

IN THE MATTER OF
AMERICAN DENTAL TRADE 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 5636. Complaint, Feb. 1, 1949—Decision, Feb. 8, 1950

Where a large number of manufacturers and distributors of dental goods—including instruments, appliances, alloys, cement, artificial teeth, drugs and compounds, chairs, and office furniture, and all other articles employed in the practice of the dental profession—which sold and distributed over 75 percent of the volume of such goods made, sold, and distributed in the United States and, by reason thereof, were able to dominate and control said industries therein; and which, prior to the unlawful conspiracy below set out, were in competition with one another, and were still in competition with others engaged therein; together with their association, its officers, and its component dealers' clubs or associations, and manufacturers' groups—

Engaged in and carried on an unlawful understanding and conspiracy to restrain competition in price and otherwise, between and among themselves, and to monopolize said manufacture, purchase, sale, and distribution; and in furtherance of said understanding, etc.—

- (1) Classified dental goods, and agreed upon exact retail prices of such goods to be sold to both dealers and ultimate consumers; and upon uniform rates of discount for dealers purchasing from manufacturers, and uniform terms of credit for dentists and other consumers; and agreed upon and fixed uniform allowances for used dental equipment taken in exchange for new equipment, and upon uniform prices and terms of sale for such used equipment;
- (2) Agreed to and did disseminate among themselves and by and through their said association at frequent intervals, current and future quotations of prices, terms, and conditions of sale offered to the trade by member manufacturers and member dealers; and held meetings at which prices, terms and conditions of sale and trade practices and policies designed to eliminate competition in price and otherwise among themselves, were discussed and acted upon;
- (3) Agreed upon such a division of territory among the member dealers as would result in a minimum of competition among them, and established a system of policing the industry whereby deviations from pricing and selling policies and practices were reported to appropriate officers and committees of their said association and its sectional dealers' clubs, who thereafter brought pressure to bear upon the alleged price violator; with the result that the agreed-upon pricing and selling policies and practices were adhered to;
- (4) Agreed to and did cause all dealers to sell the products of the member manufacturers at prices fixed and prescribed by the latter; and prevented independent dealers from obtaining merchandise for resale by such practices as buying the entire output of manufacturers who sold to such

independents, buying upon the understanding that the manufacturers would sell to member dealers only, and charging independent dealers consumer prices;

- (5) Agreed to and did cause member dealers to buy only from member manufacturers, and such manufacturers to sell only to member dealers; and agreed to and did cause such manufacturers and dealers not to sell member manufacturers' products to jobbers or to those with whom trade relations had not been established by such manufacturers, and thereby prevented independent dealers from obtaining the products of the member manufacturers;
- (6) Agreed to and did systematically disparage independent manufacturers and dealers and their dental products, through characterizing them as "gripsackers," "carpet baggers," "illegitimate," "price-cutters," "unauthorized," "unreliable," and other derogatory names as contrasted to the members who were characterized as "legitimate," "authorized," "recognized," or "reliable"; and through characterizing the products of the former as "illegitimate," "substandard goods," "off-brand merchandise," "cheap quality merchandise," "monkey brands," etc., in contrast with the "authorized" "legitimate," "quality merchandise," or "standard products" of the latter;

Capacity, tendency, and effect of which agreement, etc, and of the acts and practices done pursuant thereto were—

1. To substantially restrain competition among and between said member manufacturers and member dealers in the manufacture and sale and distribution of said goods in commerce;

2. To restrict and prevent competition in price and otherwise between and among them in said manufacture, sale, and distribution;

3. To enable them to control the market and enhance the prices paid by purchasers of said products; and,

4. To have a dangerous tendency to create a monopoly in them in the manufacture, sale, and distribution of said products in interstate commerce:

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

Before *Mr. Frank Hier*, trial examiner.

Mr. Floyd O. Collins, *Mr. Earl W. Kintner*, and *Mr. Peter J. Dias* for the Commission.

Donovan, Leisure, Newton, Lumbar & Irvine, of New York City, for American Dental Trade Association, its officers, members of the executive board, various member dealers and member manufacturers, and along with—

Lilly, Luyendyk & Snyder, of Grand Rapids, Mich., for Bignall Dental Supply;

Bullitt, Dawson & Tarrant, of Louisville, Ky., for T. M. Crutcher Dental Depot, Inc. (Kentucky);

Appearances

46 F. T. C.

Davis, Baltzell, Hartsock & Dongus, of Indianapolis, Ind., for T. M. Crutcher Dental Depot, Inc. (Indiana);

Gifford, Graham, MacDonald & Illig, of Erie, Pa., for Dental Service Co., Inc., and American Sterilizer Co.;

Mr. Ira L. Quiat, of Denver, Colo., for the Dental Specialty Co. and Densco, Inc.;

Culver, Phillip, Kaufman & Smith, of St. Joseph, Mo., for Goetze-Niemer Physician & Dental Supply Co.;

Mr. Robert Adair Black and *Mr. George C. Kuhn*, of Cincinnati, Ohio, for the Harmeyer & Brand Co.;

Mr. Samuel Barker, of Washington, D. C., for Harris Dental Co., Inc.;

Snowden, Davis, Brown, McCloy & Donelson, of Memphis, Tenn., for E. L. Mercere, Inc.;

Mr. Wilfred B. Feiga, of Worcester, Mass., for E. R. Mitchell Dental Depot;

Morrison, Nugent, Berger, Hecker & Buck, of Kansas City, Mo., for Pattison-McGrath Co.;

Mr. John Grossman, of St. Louis, Mo., for Thau-Nolde, Inc.;

Mr. William C. Eliot, of Phoenix, Ariz., for Tri-State Dental Supply Co.;

Mr. Robert R. Rankin, of Portland, Oreg., for John Welch Dental Depot, Inc.;

Wittig & Wittig, of Milwaukee, Wis., for Wright's, Inc.;

Nash & Nash, of Manitowoc, Wis., for the American Cabinet Co.;

Mr. Louis A. Schiffman, of Carlstadt, N. J., for Claudius Ash Sons & Co., U. S., Inc.;

Castle, Fitch, Swan & Jefferson, of Rochester, N. Y., for Wilmot Castle Co.;

Rogers, Hoge & Hillis, of New York City, for Cook-Waite Laboratories, Inc.;

McManus & Ernst, of New York City, for J. F. Jelenko & Co., Inc.;

Clark, Klein, Brucker & Waples, of Detroit, Mich., for Kerr Manufacturing Co.;

Mr. Harley A. Watkins, of Toledo, Ohio, for McKesson Appliance Co.;

Mr. Robert J. Callaghan, of Philadelphia, Pa., for the J. Bird Moyer Co., Inc.;

McWilliams, Wagner & Troutman, of Philadelphia, Pa., for Mynol Chemical Co., Inc.;

Drinker, Biddle & Reath, of Philadelphia, Pa., for Geo. P. Pilling & Son Co.;

Mr. Sidney F. Moody, of Chicago, Ill., for Rinn X-Ray Products, Inc.;

Leonard, Street & Deinard, of Minneapolis, Minn., for Spyco Smelting & Refining Co.;

Mr Robert L. London, of New York City, for the Weber Dental Manufacturing Co.; and

Brown, Fox & Blumberg, of Chicago, Ill., for Goldsmith Bros. Co.

Mr. Karl Huber, of Newark N. J., for the American Platinum Works.

Thayer & Gilbert, of New York City, for General Electric X-Ray Corp.

Mr. Kenneth Perry, of New Brunswick, N. J., for Johnson & Johnson.

Shearman & Sterling & Wright, of New York City and *Davies, Richberg, Beebe, Busick & Richardson*, of Washington, D. C., for the Ohio Chemical & Manufacturing Co.

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 each and all of the parties named in the caption hereof and more particularly described herein in paragraphs 2, 3, and 4 and hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The words and terms set out in this paragraph shall have the following meaning wherever used in this complaint:

(a) "Dental Goods" means instruments, appliances, alloys, cement, artificial teeth, drugs and compounds, chairs and office furniture, and all other articles or products employed in the practice of the dental profession.

(b) "Member manufacturer" means an individual, partnership, or corporation engaged in the manufacture, sale, and distribution of dental goods and holding membership in the respondent, American Dental Trade Association.

(c) "Member dealer" means an individual, partnership, or corporation engaged in the sale and distribution of dental goods and holding membership in the respondent, American Dental Trade Association.

(d) "Independent manufacturer" means an individual, partnership, or corporation engaged in the manufacture, sale, and distribution of dental goods and not holding membership in the respondent, American Dental Trade Association.

(e) "Independent dealer" means an individual, partnership, or corporation engaged in the sale and distribution of dental goods and not holding membership in the respondent, American Dental Trade Association.

PAR. 2. Respondent, American Dental Trade Association, hereinafter referred to as National Association, is a voluntary unincorporated association, organized by and composed of individuals, partnerships, and corporations engaged in the business of manufacturing, purchasing, selling, and distributing dental goods in commerce among and between the various States of the United States, the District of Columbia, United States Territories, and various foreign countries, with its principal office and place of business at 1010 Vermont Avenue NW., Washington, D. C.

Respondent, National Association was organized for the purpose of:

(a) Fostering and promoting the best interests of the trade or industry.

(b) Collecting and disseminating facts concerning the trade or industry.

(c) Fostering and maintaining common pricing policies for dental goods among its membership.

(d) Confining and monopolizing the trade in dental goods within its membership.

PAR. 3. Respondent, National Association, is subdivided into a dealers' section, which is composed of member dealers, who are designated as "Class A members," and a manufacturers' section, which is composed of member manufacturers, who are designated as "Class B members."

The manufacturers' section, in turn, is subdivided into four groups, as follows: (1) gold group; (2) tooth group; (3) equipment group; and (4) sundry merchandise group.

In addition, the membership of said respondent, National Association, is organized regionally or geographically into nine associations commonly designated as sectional dealers' clubs, as follows: New England group; New York State group; Eastern group; Southern group; Central States group; Midwest group; Southwest group; Pacific coast group; and Canadian Dental Trade Association. Said

dealers' clubs or associations are constituent and component parts of said respondent, National Association.

Respondent, Perry L. Blackshear, is the president and member of the executive board of respondent, National Association, with address at 715 Candler Building, P. O. Box 1686, Atlanta 1, Ga.

Respondent, Howell Evans, is the first vice president and member of the executive board of respondent, National Association, with address c/o American Cabinet Co., Two Rivers, Wis.

Respondent, William O. Patterson, is the second vice president and member of the executive board of respondent, National Association, with address at 970 Lowry Medical Arts Building, P. O. Box 225, St. Paul 2, Minn.

Respondent, Fred Steen, is the treasurer and member of the executive board of respondent, National Association, with address at 211 South Twelfth Street, Philadelphia 5, Pa.

Respondent, Clayton W. Conklin, is a member of the executive board of respondent, National Association, with address c/o The L. D. Caulk Co., Milford, Del.

Respondent, Robert Kerr, Jr., is the chairman, manufacturers' section and member of the executive board of respondent, National Association, with address at 6081-6095 Twelfth Street, Detroit 8, Mich.

Respondent, Milton Goolsby, is the chairman, dealers' section, and member of the executive board of respondent, National Association, with address at 715 Candler Building, P. O. Box 1686, Atlanta 1, Ga.

Respondent, Wilmoth C. Mack, is the secretary of respondent, National Association, with address at 1010 Vermont Avenue NW., Washington 5, D. C.

PAR. 4. Membership of respondent, National Association, is composed of 99 member dealers, 48 member manufacturers, and 6 members who are both dealers and manufacturers.

(a) The following respondents are member dealers of respondent National Association:

L. M. Anderson, Dental Supply Co., a corporation, organized under the laws of the State of Florida with its office and principal place of business at 102 Madison Street, P. O. Box 1080, Tampa 1, Fla. Said respondent, having three branch places of business, holds three additional memberships in respondent, National Association.

Atlanta Dental Supply Co., a corporation, organized under the laws of the State of Georgia, with its office and principal place of business at 715 Candler Building, P. O. Box 1686, Atlanta 1, Ga.

E. Benton Taylor, individually and trading as Luther B. Benton Co., having his office and principal place of business at 709-711 North Howard Street, Baltimore 1, Md.

Lewis B. Bignall and Aurta Belle Bignall, individually and as copartners, trading as Bignall Dental Supply formerly known as L. B. Bignall Dental Supplies, having their office and principal place of business at 118 Fulton Street, East, Grand Rapids 2, Mich.

Bridges Dental Supply Co., a corporation, organized under the laws of the State of Colorado with its office and principal place of business at 217 Mack Block, Denver 1, Colo.

The Briggs-Kessler Co., a corporation organized under the laws of the State of Michigan with its office and principal place of business at 28 Adams Avenue, West, Detroit 26, Mich.

The Burkhart Dental Supply Co., a corporation, organized under the laws of the State of Washington with its office and principal place of business located in Tacoma 1, Wash., mailing address P. O. Box 1252.

California Dental Supply Co., a corporation, organized under the laws of the State of California with its office and principal place of business at 643 South Olive Street, Los Angeles 14, Calif. Said respondent, having five branch places of business, holds five additional memberships in respondent National Association.

The A. P. Carey Co., a corporation, organized under the laws of the State of Texas with its office and principal place of business at Medical Arts Building, Dallas 1, Tex. Said respondent, having two branch places of business, holds two additional memberships in respondent National Association.

H. J. Caulkins & Co., a corporation, organized under the laws of the State of Michigan with its office and principal place of business at 505 Capital Park Building, Detroit 31, Mich. Said respondent, having three branch places of business, holds three additional memberships in respondent National Association.

The Chicago Dental Manufacturing Co., a corporation, organized under the laws of the State of Illinois with its office and principal place of business at 1433 Marshall Field Annex, Chicago 2, Ill.

Climax Dental Supply Co., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business at Medical Arts Building, Walnut Street at Sixteenth, Philadelphia 2, Pa.

J. J. Crimmings Co., a member dealer with its principal office and place of business at 120 Boylston Street, Boston 16, Mass. Said respondent, having one branch house, holds one additional member-

ship in respondent National Association. The nature of the business structure of said respondent is unknown to the Commission.

T. M. Crutcher Dental Depot, Inc., a corporation, organized under the laws of the State of Kentucky with its office and principal place of business located in Louisville 1, Ky., mailing address, P. O. Box 686.

T. M. Crutcher Dental Depot, Inc., a corporation, organized under the laws of the State of Indiana, with its office and principal place of business located in the Hume Mansur Building, P. O. Box 94, Indianapolis 6, Ind.

Crutcher Dental Supply Co., a corporation, organized under the laws of the State of Alabama with its office and principal place of business at Frank Nelson Building, Birmingham 1, Ala. Said respondent, having two branch places of business, holds two additional memberships in respondent National Association.

Dakota Dental Supply Co., a corporation, organized under the laws of the State of South Dakota with its office and principal place of business at 108 East Ninth Street, Sioux Falls, S. Dak.

Davidson Dental Supply Co., Inc., a corporation, organized under the laws of the State of Louisiana, with its office and principal place of business at 741 Maison Blanche, P. O. Box 29, New Orleans 6, La. Said respondent, having two branch places of business, holds two additional memberships in respondent National Association.

The Davis-Schultz Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 700 Main Street, Buffalo 2, N. Y.

The Deeley Dental Supply Co., also known as Deeley Dental Supply, a corporation, organized under the laws of the State of Maryland with its office and principal place of business at Medical Arts Building, Baltimore 1, Md.

Dental Service Co., Inc., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 1010-1012 Commerce Building, Erie, Pa.

The Dental Specialty Co., a corporation, organized under the laws of the State of Colorado with its office and principal place of business at 232 Republic Building, Denver 1, Colo.

Dentists & Surgeons Supply Co., Inc., a corporation, organized under the laws of the State of Massachusetts with its offices and principal place of business located at 340 Bridge Street, Springfield 2, Mass.

Dixie Dental Supply Co., a member dealer, with its office and principal place of business at 413-416 Texarkana National Bank Build-

Complaint

46 F. T. C.

ing, P. O. Box 170, Texarkana, Tex. The nature of the business structure of said respondent is unknown to the Commission.

Margaret Williams and James H. Williams, individually and as copartners, trading as Eastern Dental Supply House, having their office and principal place of business at 19 South Third Street, Easton, Pa.

Eckley Dental Supply Co., Inc., a corporation, organized under the laws of the State of New York with its offices and principal place of business at 9 Rockefeller Plaza, New York 20, N. Y.

Edwards Dental Supply Co., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 450 Sutter Street, San Francisco 8, Calif. Said respondent, having four branch places of business, holds four additional memberships in respondent National Association.

Ferguson Dental Supply Co., a member dealer, with its office and principal place of business at Medical Arts Building, P. O. Box 1539, San Antonio 6, Tex. The nature of the business structure of said respondent is unknown to the Commission.

Fort Wayne Dental Depot, a Corporation, organized under the laws of the State of Indiana with its office and principal place of business located in Fort Wayne 1, Ind., mailing address, P. O. Box 240. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

Frink Dental Supply Co., a corporation, organized under the laws of the State of Illinois with its office and principal place of business at 4753 Broadway, Chicago 40, Ill.

Geo. C. Frye Co., a corporation, organized under the laws of the State of Maine with its office and principal place of business at 116 Free Street, Portland 1, Maine.

Gates Dental Co., Inc., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 227 North Duke Street, P. O. Box 6, Lancaster, Pa.

General Dental Supply Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 19 Union Square, New York 5, N. Y.

Goetze-Niemer Co., a corporation, organized under the laws of the State of Missouri with its office and principal place of business located in St. Joseph 1, Mo., mailing address, P. O. Box 187.

Guterman Dental Supply Co., a corporation, organized under the laws of the State of New York with its office and principal place of business at 515 Madison Avenue, New York 22, N. Y.

The Hamilton Dental Supply Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 83 South Fourth Street, Columbus 16, Ohio.

The Harmeyer & Brand Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 1037 Enquirer Building, Cincinnati 1, Ohio.

Harris Dental Co., Inc., a corporation, organized under the laws of the State of Virginia with its office and principal place of business at Medical Arts Building, P. O. Box 177, Norfolk 1, Va. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

The H. L. Hayden Co., a corporation, organized under the laws of the State of Connecticut with its office and principal place of business at 83 Trumbull Street, New Haven 11, Conn. Said respondent having one branch place of business, holds one additional membership in respondent National Association.

Hebard Dental Supply Co., a corporation, organized under the laws of the State of New York with its office and principal place of business at 20 South Broadway, Yonkers 2, N. Y.

Hill Dental Supply Co., a corporation, organized under the laws of the State of Alabama with its office and principal place of business located in Birmingham, Ala.

John Hood Co., a corporation, organized under the laws of the State of Massachusetts, with its office and principal place of business located at 178 Tremont Street, Boston 12, Mass.

Iowa Dental Supply Co., a member dealer, with its office and principal place of business at 507 Savings & Loan Building, Des Moines 3, Iowa. The nature of the business structure of said respondent is unknown to the Commission.

M. N. Jacobs Dental Supply Co., a corporation, organized under the laws of the State of Iowa with its office and principal place of business at 805 First National Bank Building, Davenport, Iowa.

Johnson & Lund Co., Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 930 Sibley Tower Building, Rochester 4, N. Y.

Johnson-Stipher, Inc., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 230 Hanna Building, Euclid and Fourteenth Street, Cleveland 15, Ohio.

Mary C. Stites, individually and trading as Kalamazoo Dental Supply Co., having her office and principal place of business at 302 American National Bank Building, Kalamazoo 4, Mich.

Kays-Durgin, Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business located in Binghamton, N. Y., mailing address, P. O. Box 935.

Keener Dental Supply Co., a member dealer, with its office and principal place of business at 609 Walnut Street, Knoxville 12, Tenn. Said respondent, having two branch places of business, holds two additional memberships in respondent National Association. The nature of the business structure of said respondent is unknown to the Commission.

Oscar D. Leventhal and Joseph S. Leventhal, individually and as copartners, trading as A. Leventhal & Sons, having their office and principal place of business at 310-312 Adams Avenue, Scranton 1, Pa. Said respondents having one branch place of business, hold one additional membership in respondent National Association.

The W. A. Lockwood Dental Co., Inc., a corporation, organized under the laws of the State of West Virginia with its office and principal place of business at 1722 Eye Street NW., Washington 6, D. C.

Long Island Dental Depot, a corporation, organized under the laws of the State of New York with its office and principal place of business at 164-07 Hillside Avenue, Jamaica 2, N. Y.

Los Angeles Dental Supply Co., a corporation, organized under the laws of California with its office and principal place of business at 617 South Olive Street, Los Angeles 14, Calif. Said respondent having one branch place of business, holds one additional membership in respondent National Association.

W. E. Lowry and Mary H. Lowry, individually and as copartners trading as Lowry Dental Supplies, having their office and principal place of business at 805 Lee Street, Charleston 23, W. Va.

Mabee-Kanenbley, Inc., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 1 Hanson Place, Brooklyn 17, N. Y.

Medcalf & Thomas, a corporation, organized under the laws of the State of Texas with its office and principal place of business at Medical Arts Building, Fort Worth 1, Tex. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

Melrose Dental Depot, Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 41 East Forty-second Street, New York 17, N. Y.

E. L. Mercere, Inc., a member dealer, with its office and principal place of business located at 99 South Second Street, Memphis 1,

Tenn. The nature of the business structure of said respondent is unknown to the Commission.

Midvale Dental Supply Co., a corporation, organized under the laws of Missouri with its office and principal place of business at 3638 Olive Street, St. Louis 8, Mo.

E. R. Mitchell Dental Depot, a corporation, organized under the laws of the State of Massachusetts with its office and principal place of business at 390 Main Street, Worcester 8, Mass. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

Mohawk Dental Supply Co., a member dealer, with its office and principal place of business at 258 Genesee Street, Utica 2, N. Y. The nature of the business structure of said respondent is unknown to the Commission.

Harold S. Moore, Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 90 State Street, Albany 1, N. Y. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

Mossey-Otto Co., a corporation, organized under the laws of the State of Wisconsin with its office and principal place of business at 615 North Sixteenth Street, Milwaukee 1, Wis.

Nashville Dental Supply Co., a corporation, organized under the laws of the State of Tennessee with its office and principal place of business at 160 Eighth Avenue North, Nashville 2, Tenn.

Norton-Starr, Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at the State Tower Building, Syracuse 2, N. Y. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

M. F. Patterson Dental Supply Co., a corporation, organized under the laws of the State of Minnesota with its office and principal place of business at 970 Lowry Medical Arts Building, P. O. Box 225, St. Paul 2, Minn. Said respondent, having 19 branch places of business, holds 19 additional memberships in respondent National Association.

Pattison-McGrath Co., a corporation, organized under the laws of the State of Missouri with its office and principal place of business at 1117 Walnut Street, Kansas City 13, Mo.

Pearce Dental Supply Co., a corporation, organized under the laws of the State of Kansas with its office and principal place of business at 212 North Market Street, Wichita 2, Kans. Said respondent,

Complaint

46 F. T. C.

having two branch places of business, holds two additional memberships in respondent National Association.

Pendleton & Arto, Inc., a corporation, organized under the laws of the State of Texas with its office and principal place of business at Medical Arts Building, Houston 1, Tex.

Pittsburgh Dental Depot, Inc., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business at Pitt Bank Building, Pittsburgh 22, Pa.

Powers & Anderson Dental Co., Inc., a corporation, organized under the laws of the State of Virginia with its office and principal place of business at 2 South Fifth Street, P. O. Box 712, Richmond 6, Va. Said respondent, having four branch places of business, holds four additional memberships in respondent National Association.

Primrose-Johnson Dental Co., Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 809 Temple Building, Rochester 4, N. Y.

R. & E. Dental Supply Co., a corporation, organized under the laws of the State of New York with its office and principal place of business at 307 Lenox Avenue, New York 27, N. Y.

S. H. Reynolds' Sons Co., a corporation organized under the laws of the State of Massachusetts, with its office and principal place of business at 100 Boylston Street, Boston 16, Mass.

Rose Dental Depot, a member dealer, with its office and principal place of business at 505 Boyle Building, Little Rock, Ark. The nature of the business structure of said respondent is unknown to the Commission.

Rovane Dental Supply Co., a corporation, organized under the laws of the State of Iowa with its office and principal place of business at State Central Savings Bank Building, Keokuk, Iowa.

Edward H. Rowan Dental Supplies, Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 1501 Broadway at Forty-third Street, New York 18, N. Y.

Russell-Altenberg Co., a corporation, organized under the laws of the State of Maine with its office and principal place of business at 15 Mellen Street, Portland 4, Maine.

Smith-Holden, Inc., a corporation, organized under the laws of the State of Rhode Island with its office and principal place of business at 144 Westminister Street, Lauderdale Building, Providence 1, R. I. Said respondent, having two branch places of business, holds two additional memberships in respondent National Association.

Thau-Nolde, Inc., a corporation, organized under the laws of the State of Missouri with its office and principal place of business at 601-621 Frisco Building, St. Louis 1, Mo. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

Thompson Dental Co., a corporation, organized under the laws of the State of South Carolina with its office and principal place of business at 1508 Washington Street, Columbia (A), S. C. Said respondent, having three branch places of business, holds three additional memberships in respondent National Association.

C. M. Lowry and D. Z. Lowry, individually and as copartners, trading as Tri-State Dental Depot, having their office and principal place of business in the Guaranty Bank Building, Huntington 18, W. Va. Said respondents, having one branch place of business, hold one additional membership in respondent National Association.

Tri-State Dental Supply Co., a corporation, organized under the laws of the State of Arizona with its office and principal place of business at 500 Professional Building, Phoenix, Ariz. Said respondent, having three branch places of business, holds three additional memberships in respondent National Association.

B. D. Van Kleeck, a member dealer, with its office and principal place of business at 90 Market Street, Poughkeepsie, N. Y. The nature of the business structure of said respondent is unknown to the Commission.

E. L. Washburn & Co., Inc., a corporation, organized under the laws of the State of Connecticut with its office and principal place of business at 71 Whitney Avenue, New Haven, Conn. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

The Weber Dental Equipment Co. Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 500 Fifth Avenue, New York 18, N. Y.

John Welch Dental Depot, Inc., a corporation, organized under the laws of the State of Oregon with its office and principal place of business at Morgan Building, Portland 8, Oreg.

Western Dental Supply Co., a corporation, organized under the laws of the State of Utah with its office and principal place of business at 506-507 Judge Building, Salt Lake City 14, Utah.

White-Rafert Co., a corporation, organized under the laws of the State of Indiana with its office and principal place of business at 114 South Sixth Street, Terre Haute, Ind.

Wright's Inc., formerly trading as Wright Dental Supply Co., a corporation, organized under the laws of the State of Wisconsin with its office and principal place of business located in Milwaukee 1, Wis., mailing address, P. O. Box 725. Said respondent, having one branch place of business, holds one additional membership in respondent National Association.

(b) The following respondents are member manufacturers of respondent, National Association:

The American Cabinet Co., a member manufacturer, with its office and principal place of business at Two Rivers, Wis. The nature of the business structure of said respondent is unknown to the Commission.

The American Platinum Works, a member manufacturer, with its office and principal place of business located at New Jersey Railroad Avenue at Oliver Street, Newark 5, N. J. The nature of the business structure of said respondent is unknown to the Commission.

American Sterilizer Co., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business located in Erie, Pa.

The W. V-B. Ames Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 137 North Adams Street, Fremont, Ohio.

Claudius Ash Sons & Co., U. S. A., Inc., a member manufacturer, with its office and principal place of business at 127-131 Coit Street, Irvington 11, N. J. The nature of the business structure of said respondent is unknown to the Commission.

Harry J. Bosworth Co., a corporation, organized under the laws of the State of Illinois with its office and principal place of business at 1315 South Michigan Avenue, Chicago 5, Ill.

Wilmot Castle Co., a member manufacturer, with its office and principal place of business at 1255 University Avenue, Rochester 7, N. Y. The nature of the business structure of said respondent is unknown to the Commission.

H. M. Chandler Co., a member manufacturer, with its office and principal place of business at 108 West Forty-second Street, New York 18, N. Y. The nature of the business structure of said respondent is unknown to the Commission.

Chayes Dental Instrument Corp., a corporation, organized under the laws of the State of New York with its office and principal place of business at 460 West Thirty-fourth Street, New York 1, N. Y.

The Cleveland Dental Manufacturing Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 3307 Scranton Road SW., Cleveland 1, Ohio.

The Columbus Dental Manufacturing Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 634 Wager Street, Columbus 6, Ohio.

P. N. Condit, a member manufacturer, with its office and principal place of business located in Boston 17, Mass. The nature of the business structure of said respondent is unknown to the Commission.

Cook-Waite Laboratories, Inc., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 170 Varick Street, New York 13, N. Y. Said respondent has a subsidiary corporation to wit: Cook-Waite Laboratories, Inc., located at Fort Erie North, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

Thomas J. Dee & Co., a corporation, organized under the laws of the State of Illinois with its office and principal place of business at 1900 West Kinzie Street, Chicago 22, Ill.

Densco, Inc., formerly trading as the Dental Specialty Manufacturing Co., a corporation, organized under the laws of the State of Colorado with its office and principal place of business located in Denver 1, Colo., mailing address, P. O. Box 420.

Dental Products Co., a corporation, organized under the laws of the State of Illinois with its office and principal place of business at 7512 Greenwood Avenue, Chicago 19, Ill.

J. C. & A. L. Fawcett, Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 408 Jay Street, Brooklyn 1, N. Y.

General Electric X-Ray Corp., a member manufacturer, with its office and principal place of business at 175 West Jackson Boulevard, Chicago 4, Ill. Said respondent is a subsidiary of and wholly owned by the General Electric Co. The parent company is a corporation organized and existing under the laws of the State of New York with its principal executive offices located at 1 River Road, Schenectady, N. Y.

General Refineries, Inc., a corporation, organized under the laws of the State of Minnesota with its office and principal place of business at 27 North Fourth Street, Minneapolis 1, Minn.

Gomco Surgical Manufacturing Corp., a corporation, organized under the laws of the State of New York with its office and principal place of business at 828 East Ferry Street, Buffalo 11, N. Y.

Complaint

46 F. T. C.

The Hygienic Dental Rubber Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at 31 West Market Street, Akron 8, Ohio.

Hattie A. Ivory and Chester Scott Ivory, individually and as copartners, trading as J. W. Ivory, having their office and principal place of business at 310-312 North Sixteenth Street, Philadelphia 2, Pa.

J. F. Jelenko & Co., Inc., a corporation, organized under the laws of the State of New York with its office and principal place of business at 136 West Fifty-second Street, New York 19, N. Y.

Johnson & Johnson, a corporation, organized under the laws of the State of New Jersey with its office and principal place of business at New Brunswick, N. J.

H. D. Justi & Son, Inc., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business at Thirty-second and Spring Garden Street, Philadelphia 4, Pa.

Kerr Manufacturing Co., a corporation, organized under the laws of the State of Michigan with its office and principal place of business at 6081-6095 Twelfth Street, Detroit 8, Mich.

King's Specialty Co., a corporation, organized under the laws of the State of Indiana with its office and principal place of business located in Fort Wayne 1, Ind., mailing address, P. O. Box 240.

McKesson Appliance Co., a member manufacturer, with its office and principal place of business at 2226 Ashland Avenue, Toledo 10, Ohio. The nature of the present business structure of said respondent is unknown since the dissolution of its corporate status on February 15, 1940.

John V. Hastings, Jr., and Henry B. Robb, Jr., individually and as copartners, trading as Morgan, Hastings & Co., having their office and principal place of business at 2314 Market Street, Philadelphia 3, Pa.

The J. Bird Meyer Co., Inc., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business at 117-121 North Fifth Street, Philadelphia 6, Pa.

Mynol Chemical Co., Inc., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 5217 Whitby Avenue, Philadelphia 43, Pa.

The J. M. Ney Co., a corporation, organized under the laws of the State of Connecticut with its office and principal place of business at 71 Elm Street, Hartford 1, Conn.

Novocol Chemical Manufacturing Co., Inc., a corporation, organized under the laws of the State of New York with its office and

principal place of business at 2921-2923 Atlantic Avenue, Brooklyn 7, N. Y. Said respondent has a subsidiary corporation, to wit: Novocal Chemical Manufacturing Co. of Canada, Ltd., located at 11-13 Grenville Street, Toronto, Ontario Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

The Ohio Chemical & Manufacturing Co., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 1400 East Washington Avenue, Madison 3, Wis.

The Pelton & Crane Co., a corporation, organized under the laws of the State of Michigan with its office and principal place of business at 632-652 Harper Avenue, Detroit 2, Mich.

Geo. P. Pilling & Son Co., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business at 3451 Walnut Street, Philadelphia 4, Pa.

Puritan Compressed Gas Corp., a corporation, organized under the laws of the State of Missouri with its office and principal place of business at 2012 Grand Avenue, Kansas City 8, Mo.

Rinn X-Ray Products, Inc., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at 3039 Fullerton Avenue, Chicago 47, Ill.

Ritter Co., Inc., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at P. O. Box 848, Ritter Park, Rochester 3, N. Y.

The Silv-O-Dent Co., a member manufacturer, with its office and principal place of business at 1708 Northeast Alberta Street, Portland 11, Oreg. The nature of the business structure of said respondent is unknown to the Commission.

William N. Force, individually and trading as E. E. Smith, having his office and principal place of business at 1232 Race Street, Philadelphia 7, Pa.

Lee S. Smith & Son Manufacturing Co., a member manufacturer, with its office and principal place of business located at 7325 Pennsylvania Avenue, Pittsburgh 8, Pa. The nature of the business structure of said respondent is unknown to the Commission.

Spyco Smelting & Refining Co., a corporation, organized under the laws of the State of Minnesota with its office and principal place of business at 51 South Third Street, Minneapolis 1, Minn.

Vernon-Benshoff Co., a corporation, organized under the laws of the State of Pennsylvania with its office and principal place of business located in Pittsburgh 30, Pa., mailing address P. O. Box 1587.

The Weber Dental Manufacturing Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business at Crystal Park, Canton 5, Ohio.

H. B. Wiggin's Sons Co., a member manufacturer, with its office and principal place of business at Arch Street, Bloomfield, N. J. The nature of the business structure of said respondent is unknown to the Commission.

Williams Gold Refining Co., Inc., a corporation organized under the laws of the State of New York with its office and principal place of business at 2978 Main Street, Buffalo 14, N. Y. Said respondent has a subsidiary corporation, to wit: The Williams Gold Refining Co. of Canada, Ltd., located in Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

Young Dental Manufacturing Co., a corporation, organized under the laws of the State of Missouri with its office and principal place of business at 4958-4960 Suburban R. W., St. Louis 8, Mo.

(c) The following respondents are both member dealers and member manufacturers of respondent National Association:

Buffalo Dental Manufacturing Co., a corporation, organized under the laws of the State of New York with its dealer office located at 775 Main Street, Buffalo 2, N. Y., and its manufacturing office located at 145 Kehr Street, Buffalo 11, N. Y.

The L. D. Caulk Co., a corporation, organized under the laws of the State of Delaware with its office and principal place of business at Milford, Del. Said respondent, having 11 branch places of business, holds 11 additional memberships in respondent National Association. Said respondent has a subsidiary corporation to wit: The L. D. Caulk Co. of Canada, Ltd., located at Caulk Bldg., 178 John St., Toronto, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of the respondent National Association.

The Dentists' Supply Co. of New York, a corporation, organized under the laws of the State of New York with its office and principal place of business at 220 West Forty-second Street, New York 18, N. Y.

Goldsmith Bros. Co. also known as Goldsmith Bros. Smelting & Refining Co., a corporation, organized under the laws of the State of Illinois with its office and principal place of business at 58 East Washington Street, Chicago 2, Ill. Said respondent has a subsidiary corporation, to wit: Goldsmith Bros. Smelting & Refining Co., Ltd., located in Canada and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of re-

spondent National Association. Said subsidiary also wholly owns another member of the Canadian Dental Trade Association, to wit: The Dominion Dental Co., Ltd., located at Toronto, Ontario, Canada.

The Ransom & Randolph Co., a corporation, organized under the laws of the State of Ohio with its office and principal place of business located at Toledo 1, Ohio, mailing address, P. O. Box 905. Said respondent, having 13 branch places of business, holds 13 additional memberships in respondent National Association.

The S. S. White Dental Manufacturing Co., a corporation organized under the laws of the State of Pennsylvania with its office and principal place of business at 211 South Twelfth Street, Philadelphia 5, Pa. Said respondent, having 17 branch places of business, holds 17 additional memberships in respondent National Association. Said respondent has a subsidiary corporation, to wit: S. S. White Co. of Canada Limited, located at 250 College Street, Toronto, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

Respondents named and described in this paragraph constitute the entire membership of said respondent National Association except for two member dealers in the Territory of Hawaii and seven member dealers in Canada.

PAR. 5. The respondent National Association is not engaged in the business of manufacturing, purchasing, selling, and distributing of dental goods, as herein described. But said respondent has aided, abetted, guided, and assisted respondent member manufacturers and member dealers in the unlawful acts and practices herein alleged.

PAR. 6. The respondent member manufacturers and member dealers are now and have been for more than 10 years last past engaged in manufacturing, purchasing, selling, and distributing the products herein described in commerce among and between the various States of the United States and in the District of Columbia and have caused said products, when sold, to be shipped to the purchasers thereof located in States of the United States other than in the State of origin of said shipment. Said respondents, during all the time herein described carried on a constant course of trade in commerce in said products as is herein set forth.

PAR. 7. Prior to the unlawful agreement, combination and conspiracy herein alleged, the respondent member manufacturers and member dealers were in competition with one another in manufacturing, purchasing, selling, and distributing the products herein described in commerce within the intent and meaning of the Federal Trade Com-

mission Act, and were and are now in competition with others engaged in the same business. Said respondents would now be in competition with one another were it not for the aforementioned agreement, combination and conspiracy.

PAR. 8. Respondent member manufacturers and member dealers sell and distribute in excess of 75 percent of the volume of dental goods manufactured, sold, and distributed in the United States, and by reason of said fact possess the ability and means of dominating and controlling the dental goods industry in the United States.

PAR. 9. For more than 10 years last past, respondent member manufacturers and member dealers, together with respondent National Association and its respondent officers with the aid, assistance, and cooperation of its component dealers' clubs or associations and manufacturers' groups entered into and have since carried out an unlawful agreement, combination, understanding and conspiracy to hinder, lessen, eliminate, limit, and restrain competition in prices and otherwise between and among respondent member manufacturers and member dealers in the manufacture, purchase, sale, and distribution of dental goods in commerce among and between the various States of the United States and the District of Columbia, and to monopolize within themselves the manufacture and sale, purchase, sale, and distribution of said products in said commerce. Pursuant to and in furtherance of said understanding, agreement, combination, and conspiracy, and a planned common course of action, the respondent member manufacturers and member dealers, through and with the aid, assistance, and guidance of respondent, National Association and its respondent officers, dealers clubs, or associations, have done and performed, among others, the following acts and practices:

(a) Classified dental goods and agreed upon exact retail prices at which the various classifications of dental goods should be sold to both dealers and the ultimate consumers.

(b) Agreed upon uniform rates of discount at which dealers could purchase dental goods from manufacturers.

(c) Agreed upon uniform terms of credit at which dental goods should be sold to dentists, and other consumers.

(d) Agreed upon and fixed uniform terms and prices to be allowed for used dental equipment when taken in exchange for new equipment and agreed upon uniform prices to be charged for and uniform terms of sale for such used equipment.

(e) Agreed to disseminate, and do disseminate, among themselves and by and through respondent National Association at frequent intervals current and future quotations of prices, terms, and conditions

of sale offered to the trade by various respondent member manufacturers and member dealers.

(f) Have held meetings at which prices, terms, and conditions of sale, and trade practices and policies designed to eliminate competition in price and otherwise between respondents were discussed and acted upon.

(g) Agreed upon a division of territory among the various respondent member dealers in such manner as to result in a minimum of competition among said member dealers.

(h) Established a system of policing the industry whereby deviations from pricing and selling policies and practices are reported to appropriate officers and committee of said respondent National Association, and to the sectional dealers' clubs, all of whom thereafter by various and sundry methods bring pressure to bear upon the alleged price violator, with the result that the agreed upon pricing and selling policies and practices are adhered to in future transactions.

(i) Agreed and do cause all dealers in dental goods to sell products of respondent member manufacturers at prices fixed and prescribed by said member manufacturers.

(j) Prevent independent dealers from obtaining merchandise for resale by such practices as buying the entire output of manufacturers engaged in selling to independent dealers, buying from manufacturers upon the understanding that such manufacturers will sell to member dealers only, and charging independent dealers consumer prices.

(k) Agreed to and do cause member dealers to buy only from member manufacturers.

(l) Agreed to and do cause member manufactures to sell only to member dealers.

(m) Agreed to and do cause respondent member manufacturers and member dealers not to sell respondent member manufacturers' products to jobbers or to those with whom trade relations have not been established by respondent manufacturers, thereby preventing independent dealers from obtaining the products of respondent manufacturers.

(n) Agreed to and do systematically disparage independent manufacturers and dealers and the dental products manufactured, sold and distributed by said independent manufacturers and dealers. Independent manufacturers and dealers are characterized as "gripsackers," "carpetbaggers," "illegitimate manufacturers," "illegitimate dealers," "price-cutters," "unauthorized," "unrecognized," "unreliable," and other derogatory names, as contrasted to member manufacturers and dealers who are characterized as "legitimate," "authorized," recog-

Findings

46 F. T. C.

nized," or "reliable" manufacturers and dealers. Said disparagement is applied to the products of independent manufacturers and dealers, said products being referred to as "illegitimate," "substandard goods," "off-brand merchandise," "cheap quality merchandise," "monkey brands," and similar names, as contrasted to the products of member manufacturers and dealers, which are referred to as "authorized," "legitimate," "quality merchandise," or "standard products."

PAR. 10. The capacity, tendency, and effect of the understanding, agreement, combination, and conspiracy hereinbefore described and the acts and practices of the respondents done and performed in furtherance thereof, and pursuant thereto, and now and have been to substantially lessen, restrain, and suppress competition among and between said respondent member manufacturers and member dealers, in the manufacture, sale, and distribution of said products in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act; have a dangerous tendency to and have actually hindered, restricted, and prevented competition in price and otherwise between and among said respondents in the manufacture, sale, and distribution of said products in said commerce; have empowered and enabled the respondents to control the market and enhance the prices paid by purchasers of said products; and have a dangerous tendency to create monopoly in said respondents in the manufacture, sale, and distribution of said products in interstate commerce.

PAR. 11. The acts and practices of the respondents as herein alleged are all to the injury and prejudice of the public and competitors of respondents and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on February 1, 1949, 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 said act. After the issuance of said complaint and the filing of respondents' answers thereto and the assignment of a trial examiner by the Commission, all of the said respondents except the respondents, the American Platinum Works, Wilmoth C. Mack and Milton Goolsby, who filed motions to dismiss as to themselves, upon leave granted by the trial examiner, withdrew their original answers

and in lieu thereof filed answers in which, solely for this proceeding, they admitted all of the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Certain stipulations of fact were entered into between counsel supporting the complaint and counsel for the respondents, the American Platinum Works, General Electric X-Ray Corp., and the Ohio Chemical & Manufacturing Co., and were made a part of the record. After the closing of the record, suggested findings as to the facts and suggested order were submitted to the trial examiner by counsel supporting the complaint and counsel for the respondents, and in due time the trial examiner made his recommended decision.

Thereafter, this proceeding regularly came on for final hearing before the Commission upon the complaint, the respondents' substitute answers thereto, the aforesaid stipulations, the trial examiner's recommended decision, certain written memoranda and oral argument of counsel as to the form of order to be issued; 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. The words and terms set out in this paragraph, wherever used in this findings as to the facts and conclusion, shall have the following meanings:

(a) "Dental goods" means instruments, appliances, alloys, cement, artificial teeth, drugs and compounds, chairs and office furniture, and all other articles or products employed in the practice of the dental profession.

(b) "Member manufacturer" means an individual, partnership or corporation engaged in the manufacture, sale and distribution of dental goods and holding membership in the respondent, American Dental Trade Association.

(c) "Member dealer" means an individual, partnership, or corporation engaged in the sale and distribution of dental goods and holding membership in the respondent, American Dental Trade Association.

(d) "Independent manufacturer" means an individual, partnership, or corporation engaged in the manufacture, sale and distribution of dental goods and not holding membership in the respondent, American Dental Trade Association.

(e) "Independent dealer" means an individual, partnership, or corporation engaged in the sale and distribution of dental goods and not

holding membership in the respondent, American Dental Trade Association.

PAR. 2. The respondent, American Dental Trade Association, hereinafter referred to as National Association, is a voluntary unincorporated association, organized by and composed of individuals, partnerships, and corporations who are engaged in the business of manufacturing, purchasing, selling, and distributing dental goods in commerce among and between the various States of the United States, the District of Columbia, United States Territories, and various foreign countries. Said association has its principal office and place of business at 1010 Vermont Avenue NW., Washington, D. C.

The respondent, National Association, was organized for the purpose of:

- (a) Fostering and promoting the best interests of the trade or industry.
- (b) Collecting and disseminating facts concerning the trade or industry.
- (c) Fostering and maintaining common pricing policies for dental goods among its membership.
- (d) Confining and monopolizing the trade in dental goods within its membership.

PAR. 3. The respondent, National Association, is subdivided into a dealers' section, which is composed of member dealers, who are designated as "Class A members" and a manufacturers' section, which is composed of member manufacturers, who are designated as "Class B members."

The manufacturers' section, in turn, is subdivided into four groups, as follows: (1) gold group, (2) equipment group, (3) tooth group, (4) sundry merchandise group.

In addition, the membership of said respondent, National Association, is organized regionally or geographically into nine associations commonly designated as sectional dealers' clubs, as follows: New England group; New York State group; Eastern group; Southern group; Central States group; Midwest group; Southwest group; Pacific coast group; and Canadian Dental Trade Association. Said dealers' clubs or associations are constituent and component parts of said respondent, National Association.

Respondent, Perry L. Blackshear, is the president and a member of the executive board of respondent National Association, with his address at 715 Candler Building, P. O. Box 1686, Atlanta, Ga.

Respondent, Howell Evans, is the first vice president and a member of the executive board of respondent National Association, with his address % American Cabinet Co., Two Rivers, Wis.

Respondent, William O. Patterson, is the second vice president and a member of the executive board of respondent National Association, with his address at 970 Lowry Medical Arts Building, P. O. Box 225, St. Paul, Minn.

Respondent, Fred Steen, is the treasurer and a member of the executive board of respondent National Association, with his address at 211 South Twelfth Street, Philadelphia 5, Pa.

Respondent, Clayton W. Conklin, is a member of the executive board of respondent National Association, with his address % The L. D. Caulk Co., Milford, Del.

Respondent, Robert Kerr, Jr., is the chairman, manufacturers' section, and a member of the executive board of respondent National Association, with his address at 6081-6095 Twelfth Street, Detroit 8, Mich.

Respondent, Milton Goolsby, an individual whose address is 715 Candler Building, P. O. Box 1686, Atlanta, Ga., was formerly chairman of the dealers' section and a member of the executive board of respondent National Association, but his term of office in both of said capacities expired in November 1948, a period of 3 months before the filing of the complaint herein. The trial examiner, acting upon an appropriate motion, dismissed the complaint as to this respondent, to which action of the trial examiner no exception was taken by counsel supporting the complaint.

Respondent, Wilmoth C. Mack, whose address is 1010 Vermont Avenue NW., Washington 5, D. C., is the secretary of respondent National Association, but was not employed in such capacity until May 1, 1947, prior to which time he had had no contact with any of the respondents herein. The trial examiner, acting upon an appropriate motion, dismissed the complaint as to this respondent, to which action of the trial examiner no exception was taken by counsel supporting the complaint.

PAR. 4. The membership of respondent National Association is composed of 99 member dealers, 48 member manufacturers, and 6 members who are both dealers and manufacturers.

(a) The following respondents are member dealers of respondent National Association:

L. M. Anderson Dental Supply Co., a corporation, organized under the laws of the State of Florida, with its office and principal place of

business at 102 Madison Street, P. O. Box 1080, Tampa, Fla. This respondent, having three branch places of business, holds three additional memberships in respondent National Association.

Perry L. Blackshear and G. Milton Goolsby, as copartners, trading as Atlanta Dental Supply Co., with their office and principal place of business at 715 Candler Building, P. O. Box 1686, Atlanta, Ga. These respondents were erroneously described in the complaint as Atlanta Dental Supply Co., a corporation.

E. Benton Taylor, an individual trading as Luther B. Benton Co., having his office and principal place of business at 709-711 North Howard Street, Baltimore 1, Md.

Lewis B. Bignall and Aurta Belle Bignall, individuals and copartners, trading as Bignall Dental Supply, formerly known as L. B. Bignall Dental Supplies, having their office and principal place of business at 118 Fulton Street, East, Grand Rapids 2, Mich.

Bridges Dental Supply Co., a corporation, organized under the laws of the State of Colorado, with its office and principal place of business at 217 Mack Block, Denver 1, Colo.

The Briggs-Kessler Co., a corporation, organized under the laws of the State of Michigan, with its office and principal place of business at 28 Adams Avenue, West, Detroit 26, Mich.

The Burkhart Dental Supply Co., a corporation, organized under the laws of the State of Washington, with its office and principal place of business located in Tacoma, Wash., mailing address P. O. Box 1252.

California Dental Supply Co., a corporation, organized under the laws of the State of California, with its office and principal place of business at 643 South Olive Street, Los Angeles 14, Calif. This respondent, having five branch places of business, holds five additional memberships in respondent National Association.

The A. P. Cary Co., a corporation, organized under the laws of the State of Texas, with its office and principal place of business in the Medical Arts Building, Dallas 1, Tex. This respondent, having two branch places of business, holds two additional memberships in respondent National Association.

H. J. Caulkins & Co., a corporation, organized under the laws of the State of Michigan, with its office and principal place of business at 505 Capital Park Building, Detroit 31, Mich. This respondent, having three branch places of business, holds three additional memberships in respondent National Association.

The Chicago Dental Manufacturing Co., a corporation, organized under the laws of the State of Illinois, with its office and principal place of business at 1433 Marshall Field Annex, Chicago 2, Ill.

Climax Dental Supply Co., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business in the Medical Arts Building, Walnut Street at Sixteenth, Philadelphia 2, Pa.

J. J. Crimmings Co., with its principal office and place of business at 120 Boylston Street, Boston 16, Mass. This respondent, having one branch house, holds one additional membership in respondent National Association.

T. M. Crutcher Dental Depot, Inc., a corporation, organized under the laws of the State of Kentucky, with its office and principal place of business at Louisville, Ky., mailing address P. O. Box 686.

T. M. Crutcher Dental Depot, Inc., a corporation, organized under the laws of the State of Indiana, with its office and principal place of business in the Hume Mansur Building, P. O. Box 94, Indianapolis, Ind.

Crutcher Dental Supply Co., a corporation, organized under the laws of the State of Alabama, with its office and principal place of business at Frank Nelson Building, Birmingham 1, Ala. This respondent, having two branch places of business, holds two additional memberships in respondent National Association.

Dakota Dental Supply Co., a corporation, organized under the laws of the State of South Dakota, with its office and principal place of business at 108 East Ninth Street, Sioux Falls, S. Dak.

Davidson Dental Supply Co., Inc., a corporation, organized under the laws of the State of Louisiana, with its office and principal place of business at 741 Maison Blanche, P. O. Box 29, New Orleans, La. This respondent, having two branch places of business, holds two additional memberships in respondent National Association.

The Davis-Schultz Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 700 Main Street, Buffalo 2, N. Y.

The Deeley Dental Supply Co., also known as Deeley Dental Supply, a corporation, organized under the laws of the State of Maryland, with its office and principal place of business in the Medical Arts Building, Baltimore 1, Md.

Dental Service Co., Inc., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 1010-1012 Commerce Building, Erie, Pa.

The Dental Specialty Co., a corporation, organized under the laws of the State of Colorado, with its office and principal place of business at 232 Republic Building, Denver 1, Colo.

Dentists & Surgeons Supply Co., Inc., a corporation, organized under the laws of the State of Massachusetts, with its office and principal place of business at 340 Bridge Street, Springfield 2, Mass.

Dixie Dental Supply Co., with its office and principal place of business at 413-416 Texarkana National Bank Building, P. O. Box 170, Texarkana, Tex.

Margaret Williams and James H. Williams, trading as Easton Dental Supply House in the capacity of trustees of the estate of Nathan B. Williams, having their office and principal place of business at 19 South Third Street, Easton, Pa. These respondents were erroneously described in the complaint as Margaret Williams and James H. Williams, individually and as copartners, trading as Easton Dental Supply House.

Eckley Dental Supply Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 9 Rockefeller Plaza, New York 20, N. Y.

Edwards Dental Supply Co., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 450 Sutter Street, San Francisco 8, Calif. This respondent, having four branch places of business, holds four additional memberships in respondent National Association.

Ferguson Dental Supply Co., with its office and principal place of business in the Medical Arts Building, P. O. Box 1539, San Antonio 6, Tex.

Fort Wayne Dental Depot, a corporation, organized under the laws of the State of Indiana, with its office and principal place of business in Fort Wayne, Ind., mailing address, P. O. Box 240. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

Frink Dental Supply Co., a corporation, organized under the laws of the State of Illinois, with its office and principal place of business at 4753 Broadway, Chicago 40, Ill.

Geo. C. Frye Co., a corporation, organized under the laws of the State of Maine, with its office and principal place of business at 116 Free Street, Portland 1, Maine.

Gates Dental Co., Inc., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 227 North Duke Street, P. O. Box 6, Lancaster, Pa.

General Dental Supply Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 19 Union Square, New York 5, N. Y.

Goetze-Niemer Physician & Dental Supply Co., a corporation, organized under the laws of the State of Missouri, with its office and principal place of business in St. Joseph, Mo., mailing address, P. O. Box 187. This respondent was erroneously described in the complaint as Goetze-Niemer Co., a corporation.

Guterman Dental Supply Co., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 515 Madison Avenue, New York 22, N. Y.

The Hamilton Dental Supply Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 83 South Fourth Street, Columbus 16, Ohio.

The Harmeyer & Brand Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 1037 Enquirer Building, Cincinnati 1, Ohio.

Harris Dental Co., Inc., a corporation, organized under the laws of the State of Virginia, with its office and principal place of business in the Medical Arts Building, P. O. Box 177, Norfolk, Va. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

The H. L. Hayden Co., a corporation, organized under the laws of the State of Connecticut, with its office and principal place of business at 83 Trumbull Street, New Haven 11, Conn. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

Hebard Dental Supply Co., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 20 South Broadway, Yonkers 2, N. Y.

Hill Dental Co., Inc., a corporation, organized under the laws of the State of Alabama, with its office and principal place of business in Birmingham, Ala. This respondent was erroneously described in the complaint as Hill Dental Supply Co., a corporation.

John Hood Co., a corporation, organized under the laws of the State of Massachusetts, with its office and principal place of business at 178 Tremont Street, Boston 12, Mass.

Noche Cacciatore and Carl Cacciatore, individuals and copartners, trading as Iowa Dental Supply Co., with their office and principal place of business at 507 Savings and Loan Building, Des Moines 3, Iowa. These respondents were erroneously described in the complaint as Iowa Dental Supply Co.

M. N. Jacobs Dental Supply Co., a corporation, organized under the laws of the State of Iowa, with its office and principal place of business at 805 First National Bank Building, Davenport, Iowa.

Johnson & Lund Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 930 Sibley Tower Building, Rochester 4, N. Y.

Johnson-Stipher, Inc., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 230 Hanna Building, Euclid and Fourteenth Street, Cleveland 15, Ohio.

Mary C. Stites, an individual, trading as Kalamazoo Dental Supply Co., having her office and principal place of business at 302 American National Bank Building, Kalamazoo 4, Mich.

Kays-Durgin, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business in Binghamton, N. Y., mailing address, P. O. Box 935.

Keener Dental Supply Co., with its office and principal place of business at 609 Walnut Street, Knoxville 12, Tenn. This respondent, having two branch places of business, holds two additional memberships in respondent National Association.

Oscar D. Levanthal and Joseph S. Levanthal, individuals and copartners, trading as A. Levanthal & Sons, having their office and principal place of business at 310-312 Adams Avenue, Scranton 1, Pa. These respondents, having one branch place of business, hold one additional membership in respondent National Association.

The W. A. Lockwood Dental Co., Inc., a corporation, organized under the laws of the State of West Virginia, with its office and principal place of business at 1722 Eye Street NW., Washington D. C.

Long Island Dental Depot, a corporation, organized under the laws of the State of New York, with its office and principal place of business at 164-07 Hillside Avenue, Jamaica 2, N. Y.

Los Angeles Dental Supply Co., a corporation, organized under the laws of California, with its office and principal place of business at 617 South Olive Street, Los Angeles 14, Calif. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

W. E. Lowry and Mary H. Lowry, individuals and copartners, trading as Lowry Dental Supplies, having their office and principal place of business at 710½ Lee Street, Charleston 23, W. Va.

Mabee-Kanenbley, Inc., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 1 Hanson Place, Brooklyn 17, N. Y.

Medcalf & Thomas, a corporation, organized under the laws of the State of Texas, with its office and principal place of business in the Medical Arts Building, Fort Worth 1, Tex. This respondent, having

one branch place of business, holds one additional membership in respondent National Association.

Melrose Dental Depot, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 41 East Forty-second Street, New York 17, N. Y.

E. L. Mercere, Inc., with its office and principal place of business at 99 South Second Street, Memphis 1, Tenn.

Midvale Dental Supply Co., a corporation, organized under the laws of the State of Missouri, with its office and principal place of business at 3638 Olive Street, St. Louis 8, Mo.

E. R. Mitchell Dental Depot, a corporation, organized under the laws of the State of Massachusetts, with its office and principal place of business at 390 Main Street, Worcester 8, Mass. This respondent, having one branch place of business, hold one additional membership in respondent National Association.

Mohawk Dental Supply Co., with its office and principal place of business at 258 Genesee Street, Utica 2, N. Y.

Harold S. Moore, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 90 State Street, Albany 1, N. Y. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

Mossey-Otto Co., a corporation, organized under the laws of the State of Wisconsin, with its office and principal place of business at 615 North Sixteenth Street, Milwaukee 1, Wis.

Nashville Dental Supply Co., a corporation, organized under the laws of the State of Tennessee, with its office and principal place of business at 160 Eighth Avenue, North, Nashville 2, Tenn.

Norton-Starr, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business in the State Tower Building, Syracuse 2, N. Y. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

M. F. Patterson Dental Supply Co. of Delaware, a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 970 Lowry Medical Arts Building, P. O. Box 225, St. Paul, Minn. This respondent was erroneously described in the complaint as M. F. Patterson Dental Supply Co., a Minnesota corporation. Said respondent, having 19 branch places of business, holds 19 additional memberships in respondent National Association.

Pattison-McGrath Co.—Dental Supplies, a corporation, organized under the laws of the State of Missouri, with its office and principal place of business at 1117 Walnut Street, Kansas City 13, Mo. This respondent was erroneously described in the complaint as Pattison-McGrath Co., a corporation.

Pearce Dental Supply Co., a corporation, organized under the laws of the State of Kansas, with its office and principal place of business as 212 North Market Street, Wichita 2, Kans. This respondent, having two branch places of business, holds two additional memberships in respondent National Association.

Pendleton & Arto, Inc., a corporation, organized under the laws of the State of Texas, with its office and principal place of business in the Medical Arts Building, Houston 1, Tex.

Pittsburgh Dental Depot, Inc., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 907 Penn Avenue, Pittsburgh, Pa.

Powers and Anderson Dental Co., Inc., a corporation, organized under the laws of the State of Virginia, with its office and principal place of business at 2 South Fifth Street, P. O. Box 712, Richmond 6, Va. This respondent, having four branch places of business, holds four additional memberships in respondent National Association.

Primrose-Johnson Dental Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 809 Temple Building, Rochester 4, N. Y.

R. & E. Dental Supply Co., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 307 Lenox Avenue, New York 27, N. Y.

S. H. Reynolds' Sons Co., a corporation, organized under the laws of the State of Massachusetts, with its office and principal place of business at 100 Boylston Street, Boston 16, Mass.

Rose Dental Depot, with its office and principal place of business at 505 Boyle Building, Little Rock, Ark.

Rovane Dental Supply Co., a corporation, organized under the laws of the State of Iowa, with its office and principal place of business at State Central Savings Bank Building, Keokuk, Iowa.

Edward H. Rowan Dental Supplies, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 880 Bergen Avenue, Jersey City, N. J.

Russell-Altenberg Co., a corporation, organized under the laws of the State of Maine, with its office and principal place of business at 15 Mellen Street, Portland 4, Maine.

Smith-Holden, Inc., a corporation, organized under the laws of the State of Rhode Island, with its office and principal place of business at 144 Westminster Street, Lauderdale Building, Providence 1, R. I. This respondent, having two branch places of business, holds two additional memberships in respondent National Association.

Thau-Nolde, Inc., a corporation, organized under the laws of the State of Missouri, with its office and principal place of business at 601-621 Frisco Building, St. Louis 1, Mo. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

Thompson Dental Co., a corporation, organized under the laws of the State of South Carolina, with its office and principal place of business at 1508 Washington Street, Columbia (A), S. C. This respondent, having three branch places of business, holds three additional memberships in respondent National Association.

C. M. Lowry and D. Z. Lowry, individually and as copartners, trading as Tri-State Dental Depot, having their office and principal place of business in the Guaranty Bank Building, Huntington 18, W. Va. These respondents, having one branch place of business, hold one additional membership in respondent National Association.

Tri-State Dental Supply Co., a corporation, organized under the laws of the State of Arizona, with its office and principal place of business at 500 Professional Building, Phoenix, Ariz. This respondent, having three branch places of business, holds three additional memberships in respondent National Association.

Margaret H. Van Kleeck, Ralph E. Van Kleeck, and Dudley N. Van Kleeck, individuals and co-partners, trading as B. D. Van Kleeck, with their office and principal place of business at 90 Market Street, Poughkeepsie, N. Y. These respondents were erroneously described in the complaint as B. D. Van Kleeck, a member dealer.

E. L. Washburn & Co., Inc., a corporation, organized under the laws of the State of Connecticut, with its office and principal place of business at 71 Whitney Avenue, New Haven, Conn. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

Dental Equipment Specialists, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 500 Fifth Avenue, New York 18, N. Y. This respondent was erroneously described in the complaint as the Weber Dental Equipment Co., Inc., a corporation.

John Welch Dental Depot, Inc., a corporation, organized under the laws of the State of Oregon, with its office and principal place of business in the Morgan Building, Portland, Oreg.

Western Dental Supply Co., a corporation, organized under the laws of the State of Utah, with its office and principal place of business at 506-507 Judge Building, Salt Lake City 14, Utah.

White-Rafert Co., a corporation, organized under the laws of the State of Indiana, with its office and principal place of business at 114 South Sixth Street, Terre Haute, Ind.

Wright's, Inc., formerly trading as Wright Dental Supply Co., a corporation, organized under the laws of the State of Wisconsin, with its office and principal place of business in Milwaukee, Wis., mailing address P. O. Box 725. This respondent, having one branch place of business, holds one additional membership in respondent National Association.

(b) The following respondents are member manufacturers of respondent National Association:

The American Cabinet Co., with its office and principal place of business at Two Rivers, Wis.

The American Platinum Works, a corporation, organized under the laws of the State of New Jersey, with its office and principal place of business at New Jersey Railroad Avenue at Oliver Street, Newark 5, N. J. A stipulation entered into by and between counsel for this respondent and counsel supporting the complaint discloses that for more than 10 years this respondent has not taken part in the affairs and activities of the respondent National Association, and that during this period it has paid only minimum dues to said association. The company's sales in dental goods amount to approximately one-third of 1 percent of its total yearly business. The trial examiner accordingly dismissed the complaint as to said respondent, to which action of the trial examiner no exception was taken by counsel supporting the complaint.

American Sterilizer Co., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business in Erie, Pa.

The W. V-B Ames Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 137 North Adams Street, Fremont, Ohio.

Claudius Ash Sons & Co., U. S. A., Inc., with its office and principal place of business at 127-131 Coit Street, Irvington 11, N. J.

Harry J. Bosworth Co., a corporation, organized under the laws of the State of Illinois, with its office and principal place of business at 216 West Jackson Boulevard, Chicago, Ill.

Wilmot Castle Co., with its office and principal place of business at 1255 University Avenue, Rochester 7, N. Y.

H. M. Chandler Co., with its office and principal place of business at 108 West Forty-second Street, New York 18, N. Y.

Chayes Dental Instrument Corp., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 460 West Thirty-fourth Street, New York 1, N. Y.

The Cleveland Dental Manufacturing Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 3307 Scranton Road SW., Cleveland 1, Ohio.

The Columbus Dental Manufacturing Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 634 Wager Street, Columbus 6, Ohio.

P. N. Condit, with its office and principal place of business at Boston 17, Mass.

Cook-Waite Laboratories, Inc., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 1450 Broadway, New York, N. Y. This respondent has a subsidiary corporation, to wit: Cook-Waite Laboratories, Inc., located at Fort Erie North, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

Thomas J. Dee & Co., a corporation, organized under the laws of the State of Illinois, with its office and principal place of business at 1900 West Kinzie Street, Chicago 22, Ill.

Densco, Inc., formerly trading as the Dental Specialty Manufacturing Co., a corporation, organized under the laws of the State of Colorado, with its office and principal place of business in Denver, Colo., mailing address P. O. Box 420.

The William Getz Corp., a corporation, with its office and principal place of business at 7512 Greenwood Avenue, Chicago 19, Ill. This respondent is the successor to, and was erroneously described in the complaint as, Dental Products Co., a corporation.

J. C. & A. L. Fawcett, Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 408 Jay Street, Brooklyn 1, N. Y.

General Electric X-Ray Corp., prior to its resignation on April 30, 1948, with its place of business at 4855 Electric Avenue, Mil-

waukee 14, Wis., is a subsidiary of and wholly owned by the General Electric Co., the parent company being a corporation organized and existing under the laws of the State of New York, with its principal executive offices located at One River Road, Schenectady, N. Y. This respondent resigned from the respondent National Association on April 30, 1948, and has not been a member of said association since that date.

General Refineries, Inc., a corporation, organized under the laws of the State of Minnesota, with its office and principal place of business at 27 North Fourth Street, Minneapolis 1, Minn.

Gomco Surgical Manufacturing Corp., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 828 East Ferry Street, Buffalo 11, N. Y.

The Hygienic Dental Rubber Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at 31 West Market Street, Akron 8, Ohio.

The estate of J. W. Ivory, Chester S. Ivory, surviving trustee trading as J. W. Ivory, having its office and principal place of business at 310-312 North Sixteenth Street, Philadelphia 2, Pa. This respondent was erroneously described in the complaint as Hattie A. Ivory and Chester Scott Ivory, individually and as copartners, trading as J. W. Ivory. The record discloses that Hattie A. Ivory is deceased.

J. F. Jelenko & Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 136 West Fifty-second Street, New York 19, N. Y.

Johnson & Johnson, a corporation, organized under the laws of the State of New Jersey, with its office and principal place of business at New Brunswick, N. J.

H. D. Justi & Son, Inc., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at Thirty-second and Spring Garden Street, Philadelphia 4, Pa.

Kerr Manufacturing Co., a corporation, organized under the laws of the State of Michigan, with its office and principal place of business at 6081-6095 Twelfth Street, Detroit 8, Mich.

King's Specialty Co., a corporation, organized under the laws of the State of Indiana, with its office and principal place of business in Fort Wayne, Ind., mailing address, P. O. Box 240.

Martha F. McKesson, an individual trading as McKesson Appliance Co., with her office and principal place of business at 2226 Ashland Avenue, Toledo 10, Ohio. This respondent was erroneously described in the complaint as McKesson Appliance Company.

Hastings & Co., Inc., a corporation, with its office and principal place of business at 2314 Market Street, Philadelphia 3, Pa. This respondent was erroneously described in the complaint as John V. Hastings, Jr., and Henry B. Robb, Jr., individually and as copartners, trading as Morgan Hastings & Co.

The J. Bird Moyer Co., Inc., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 117-121 North Fifth Street, Philadelphia 6, Pa.

Mynol Chemical Co., Inc., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 5217 Whitby Avenue, Philadelphia 43, Pa.

The J. M. Ney Co., a corporation, organized under the laws of the State of Connecticut, with its office and principal place of business at 71 Elm Street, Hartford 1, Conn.

Novocol Chemical Manufacturing Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 2921-2923 Atlantic Avenue, Brooklyn 7, N. Y. This respondent has a subsidiary corporation, to wit: Novocol Chemical Manufacturing Co., of Canada, Ltd., located at 11-13 Greenville Street, Toronto, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

The Ohio Chemical & Manufacturing Co., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 1400 East Washington Avenue, Madison 3, Wis. This respondent resigned from the respondent National Association on October 12, 1948, and has not been a member of said association since that date.

The Pelton & Crane Co., a corporation, organized under the laws of the State of Michigan, with its office and principal place of business at 632-652 Harper Avenue, Detroit 2, Mich.

Geo. P. Pilling & Son Co., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 3451 Walnut Street, Philadelphia 4, Pa.

Puritan Compressed Gas Corp., a corporation, organized under the laws of the State of Missouri, with its office and principal place of business at 2012 Grand Avenue, Kansas City 8, Mo.

Rinn X-Ray Products, Inc., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at 3039 Fullerton Avenue, Chicago 47, Ill.

Ritter Co., Inc., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at Ritter Park, Rochester, N. Y., mailing address, P. O. Box 848.

The Silv-O-Dent Co., with its office and principal place of business at 1708 Northeast Alberta Street, Portland 11, Oreg.

William N. Force, an individual trading as E. E. Smith, having his office and principal place of business at 1232 Race Street, Philadelphia 7, Pa.

Lee S. Smith & Son Manufacturing Co., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 7325 Pennsylvania Avenue, Pittsburgh 8, Pa.

Spyco Smelting & Refining Co., a corporation, organized under the laws of the State of Minnesota, with its office and principal place of business at 51 South Third Street, Minneapolis 1, Minn.

Vernon-Benshoff & Co., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business in Pittsburgh, Pa., mailing address P. O. Box 1587.

The Weber Dental Manufacturing Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at Crystal Park, Canton 5, Ohio.

H. B. Wiggin's Sons Co., with its office and principal place of business at Arch Street, Bloomfield, N. J.

Williams Gold Refining Co., Inc., a corporation, organized under the laws of the State of New York, with its office and principal place of business at 2978 Main Street, Buffalo 14, N. Y. This respondent has a subsidiary corporation, to wit: The Williams Gold Refining Co. of Canada, Ltd., located in Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

Young Dental Manufacturing Co., a corporation, organized under the laws of the State of Missouri, with its office and principal place of business at 4958-4960 Suburban R. W., St. Louis 8, Mo.

(c) The following respondents are both member dealers and member manufacturers of respondent National Association:

Buffalo Dental Manufacturing Co., a corporation, organized under the laws of the State of New York, with its dealer office at 775 Main Street, Buffalo 2, N. Y., and its manufacturing office at 145 Kehr Street, Buffalo 11, N. Y.

The L. D. Caulk Co., a corporation, organized under the laws of the State of Delaware, with its office and principal place of business at Milford, Del. This respondent, having 11 branch places of business, holds 11 additional memberships in respondent National Associa-

tion. Said respondent has a subsidiary corporation, to wit: The L. D. Caulk Co. of Canada, Ltd., located in the Caulk Building, 178 John Street, Toronto, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of the respondent National Association.

The Dentists' Supply Co. of New York, a corporation, organized under the laws of the State of New York, with its office and principal place of business at 220 West forty-second Street, New York 18, N. Y.

Goldsmith Bros. Co., also known as Goldsmith Bros. Smelting & Refining Co., a corporation, organized under the laws of the State of Illinois, with its office and principal place of business at 109 North Wabash Avenue, Chicago, Ill. This respondent has a subsidiary corporation, to wit: Goldsmith Bros. Smelting & Refining Co., Ltd., located in Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association. Said subsidiary also wholly owns another member of the Canadian Dental Trade Association, to wit: The Dominion Dental Co., Ltd., located in Toronto, Ontario, Canada.

The Ransom & Randolph Co., a corporation, organized under the laws of the State of Ohio, with its office and principal place of business at Toledo, Ohio, mailing address P. O. Box 905. This respondent, having 13 branch places of business, holds 13 additional memberships in respondent National Association.

The S. S. White Dental Manufacturing Co., a corporation, organized under the laws of the State of Pennsylvania, with its office and principal place of business at 211 South Twelfth Street, Philadelphia 5, Pa. This respondent, having 17 branch places of business, holds 17 additional memberships in respondent National Association. Said respondent has a subsidiary corporation, to wit: S. S. White Co. of Canada, Limited, located at 250 College Street, Toronto, Ontario, Canada, and maintains a membership in the Canadian Dental Trade Association, a constituent and component part of respondent National Association.

The respondents named and described in this paragraph constitute the entire membership of said respondent National Association, except for two member dealers in the Territory of Hawaii and seven member dealers in Canada, and except for the respondents General Electric X-Ray Corp. and the Ohio Chemical & Manufacturing Co., who resigned from respondent National Association prior to the issuance of the complaint herein.

PAR. 5. The respondent National Association is not engaged in the business of manufacturing, purchasing, selling, or distributing dental

goods, as herein described, but said respondent has aided, abetted, guided, and assisted the respondent member manufacturers and member dealers in the unlawful acts and practices herein found.

PAR. 6. The respondent member manufacturers and member dealers are now, and for more than 10 years last past they have been, engaged in the manufacture and in the purchase, sale and distribution of dental goods. Said respondents cause their products, when sold, to be shipped to the purchasers thereof in the several States of the United States other than in the States of origin of said shipments, and for more than 10 years last past they have carried on a constant course of trade in said dental goods in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. Prior to the unlawful agreement, combination and conspiracy herein found to exist, the respondent member manufacturers and member dealers were in competition with one another in manufacturing, purchasing, selling, and distributing dental goods in commerce within the intent and meaning of the Federal Trade Commission Act, and said respondents were and are now in competition with others engaged in the same business.

PAR. 8. The respondent member manufacturers and member dealers sell and distribute in excess of 75 percent of the volume of dental goods manufactured, sold, and distributed in the United States, and by reason of this fact said respondents possess the ability and means of dominating and controlling the dental goods industry in the United States.

PAR. 9. For more than 10 years last past, respondent member manufacturers and member dealers, respondent National Association and its respondent officers, the component dealers' clubs or associations, and the manufacturers' groups have been engaged in and have since carried on an unlawful agreement, combination, understanding, and conspiracy to hinder, lessen, eliminate, limit, and restrain competition in prices and otherwise between and among respondent member manufacturers and member dealers in the manufacture and in the purchase, sale and distribution of dental goods in commerce among and between the various States of the United States and in the District of Columbia, and to monopolize in respondent member manufacturers and dealers the manufacture and the purchase, sale, and distribution of said products in said commerce. Pursuant to and in furtherance of the aforesaid understanding, agreement, combination, and conspiracy, and as the result of a planned common course of action, the respondent member manufacturers and member dealers, through and with the aid, assistance, and guidance of respondent National Asso-

ciation and its respondent officers and dealers' clubs or associations, have done and performed, among others, the following acts and practices:

(a) Classified dental goods and agreed upon exact retail prices at which the various classifications of dental goods should be sold to both dealers and the ultimate consumers.

(b) Agreed upon uniform rates of discount at which dealers could purchase dental goods from manufacturers.

(c) Agreed upon uniform terms of credit at which dental goods should be sold to dentists and other consumers.

(d) Agreed upon and fixed uniform terms and prices to be allowed for used dental equipment when taken in exchange for new equipment and agreed upon uniform prices to be charged for and uniform terms of sale for such used equipment.

(e) Agreed to disseminate, and disseminated, among themselves and by and through respondent National Association at frequent intervals current and future quotations of prices, terms and conditions of sale offered to the trade by various respondent member manufacturers and member dealers.

(f) Held meetings at which prices, terms, and conditions of sale and trade practices and policies designed to eliminate competition in price and otherwise among and between the respondents were discussed and acted upon.

(g) Agreed upon a division of territory among the various respondent member dealers in such manner as to result in a minimum of competition among said member dealers.

(h) Established a system of policing the industry whereby deviations from pricing and selling policies and practices were reported to appropriate officers and committees of said respondent National Association, and to the sectional dealers' clubs, all of whom thereafter by various and sundry methods have brought pressure to bear upon the alleged violator, with the result that the agreed upon pricing and selling policies and practices have been adhered to.

(i) Agreed to and have caused all dealers in dental goods to sell the products of respondent member manufacturers at prices fixed and prescribed by said member manufacturers.

(j) Prevented independent dealers from obtaining merchandise for resale by such practices as buying the entire output of manufacturers engaged in selling to independent dealers, buying from manufacturers upon the understanding that such manufacturers would sell to member dealers only, and charging independent dealers consumer prices.

(k) Agreed to and have caused member dealers to buy only from member manufacturers.

(l) Agreed to and have caused member manufacturers to sell only to member dealers.

(m) Agreed to and have caused respondent member manufacturers and member dealers not to sell respondent member manufacturers' products to jobbers or to those with whom trade relations have not been established by respondent manufacturers, thereby preventing independent dealers from obtaining the products of respondent manufacturers.

(n) Agreed to and have systematically disparaged independent manufacturers and dealers and the dental products manufactured, sold, and distributed by independent manufacturers and dealers. Respondents characterize independent manufacturers and dealers as "grip-sackers," "carpetbaggers," "illegitimate manufacturers," "illegitimate dealers," "price-cutters," "unauthorized," "unrecognized," "unreliable" and other derogatory names, as contrasted to member manufacturers and dealers who are characterized as "legitimate," "authorized," "recognized," or "reliable" manufacturers or dealers. Respondents characterize the products of independent manufacturers and dealers as "illegitimate," "substandard goods," "off-brand merchandise," "cheap quality merchandise," "monkey brands," and similar names, as contrasted to the products of member manufacturers and dealers, which are characterized as "authorized," "legitimate," "quality merchandise," or "standard products."

PAR. 10. Consideration has been given to the stipulations with reference to the respondents General Electric X-Ray Corp. and the Ohio Chemical & Manufacturing Co., and while it is found that the General Electric X-Ray Corp. resigned its membership from the respondent National Association on April 30, 1948, and the Ohio Chemical & Manufacturing Co. resigned on October 12, 1948, there is nothing in the record to show that they have continued or discontinued the acts and practices in which they admitted in their answers they were engaged.

PAR. 11. The capacity, tendency, and effect of the understanding, agreement, combination, and conspiracy in which it is found that the respondents have entered into and the acts and practices the respondents have done and performed and are now doing and performing in furtherance thereof and pursuant thereto are now and have been to substantially lessen, restrain, and suppress competition among and between said respondent member manufacturers and between member dealers in the manufacture and in the sale and distribution of dental

482

Order

goods in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act; have a dangerous tendency to and have and do now actually hinder, restrict, and prevent competition in price and otherwise between and among said respondents in the manufacture and in the sale and distribution of said products in said commerce; have empowered and enabled the respondents to control the market and enhance the prices paid by purchasers of said products; and have a dangerous tendency to create a monopoly in said respondents in the manufacture and in the sale and distribution of said products in interstate commerce.

CONCLUSION

The acts and practices of the respondents as herein found are all to the prejudice and injury of the public and of competitors of the respondent manufacturers and dealers and constitute unfair methods of competition in commerce within the intent and meaning of section 5 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, substitute answers thereto filed by all of the respondents, in which answers said respondents (except the American Platinum Works, Milton Goolsby and Wilmoth C. Mack) admitted all of the material allegations of fact set forth in the complaint, waived all hearings as to said facts, and consented that the Commission, without any further intervening procedure, may make and enter its findings as to the facts, including inferences which it may draw therefrom, and its conclusion based thereon, and may issue and serve upon said respondents an order to cease and desist from any act or practice or method of competition alleged in the complaint to constitute a violation of section 5 of the Federal Trade Commission Act, certain stipulations of facts entered into by and between counsel for the American Platinum Works, Milton Goolsby and Wilmoth C. Mack and counsel supporting the complaint, the trial examiner's recommended decision and written memoranda and oral argument of counsel as to the form of order to be issued; and the Commission, having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondents, American Dental Trade Association a voluntary unincorporated association; Perry L. Blackshear, individually and as its president and a member of its executive board;

Order

46 F. T. C.

Howell Evans, individually and as its first vice president and a member of its executive board; William O. Patterson, individually and as its second vice president and a member of its executive board; Fred Steen, individually and as its treasurer and a member of its executive board; Clayton W. Conklin, individually and as a member of its executive board; Robert Kerr, Jr., individually and as its chairman, manufacturers' section and a member of its executive board; L. M. Anderson Dental Supply Co., a corporation; Perry L. Blackshear and G. Milton Goolsby, individually and as copartners, trading as Atlanta Dental Supply Co.; E. Benton Taylor, individually and trading as Luther B. Benton Co.; Lewis B. Bignall and Aurta Belle Bignall, individually and as copartners, trading as Bignall Dental Supply, formerly known as L. B. Bignall Dental Supplies; Bridges Dental Supply Co., a corporation; The Briggs-Kessler Co., a corporation; The Burkhart Dental Supply Co., a corporation; California Dental Supply Co., a corporation; the A. P. Cary Co., a corporation; H. J. Caulkins & Co., a corporation; the Chicago Dental Manufacturing Co., a corporation; Climax Dental Supply Co., a corporation; J. J. Crimmings Co., a member dealer; T. M. Crutcher Dental Depot, Inc. (Kentucky), a corporation; T. M. Crutcher Dental Depot, Inc. (Indiana), a corporation; Crutcher Dental Supply Co., a corporation; Dakota Dental Supply Co., a corporation; Davidson Dental Supply Co., Inc., a corporation; the Davis-Schultz Co., Inc., a corporation; the Deeley Dental Supply Co., also known as Deeley Dental Supply, a corporation; Dental Service Co., Inc., a corporation; the Dental Specialty Co., a corporation; Dentists & Surgeons Supply Co., Inc., a corporation; Dixie Dental Supply Co., a member dealer; Margaret Williams and James H. Williams, trading as Easton Dental Supply House, in the capacity of trustees of the estate of Nathan B. Williams; Eckley Dental Supply Co., Inc., a corporation; Edwards Dental Supply Co., a corporation; Ferguson Dental Supply Co., a member dealer; Fort Wayne Dental Depot, a corporation; Frink Dental Supply Co., a corporation; Geo. C. Frye Co., a corporation; Gates Dental Co., Inc., a corporation; General Dental Supply Co., Inc., a corporation; Goetze-Niemer Physician & Dental Supply Co., a corporation; Guterman Dental Supply Co., a corporation; the Hamilton Dental Supply Co., a corporation; the Harmeyer & Brand Co., a corporation; Harris Dental Co., Inc., a corporation; the H. L. Hayden Co., a corporation; Hebard Dental Supply Co., a corporation; Hill Dental Co., Inc., a corporation; John Hood Co., a corporation; Noche Cacciatore and Carl Cacciatore, individually and as copartners, trading as Iowa Dental Supply Co.; M. N. Jacobs Dental Supply Co., a corporation; Johnson & Lund Co., Inc.,

a corporation; Johnson-Stipher, Inc., a corporation; Mary C. Stites, individually and trading as Kalamazoo Dental Supply Co.; Kays-Durgin, Inc., a corporation; Keener Dental Supply Co., a member dealer; Oscar D. Leventhal and Joseph S. Leventhal, individually and as copartners, trading as A. Leventhal & Sons; the W. A. Lockwood Dental Co., Inc., a corporation; Long Island Dental Depot, a corporation; Los Angeles Dental Supply Co., a corporation; W. E. Lowry and Mary H. Lowry, individually and as copartners, trading as Lowry Dental Supplies; Mabee-Kanenbley, Inc., a corporation; Medcalf & Thomas, a corporation; Melrose Dental Depot, Inc., a corporation; E. L. Mercer, Inc., a member dealer; Midvale Dental Supply Co., a corporation; E. R. Mitchell Dental Depot, a corporation; Mohawk Dental Supply Co., a member dealer; Harold S. Moore, Inc., a corporation; Mossey-Otto Co., a corporation; Nashville Dental Supply Co., a corporation; Norton-Starr, Inc., a corporation; M. F. Patterson Dental Supply Co. of Delaware, a corporation; Pattison-McGrath Co.—Dental Supplies, a corporation; Pearce Dental Supply Co., a corporation; Pendleton & Arto, Inc., a corporation; Pittsburgh Dental Depot, Inc., a corporation; Powers and Anderson Dental Co., Inc., a corporation; Primrose-Johnson Dental Co., Inc., a corporation; R. & E. Dental Supply Co., a corporation; S. H. Reynolds' Sons Co., a corporation; Rose Dental Depot, a member dealer; Rovane Dental Supply Co., a corporation; Edward H. Rowan Dental Supplies, Inc., a corporation; Russell-Altenberg Co., a corporation; Smith-Holden, Inc., a corporation; Thau-Nolde, Inc., a corporation; Thompson Dental Co., a corporation; C. M. Lowry and D. Z. Lowry, individually and as copartners trading as Tri-State Dental Depot, a corporation; Tri-State Dental Supply Co., a corporation; Margaret H. Van Kleeck, Ralph E. Van Kleeck, and Dudley N. Van Kleeck, individually and as copartners, trading as B. D. Van Kleeck; E. L. Washburn & Co., Inc., a corporation; Dental Equipment Specialists, Inc., a corporation; John Welch Dental Depot, Inc., a corporation; Western Dental Supply Co., a corporation; White-Rafert Co., a corporation; Wright's, Inc., formerly trading as Wright Dental Supply Co., a corporation; the American Cabinet Co., a member manufacturer; American Sterilizer Co., a corporation; The W. V-B. Ames Co., a corporation; Claudius Ash Sons & Co., U. S. A., Inc., a member manufacturer; Harry J. Bosworth Co., a corporation; Wilmot Castle Co., a member Manufacturer; H. M. Chandler Co., a member manufacturer; Chayes Dental Instrument Corp., a corporation; the Cleveland Dental Manufacturing Co., a corporation; the Columbus Dental Manufacturing Co., a corporation; P. N. Condit, a member manufacturer; Cook-Waite Labora-

tories, Inc., a corporation; Thomas J. Dee & Co., a corporation; Densco, Inc., formerly trading as the Dental Specialty Manufacturing Co., a corporation; the William Getz Corp., a corporation; J. C. & A. L. Fawcett, Inc., a corporation; General Electric X-Ray Corp., a member manufacturer; General Refineries, Inc., a corporation; Gomco Surgical Manufacturing Corp., a corporation; the Hygienic Dental Rubber Co., a corporation; estate of J. W. Ivory, Chester S. Ivory, surviving trustee trading as J. W. Ivory; J. F. Jelenko & Co., Inc., a corporation; Johnson & Johnson, a corporation; H. D. Justi & Son, Inc., a corporation; Kerr Manufacturing Co., a corporation; King's Specialty Co., a corporation; Martha F. McKesson, individually and trading as McKesson Appliance Co.; Hastings & Co., Inc., a corporation; the J. Bird Moyer Co., Inc., a corporation; Mynol Chemical Co., Inc., a corporation; the J. M. Ney Co., a corporation; Novocol Chemical Manufacturing Co., Inc., a corporation; the Ohio Chemical & Manufacturing Co., a corporation; the Pelton & Crane Co., a corporation; Geo. P. Pilling & Son Co., a corporation; Puritan Compressed Gas Corp., a corporation; Rinn X-Ray Products, Inc., a corporation; Ritter Co., Inc., a corporation; the Silv-O-Dent Co., a member manufacturer, William N. Force, individually and trading as E. E. Smith; Lee S. Smith & Son Manufacturing Co., a corporation; Spyco Smelting & Refining Co., a corporation; Vernon-Benshoff & Co., a corporation; the Weber Dental Manufacturing Co., a corporation; H. B. Wiggin's Sons Co., a member manufacturer; Williams Gold Refining Co., Inc., a corporation; Young Dental Manufacturing Co., a corporation; Buffalo Dental Manufacturing Co., a corporation; the L. D. Caulk Co., a corporation; the Dentists' Supply Co. of New York, a corporation; Goldsmith Bros. Co., also known as Goldsmith Bros. Smelting & Refining Co., a corporation; the Ranson & Randolph Co., a corporation; and the S. S. White Dental Manufacturing Co., a corporation, and said respective respondents' officers, agents, representatives, and employees, in or in connection with the manufacture, offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of dental goods (which term includes all instruments, appliances, alloys, cements, artificial teeth, drugs and compounds, chairs and office furniture, and all other articles or products employed in the practice of the dental profession), 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 or among any

one or more of said respondents and others not parties hereto, to do or perform any of the following acts or practices:

(1) Fixing, establishing, or maintaining prices, discounts, terms, or conditions of sale for any article or kind of dental goods, or adhering, or promising to adhere, to any prices, discounts, terms, or conditions of sale so fixed, established, or maintained.

(2) Classifying dental goods in connection with prices, mark-ups, additions to, or deductions from prices to be charged for articles or products falling within a particular classification.

(3) Fixing or establishing terms or prices to be allowed for any articles of used dental equipment when either purchased outright or taken in exchange for new equipment, or agreeing upon prices, discounts, terms, or conditions of resale for such articles of used dental equipment.

(4) Exchanging, relaying, or disseminating, directly or through the respondent American Dental Trade Association, or any other central agency, price quotations, terms, or conditions of sale or other information as to current or future prices, discounts, terms, or conditions of sale for new or used dental goods.

(5) Holding or participating in any meeting, discussion, or exchange of information among themselves or under the auspices of the respondent American Dental Trade Association or its sectional dealers' clubs, or any other medium or agency, for the purpose of discussing or with the effect of devising or establishing methods of fixing, establishing, or maintaining prices, discounts, terms, or conditions of sale, for new or used dental goods.

(6) Agreeing upon, designating, limiting, allocating, or prescribing the territory in which a manufacturer or dealer may sell its (his) dental goods.

(7) Hindering or preventing independent dealers from obtaining merchandise for resale by such practices as any seller or sellers buying the entire output of manufacturers engaged in selling to independent dealers, or buying from manufacturers upon the understanding that such manufacturers will sell to member dealers only, or charging independent dealers consumer prices, or causing respondent member manufacturers or dealers to refrain from selling respondent member manufacturers' products to jobbers or to those with whom trade relations have not been established by respondent manufacturers, or by any other similar acts or practices.

(8) Causing respondent member dealers to buy only from respondent member manufacturers, or respondent member manufacturers to sell only to respondent member dealers.

(9) Disparaging nonmember manufacturers or dealers, or disparaging the dental goods manufactured, sold, or distributed by nonmember manufacturers or dealers, by characterizing said manufacturers or dealers as "gripsackers," "carpetbaggers," "illegitimate manufacturers," "illegitimate dealers," "price-cutters," "unauthorized," "unrecognized," "unreliable," or other similar disparaging terms, or by characterizing the dental goods of said nonmember manufacturers or dealers as "illegitimate," "substandard goods," "off-brand merchandise," "cheap quality merchandise," "monkey brands" or other similar disparaging terms.

(10) Agreeing upon, formulating or putting into operation any other plan or practice substantially similar to those prohibited in this order, which has the purpose or the effect of fixing, establishing, or maintaining any prices, discounts, terms, or conditions of sale for dental goods, or which has the purpose or the effect of monopolizing in the respondents the manufacture or the purchase, sale, or distribution of dental goods.

It is further ordered, That nothing contained in this order shall be construed as prohibiting:

1. Any seller of dental goods from entering into agreements with any of its (his) customers to sell to any such customers dental goods at any price or on any terms and conditions of sale independently determined and offered by either such seller or buyer and independently accepted by either such seller or buyer in any bona fide transaction when such agreements are not for the purpose nor have the effect of restraining trade;

2. The establishment or maintenance of any lawful bona fide relationship between any principal and its (his) agent;

3. The establishment or maintenance of any lawful bona fide agreements, discussions, or other action solely between any corporate respondent and its directors, officers, and employees, or between the officers, directors, agents, or employees of any corporate respondent relating solely to the carrying on of that corporation's sole and separate business, or between any corporate respondent and any of its wholly owned subsidiaries;

4. Any respondent seller of dental goods from including in any of its (his) sales contracts with any of its (his) customers a provision for the marketing of its (his) dental goods exclusively through such customer within any particular territory specified in such sales contracts;

5. Any of the respondents from entering into such contracts or agreements relating to the maintenance of resale prices as are permitted under the provisions of the Miller-Tydings Act;

6. Any of the respondents from taking such action relating to its export sales as is permitted under the provisions of the Webb-Pomerene Act.

It is further ordered, For the reasons set forth in the findings as to the facts in this proceeding, that the complaint herein be, and the same hereby is, dismissed as to the American Platinum Works, a corporation, Milton Goolsby, as chairman, dealers' section and a member, executive board of respondent American Dental Trade Association, Wilmoth C. Mack, individually and as secretary of respondent American Dental Trade Association, and Hattie A. Ivory, individually and as one of the copartners trading as J. W. Ivory.

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

IN THE MATTER OF
COOK-MASTER, INC.,¹ THEODORE N. GOULD, 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 5567. Complaint, June 9, 1948—Decision, Feb. 13, 1950

Where an officer of a corporation which was engaged, prior to its withdrawal from business, in the interstate sale and distribution of "Cook-Master" stainless steel cooking utensils, in competition with others engaged in sale and distribution of utensils made from steel and other materials, and the policies and practices of which he formulated;

In selling said products through representatives who personally solicited the general public and gave demonstrations before groups of prospective purchasers, at which various pamphlets, leaflets, advertising circulars, and other written matter were exhibited and distributed, accompanied by sales talks taken from sales manuals supplied by or under his direction—

- (a) Represented that Cook-Master cooking utensils provided a means of cooking food which was especially conducive to and did promote good health; and
- (b) Represented that other means of cooking destroyed minerals and vitamins in food, and that by the use of his utensils they would be preserved;

The facts being that cooking in Cook-Master utensils would not promote health any more than the cooking of food in any other sanitary utensils; mineral content of food is not destroyed or materially affected by heat; and if the cooking water is utilized and not thrown away there is no significant loss of minerals in any of the procedures commonly employed in cooking;

¹ The Commission on the same date issued an order dismissing the complaint as to Cook-Master, Inc., as follows:

This matter coming on to be heard by the Commission upon a motion filed June 22, 1948, on behalf of the respondents Cook-Master, Inc., and Theodore N. Gould, requesting that the complaint herein be dismissed as to said respondents, and the answer to such motion filed by counsel in support of the complaint; and

It appearing from said motion and from an affidavit attached thereto, executed by Phillip Markey as vice president of the respondent, Cook-Master, Inc., that the respondent, Cook-Master, Inc., at the time of the issuance of the complaint had ceased the sale and distribution of cooking utensils, that it did not then and does not now have either such utensils to sell or sales representatives or agents, and, further, that the corporation is in process of being liquidated and will soon be dissolved; and

It further appearing from the motion and from the record as a whole that the respondent, Theodore N. Gould, is now an employee of the American Stainless Steel Kitchen Co., Inc., but that he was, during the time of the operation of the corporation, Cook-Master, Inc., responsible for the policies, activities and practices of said corporation against which the complaint was directed; and

The Commission being of the opinion that in the circumstances a continuation of this proceeding as against the corporation, Cook-Master, Inc., would not be in the public interest, but that no sufficient reason has been advanced for dismissal as to the individual respondent, Theodore N. Gould:

It is ordered, That the complaint herein be, and it hereby is, dismissed as to the respondent Cook-Master, Inc.

It is further ordered, That the respondents' motion for dismissal of the complaint as to Theodore N. Gould be, and it hereby is, denied.