, copartners doing business as New England Bobbin & Shuttle Co., Walter L. Parker Bobbin & Spool Co., H. & P. Spool & Bobbin Co., U. S. Bobbin & Shuttle Co., and Vermont Spool & Bobbin Co. (named in the complaint as Vermont Spool & Bobbin Company).

(b) Respondent William Bourassa (named in the complaint as William Borassa) is president and a member of the executive committee of the respondent association, and as such during the 7 years last past he has participated in directing the affairs of said association. This respondent is also general manager and assistant treasurer of respondent American Bobbin Co.

(c) Respondent George G. Brown, Sr., during the 7 years last past, has been vice president and a member of the executive committee of the respondent association. This respondent is also treasurer of respondent The David Brown Co.

(d) Respondent Matthew E. Ward, since April 10, 1947, has been secretary of respondent association. He succeeded one Campbell Bosson, who previously served as secretary-treasurer of the association, having been employed by it on or about July 1, 1940. Campbell Bosson had succeeded one George L. Sawyer, who served as secretary of respondent association from the time of its formation in 1932.

(e) Respondent William J. McGeough, during the 7 years last past, has been a member of the executive committee of the respondent association. This respondent is also president of respondent U. S. Bobbin & Shuttle Co.

PAR. 2. (a) Respondent American Bobbin Co. is a corporation organized and existing under and by virtue of the laws of the State of Maine, with its office and principal place of business located at 47 Whipple Street, in the city of Lewiston, State of Maine. This respondent was organized in 1945, at which time it took over the good will and physical assets of a Rhode Island corporation of the same

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name, which had been organized in 1920. Since 1945, American Bobbin Co. has continued the business and the business practices formerly carried on by its predecessor.

(b) Respondent Jas. H. Billington Co. is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 1533 North Randolph Street, in the city of Philadelphia, State of Pennsylvania.

(c) Respondents Lloyd W. Sweet, Ernest M. Bowen, Harry G. Hunter, and Bert T. Holland, Jr., are copartners doing business as Bowen-Hunter Bobbin Co., with their office and principal place of business located in the city of East Corinth, State of Vermont.

(d) Respondent The Dana S. Courtney Co. is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located in the city of Chicopee, State of Massachusetts.

(e) Respondent The David Brown Co. is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located in the city of Lawrence, State of Massachusetts.

(f) Respondent Lowell Shuttle Co. is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located in the city of Lowell, State of Massachusetts.

(g) Respondents George M. Hambleton and Winston P. Hambleton are copartners doing business as New England Bobbin & Shuttle Co. with their office and principal place of business located in the city of Nashua, State of New Hampshire. This partnership was organized on or about March 1, 1946, at which time it took over the good will and physical assets of a partnership operating under the same name composed of George M. Hambleton and Mrs. Alice E. Hambleton. Since March 1, 1946, these respondents have continued the business and business practices formerly carried on by their predecessors.

(h) Respondent Walter L. Parker Bobbin & Spool Co. is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located in the city of Lowell, State of Massachusetts.

(i) Respondent H. & P. Spool & Bobbin Co. is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located in the city of Lawrence, State of Massachusetts. This respondent was organized in January 1946, at which time it took over the good will

and physical assets of a business being operated under the same name by the estate of the late Herbert Hambleton. Since said date in 1946, H. & P. Spool & Bobbin Co. has continued the business and the business practices formerly carried on by its predecessor.

(j) Respondent U. S. Bobbin & Shuttle Co. is a corporation organized and existing under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business located at 1350 Bradford Street, in the city of Lawrence, State of Massachusetts.

(k) Respondent Vermont Spool & Bobbin Co. is a corporation organized and existing under and by virtue of the laws of the State of Vermont, with its office and principal place of business located in the city of Burlington, State of Vermont.

PAR. 3. All of the respondents named in paragraph 2, subparagraphs (a) to (k), inclusive, hereinafter sometimes referred to as "respondent manufacturers," for a period of more than 7 years last past, have been and are now engaged in the manufacture and in the sale and distribution of bobbins, spools, cones, rolls, tubes, skewers, and kindred products. In the course and conduct of their respective businesses, said respondent manufacturers cause such products, when sold, to be shipped from their respective places of business to the purchasers thereof located in various States of the United States other than the States of origin of such shipments. Said respondent manufacturers maintain, and at all times mentioned herein have maintained, a constant course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

Except insofar as competition between and among said respondent manufacturers has been hindered, lessened, restricted, or forestalled by the understanding, agreement, combination, or conspiracy, and the acts, things, practices, and methods done and carried out pursuant thereto and in furtherance thereof, as hereinafter found, each of said respondent manufacturers has been and is in competition with one or more of the other respondent manufacturers in making or seeking to make sales in commerce of the products it manufactures.

PAR. 4. Bobbins, spools, cones, rolls, tubes, skewers, and kindred products are especially constructed for use in the spinning of yarn and the weaving of cloth. These products are manufactured in a wide variety of sizes from well-seasoned beech, birch, or maple rough lumber to customer specifications. They are therefore an important item of commerce and trade. A very substantial portion of all of such products manufactured in the United States are produced by the re-

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spondent manufacturers. To the extent that they act collusively or collectively, or engage in monopolistic practices in the production, pricing, or sale of these products, the respondent manufacturers have been and are in a position to dominate and manipulate the price quotations which are made to unorganized purchasers of a substantial portion of said products.

PAR. 5. The respondent manufacturers have made use of the offices and other facilities of the respondent association for actively advising, assisting, and cooperating with all members of said respondent association in furtherance of the unlawful acts, things, practices, and methods hereinafter found.

PAR. 6. More than 7 years prior to 1947, the respondent manufacturers, acting between and among themselves and through and by means of the respondent association and its officers and employees, and by other means, entered into and they thereafter engaged in and carried out a wrongful and unlawful understanding, agreement, combination, and conspiracy for the purpose and with the effect of substantially restricting, suppressing, eliminating, and frustrating actual and potential competition as to prices and otherwise in the sale and distribution of the products herein described in trade and commerce between and among the various States of the United States. Pursuant to and in furtherance of said understanding, agreement, combination, and conspiracy, said respondents, acting in cooperation with each other in the manner and by the methods herein set forth, have done and performed, among others, the following acts, things, practices, and methods:

(a) They concertedly established, fixed, and maintained prices, discounts, terms and conditions of sale for bobbins, spools, cones, rolls, skewers, and kindred products;

(b) They agreed to cooperate and did cooperate with each other in utilizing, and have utilized, the facilities and offices of the respondent association and officers and agents of said association in formulating and cooperatively using "open price plans" and "reporting plans," pursuant to which individual respondent manufacturers have advised and informed agents of respondent association and each other concerning the intimate details of their respective business transactions, including lists of prices to be quoted and charged on current and future sales transactions, every sale made at any variation from quoted price lists, and orders received monthly, which information and advice has been in turn disseminated by such agents and employees of respondent association to and among the various manufacturers;

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(c) They reported, filed, and exchanged between and among themselves the intimate details of particular transactions handled by the respondent manufacturers and transactions expected to be handled by said respondent manufacturers, including information as to prices, price lists, and price quotations; and

(d) They agreed to open and did open their books and other records for examination by their common agents and reported, filed and exchanged between and among themselves, through common agents and otherwise, information regarding the sales of individual respondent manufacturers, including the prices at which such sales were made, for the purpose and with the effect of securing a collective and cooperative comparison through common agents and otherwise of the prices at which the respondent manufacturers made sales and were making sales with the price quotations previously announced by the same respondent manufacturers.

PAR. 7. The capacity, tendency, and effect of the understanding, agreement, combination, and conspiracy entered into and carried out by the respondents named herein in the manner aforesaid, and the acts and practices done and performed pursuant thereto and in furtherance thereof, as set out herein, have been to substantially lessen, restrict, restrain and suppress competition and among the respondent manufacturers in the manufacture and in the pricing, sale and distribution of their products in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act; to unreasonably restrict and restrain trade and commerce in said products; and to empower and enable the respondents to control the market and enhance the prices of said products above the prices which would prevail under a condition of natural, normal and free competition among the respondent manufacturers.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the joint answer of the respondents, in which answer the respondents admit, with certain

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

It is ordered, That the corporate respondents American Bobbin Co., Jas. H. Billington Co., The Dana S. Courtney Co., The David Brown Co., Lowell Shuttle Co., Walter L. Parker Bobbin & Spool Co., H. & P. Spool & Bobbin Co., U. S. Bobbin & Shuttle Co., and Vermont Spool & Bobbin Co., and their officers, and Lloyd W. Sweet, Ernest M. Bowen, Harry G. Hunter and Bert T. Holland, Jr., individually, and as copartners doing business as Bowen-Hunter Bobbin Co., George M. Hambleton and Winston P. Hambleton, individually, and as copartners doing business as New England Bobbin & Shuttle Co., and said respective respondents' agents, representatives and employees, in or in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of bobbins, spools, cones, rolls, tubes, skewers, and kindred products, do forthwith cease and desist from entering into, continuing, cooperating in or carrying out any planned common course of action, understanding, agreement, combination or conspiracy, between or among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts, practices or things:

1. Establishing, fixing, or maintaining prices, terms or conditions of sale for said products, or adhering to or promising to adhere to any price, terms, or conditions of sale so established, fixed, or maintained.

2. Holding or participating in any meeting, discussing, or exchange of information among themselves or under the auspices of the Bobbin Manufacturers Association, or any of its officers or employees, or any other medium or central agency, for the purpose of discussing or with the effect of planning or devising methods of fixing, establishing, or maintaining prices, terms, or conditions of sale for said products.

3. Exchanging, distributing, or relaying among themselves, or any of them, or through the Bobbin Manufacturers Association, or any of its officers or employees, or any other medium or central agency, price lists or other information showing current or future prices, terms, or conditions of sale for said products.

4. Exchanging, distributing, or relaying among themselves, or any of them, or through the Bobbin Manufacturers Association, or any of its officers or employees, information concerning prices charged par-

ticular customers, or information concerning orders received monthly for said products, where the identity of the manufacturer, seller, or purchaser may be determined through such information, and which has the capacity or tendency of aiding and securing compliance with announced prices, terms or conditions of sale for said products.

5. Expressly or impliedly subscribing to, or carrying out, any past, presently existing or new agreement to establish, maintain, or continue any plan for the purpose or with the effect of informing or advising any of the respondent manufacturers, or any other manufacturer of bobbins, spools, cones, rolls, tubes, skewers, and kindred products, as to prices, terms, or conditions of sale at or upon which any respondent manufacturer or other seller of such products, expects to make a sale or sales thereof.

6. Formulating, establishing, putting into operation, continuing, or using in any way any "open price plan" or "reporting plan" which has the tendency or effect of depriving the public of any benefit of competition in price between and among the respondent manufacturers, or between any of them and any other manufacturer or seller of bobbins, spools, cones, rolls, tubes, skewers, and kindred products.

7. Authorizing or permitting the examination of their books or other records by any agent of the respondents, or any of them, to permit or make possible a collective or cooperative consideration through any common agent of the prices at which any given respondent manufacturer has made sales, is currently making sales, or expects to make sales, and a comparison of the prices at which such sales are made, or will be made, with the price quotations previously announced by such respondent manufacturers.

8. Formulating or putting into operation any other plan or practice which has the purpose or the tendency or effect of fixing prices for the products manufactured by the respondent manufacturers or of otherwise restricting, restraining, or eliminating competition in the sale and distribution of such products.

9. Employing or utilizing the Bobbin Manufacturers Association, or any of its officers or employees, or any other medium or central agency, as an instrument, vehicle or aid in performing or doing any of the acts or practices prohibited by this order.

It is further ordered, That the respondent Bobbin Manufacturers Association, and its officers, and the respondents William Bourassa, George G. Brown, Sr., Matthew E. Ward, and William J. McGeough, and said respondents' agents, representatives, and employees, do forthwith cease and desist from knowingly aiding, assisting, advising, or

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cooperating with the aforesaid respondents, or any of them, in performing any of the acts or practices or doing any of the things prohibited in paragraphs numbered 1 to 9, inclusive, of this order.

It is further ordered, That each of the respondents 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

SAUL FEHLDEN TRADING AS FEDERAL CHEMICAL
MANUFACTURING COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5627. Complaint, Dec. 15, 1948—Decision, Mar. 21, 1949*

When a product is designated or advertised as an "antifreeze" preparation, a substantial portion of the public associates it with those long-used and dependable "antifreeze" solutions designed to protect gasoline engines from damage that might be caused by freezing of the content of the cooling systems, which have proven effective without resulting in damage to the cooling systems or to the engines, and believes not only that a preparation thus designated will prevent freezing, but may be used without harm to the engines or to the cooling system.

Liquid solutions with a calcium chloride base, designed and used as antifreeze solutions have highly injurious effects on the component parts of the cooling and ignition systems of gasoline engines, and will seriously corrode the cylinder block, water pump, radiator and especially any aluminum parts such as cylinder heads, thereby causing partial or complete stoppage of water passages in the radiator, with consequent overheating. Such solutions also have a great tendency to "creep" and may get into engine cylinders, in which event they may cause serious damage or may even completely ruin the engines.

Where an individual engaged in the interstate sale and distribution of a so-called antifreeze preparation with a calcium chloride base; designated as "Polar Zone," and recommended for use in the cooling systems of gasoline engines;

- (a) Falsely represented that his said product would prevent freezing in the cooling system without harm to engines, radiators, or hose connections; would prevent rust and corrosion in any part of the engines and in the cooling systems; and would not clog the passages of the latter; and
- (b) Represented through use of the term "antifreeze" to designate and describe his said product, that it was an effective antifreeze preparation;

With effect of misleading and deceiving a substantial portion of the purchasing public with respect to the nature, value, effectiveness, and safety of the product, and with tendency and capacity so to do, and thereby cause such public to purchase substantial quantities of the product:

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

Before *Mr. Henry P. Alden*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Mr. Joseph Kolodny, of Baltimore, Md., for respondent.