

Syllabus

IN THE MATTER OF
SAMSON CORDAGE WORKS ET AL.

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

Docket 5839. Complaint, Jan. 8, 1951—Decision, Mar. 26, 1951

Where seven corporations and the former president of four concerns which were merged into one of the seven; and who was also a former officer of the Solid Braided Cord Manufacturers Association, engaged in the interstate sale and shipment of their cordage products, including cotton sash cords, awning cords, clothes lines, and other similar cotton cordage; and a second individual who was a former secretary-treasurer of the Cotton-Textile Institute, Inc., and a former officer of said Manufacturers Association and other trade associations, and was for many years a co-conspirator with the others in carrying out the unlawful acts in commerce below set-out;

Engaged in organizing and developing a combination, agreement and planned common course of action to suppress and eliminate competition among themselves and others in said products; and pursuant thereto—

- (a) Agreed to and did fix and maintain prices, fix, modify, or eliminate certain trade discounts, and adopt and use uniform terms of conditions of sale;
- (b) Agreed to and did reduce the number of hours or shifts for work in their manufacturing plants, with the intent and effect of curtailing production;
- (c) Agreed to and did eliminate certain grades and weights of cordage products;
- (d) Agreed to and did formulate, adopt, and place in operation the practice of making uniform allowances from shipping charges;
- (e) Exchanged among themselves, directly or indirectly, information relating to current and future prices, terms, or conditions of sale, and freight charges and allowances or deductions made therefrom;
- (f) Agreed to and did adopt, maintain, and use uniform standards or specifications for sizes, weights, and descriptions for said products, for pricing purposes, and agreed to and did fix, establish, and maintain substantially uniform price differentials between products of uniformly varying sizes, weights, and descriptions;
- (g) Agreed to and did abandon the practice of guaranteeing prices against decline; and
- (h) Agreed to and did place in operation, from time to time, a plan of resale price maintenance whereby the customers were required to sell products concerned at prices and upon terms and conditions of sale which they fixed or which were agreed upon by or stipulated between them and the customers;

Effects of which practices and activities included the stifling of price competition among them; establishment of substantially uniform price differentials between products of uniformly varying sizes, weights and descriptions; and of substantially identical prices, trade discounts, terms or conditions of sale and freight allowances; and unlawful resale price maintenance and restraint of trade among their customers:

Held, That said combination, etc., and said acts, practices, pricing methods, devices, and policies were unfair and to the prejudice of the public; deprived it

Complaint

47 F. T. C.

of the benefit of competition; had dangerous tendencies and capacities to unlawfully restrain commerce in said products and suppressed and eliminated competition therein; and that said acts and practices were all to the prejudice of the public and of their competitors, and constituted unfair methods of competition in commerce.

Before *Mr. Everett F. Haycraft*, trial examiner.

Mr. Leslie S. Miller and *Mr. J. Wallace Adair* for the Commission.

Mr. John Marshall, Jr., of Louisville, Ky., for Puritan Cordage Mills.

Mr. Young M. Smith, of Hickory, N. C., for Shuford Mills, Inc.

Knox, Jones, Woolf & Merrill, of Anniston, Ala., for Southern Mills Corporation.

Kramer, McNabb & Greenwood, of Knoxville, Tenn., for Rockford Manufacturing Co.

Edmonds, Obermayer & Rebmann, of Philadelphia, Pa., for Wm. E. Hooper & Sons Co. of Baltimore City.

Dorr, Hammond, Hand & Dawson, of New York City, for Paul B. Halstead.

COMPLAINT

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

PARAGRAPH 1. Respondents named and described herein have combined and conspired to lessen and eliminate competition and restrain trade in commerce, as commerce is defined in the Federal Trade Commission Act in the sale of cordage products, including cotton sash cords, awning cords, clothes lines, and other cotton cordage similarly constructed or used for substantially similar purposes as any of the foregoing. Respondents accomplished the combination and conspiracy herein alleged through agreements, understandings, and concerted action among themselves and with others. Each respondent named herein has used trade-restraining and unfair methods and practices in furtherance of, and to make more effective, the objectives of the combination and conspiracy as alleged.

PAR. 2. The following is a description of the corporate respondents, including their respective corporate status and principal office and place of business:

1. Samson Cordage Works, a Massachusetts corporation, 89 Broad Street, Boston, Mass.

2. Puritan Cordage Mills, a Kentucky corporation, 1205 Washington Street, Louisville, Ky.

3. Shuford Mills, Incorporated, a North Carolina corporation, Hickory, N. C. Shuford Mills, Incorporated, represents a merger of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co., said merger having become effective January 1, 1947.

4. Cleveland Mill & Power Co., a North Carolina corporation, Lawndale, N. C.

5. Southern Mills Corp., a Delaware corporation, Oxford, Ala.

6. Rockford Manufacturing Co., a Tennessee corporation, Rockford, Tenn.

7. Wm. E. Hooper & Sons Co., of Baltimore City, a Maryland corporation, 1319-23 Cherry Street, Philadelphia, Pa.

The following are individual respondents:

8. Paul B. Halstead, an individual, 271 Church Street, New York, N. Y., individually, in his former capacity as secretary-treasurer of the Cotton-Textile Institute, Inc., and in his former capacity as an officer of the Solid Braided Cord Manufacturers Association.

9. Bascom B. Blackwelder, an individual, Quaker Meadow Mills, Inc., Hildebran, N. C., individually, in his former capacity as president of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co., and in his former capacity as an officer of the Solid Braided Cord Manufacturers Association.

PAR. 3. All of the aforesaid respondents, with the exception of individual respondent Paul B. Halstead, in the course and conduct of their business, have regularly sold and shipped their "cordage products" to purchasers at points in the several States of the United States and in the District of Columbia, other than the State of origin of the shipment, in a regular current and flow of commerce, as "commerce" is defined in the Federal Trade Commission Act.

Because of the adoption and use of methods, practices, and policies hereinafter described, active and substantial competition between the manufacturing and selling respondents and others engaged in the manufacturing and selling of cordage products has been lessened or eliminated.

Respondent, Paul B. Halstead, in his individual capacity and in his former capacity as an officer of trade associations not named herein as respondents, though not engaged in commerce himself, has been for many years engaged in cooperating as a co-conspirator with the other respondents named herein in carrying out the unlawful acts in commerce as hereinafter alleged.

PAR. 4. The aforesaid respondents have been engaged in organizing and developing a combination, agreement, and planned common course of action to suppress and eliminate competition as to prices, and otherwise, among themselves and others, for cordage products. As steps in and toward the accomplishment of this purpose and objective, and in furtherance of and pursuant to the combination, agreement, and planned common course of action engaged in by the respondents, each of said respondents has adopted and utilized one or more of the following methods or practices:

1. Respondents have agreed to fix and maintain, and, pursuant thereto, have fixed and maintained prices.

2. Respondents have agreed to fix, modify, or eliminate, and pursuant thereto have fixed, modified, or eliminated certain trade discounts.

3. Respondents have agreed upon, adopted, and used uniform terms or conditions of sale.

4. Respondent manufacturers have agreed to reduce, and, in pursuance thereof, did reduce the number of hours or shifts for work in their respective plants for the purpose or with the effect of curtailing production in furtherance of their program of concerted action to create scarcity of their products so as to further facilitate their acts and practices of fixing, raising, pegging, and stabilizing prices.

5. Respondents have agreed to eliminate, and, in pursuance thereof, have eliminated certain grades and weights of cordage products.

6. Respondents agreed to formulate, adopt, and place in operation, and, in pursuance thereof, did formulate, adopt, and place in operation the practice of making uniform allowances from shipping charges.

7. Respondents have exchanged among themselves, directly and indirectly, information relating to current and future prices, terms, or conditions of sale, and freight charges and allowances or deductions which are made therefrom.

8. Respondent manufacturers have agreed to adopt, maintain, and use, and in pursuance thereof have adopted, maintained, and used uniform standards or specifications for sizes, weights, and descriptions for cordage products for pricing purposes, and have agreed to fix, estab-

lish, and maintain, and, in pursuance thereof, have fixed, established, and maintained substantially uniform differentials in prices between cordage products of uniformly varying sizes, weights, and descriptions.

9. Respondents agreed to abandon, and, in pursuance thereof, did abandon the practice of guaranteeing prices against decline.

10. Respondents agreed to place in operation and did place in operation, from time to time, a plan of resale price maintenance whereby the customers of respondent manufacturers were required to sell cordage products at prices and upon terms and conditions of sale fixed by said respondents or agreed upon by or stipulated between the said respondents and their respective customers.

PAR. 5. The effects of the adoption and use by respondents of the practices and activities hereinabove alleged in connection with their sale of cordage products are that:

1. They stifle and eliminate price competition and restrain trade between respondents.

2. They result in substantially uniform differentials in price between products of uniformly varying sizes, weights, and descriptions.

3. They result in substantially identical prices, trade discounts, terms, or conditions of sale and freight allowances.

4. They result in unlawful resale price maintenance and restrain trade among respondent manufacturers' customers.

PAR. 6. The combination, conspiracy, agreements, and understandings of the respondents and the acts, practices, pricing methods, devices, and policies alleged herein are unfair and to the prejudice of the public; deprive the public of the benefit of competition; have dangerous tendencies and capacities to unlawfully restrain commerce in the said products; have hindered, frustrated, suppressed, and eliminated competition in said products in commerce and constitute unfair methods of competition and unfair or deceptive acts and practices in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to rule XXII of the Commission's rules of practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated March 26, 1951, the initial decision in the instant matter of trial examiner Everett F. Haycraft, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY EVERETT F. HAYCRAFT, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 8, 1951, issued and subsequently served its complaint in this proceeding upon the respondents Samson Cordage Works, Puritan Cordage Mills, Shuford Mills, Inc., Cleveland Mill & Power Co., Southern Mills Corporation, Rockford Manufacturing Co., and Wm. E. Hooper & Sons Co. of Baltimore City, corporations, their officers, directors, agents, representatives, and employees, and Paul B. Halstead and Bascom B. Blackwelder, individuals, charging them with the use of unfair methods of competition and unfair or deceptive acts or practices in commerce in violation of the provisions of said act. On January 18, 1951, respondents filed their answers in which answers they admitted all material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to the said facts. Thereafter, the proceeding regularly came on for final consideration by the above-named trial examiner, theretofore duly designated by the Commission, upon said complaint and answers thereto (all intervening procedure having been waived) and said trial examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The following is a description of the corporate respondents, including their respective corporate status and principal office and place of business:

Samson Cordage Works, a Massachusetts corporation, 89 Broad Street, Boston, Mass.

Puritan Cordage Mills, a Kentucky corporation, 1205 Washington Street, Louisville, Ky.

Shuford Mills, Incorporated, a North Carolina corporation, Hickory, N. C. Shuford Mills, Incorporated, represents a merger of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co., said merger having become effective January 1, 1947.

Cleveland Mill & Power Co., a North Carolina corporation, Lawndale, N. C.

Southern Mills Corp., a Delaware corporation, Oxford, Ala.

Rockford Manufacturing Co., a Tennessee corporation, Rockford, Tenn.

Wm. E. Hooper & Sons Co. of Baltimore City, a Maryland corporation, 1319-23 Cherry Street, Philadelphia, Pa.

PAR. 2. The following is a description of the individual respondents, including their respective office and place of business:

Paul B. Halstead, an individual, 271 Church Street, New York, N. Y., a former secretary-treasurer of the Cotton-Textile Institute, Inc., and a former officer of the Solid Braided Cord Manufacturers Association.

Bascom B. Blackwelder, an individual, Quaker Meadow Mills, Inc., Hildebran, N. C., a former president of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co., and a former officer of the Solid Braided Cord Manufacturers Association.

PAR. 3. All of the aforesaid respondents, with the exception of individual respondent Paul B. Halstead, in the course and conduct of their business, have regularly sold and shipped their cordage products, including cotton sash cords, awning cords, clothes lines, and other cotton cordage similarly constructed, to purchasers at points in the several States of the United States and in the District of Columbia, other than the State of origin of the shipment, in a regular current and flow of commerce, as "commerce" is defined in the Federal Trade Commission Act.

Respondent Paul B. Halstead, in his individual capacity and in his former capacity as an officer of trade associations not named herein as respondents, though not engaged in commerce himself, has been for many years engaged in cooperating as a coconspirator with the other respondents named herein in carrying out the unlawful acts in commerce as hereinafter found.

PAR. 4. The aforesaid respondents have been engaged in organizing and developing a combination, agreement, and planned common course of action to suppress and eliminate competition as to prices, and otherwise, among themselves and others, for cordage products. As steps in and toward the accomplishment of this purpose and objective, and in furtherance of and pursuant to the combination, agreement, and planned common course of action engaged in by the respondents, each of said respondents has adopted and utilized one or more of the following methods or practices:

1. Respondents have agreed to fix and maintain, and, pursuant thereto, have fixed and maintained prices.

2. Respondents have agreed to fix, modify, or eliminate, and pursuant thereto have fixed, modified, or eliminated certain trade discounts.

3. Respondents have agreed upon, adopted, and used uniform terms or conditions of sale.

4. Respondent manufacturers have agreed to reduce, and, in pursuance thereof, did reduce the number of hours or shifts for work in their respective plants for the purpose or with the effect of curtailing production in furtherance of their program of concerted action to create scarcity of their products so as to further facilitate their acts and practices of fixing, raising, pegging, and stabilizing prices.

5. Respondents have agreed to eliminate, and, in pursuance thereof, have eliminated certain grades and weights of cordage products.

6. Respondents agreed to formulate, adopt and place in operation, and, in pursuance thereof, did formulate, adopt and place in operation the practice of making uniform allowances from shipping charges.

7. Respondents have exchanged among themselves, directly and indirectly, information relating to current and future prices, terms, or conditions of sale, and freight charges and allowances or deductions which are made therefrom.

8. Respondent manufacturers have agreed to adopt, maintain, and use, and in pursuance thereof have adopted, maintained, and used uniform standards or specifications for sizes, weights, and descriptions for cordage products for pricing purposes, and have agreed to fix, establish and maintain, and, in pursuance thereof, have fixed, established, and maintained substantially uniform differentials in prices between cordage products of uniformly varying sizes, weights, and descriptions.

9. Respondents agreed to abandon, and, in pursuance thereof, did abandon the practice of guaranteeing prices against decline.

10. Respondents agreed to place in operation and did place in operation, from time to time, a plan of resale price maintenance whereby the customers of respondent manufacturers were required to sell cordage products at prices and upon terms and conditions of sale fixed by said respondents or agreed upon by or stipulated between the said respondents and their respective customers.

PAR. 5. The effects of the adoption and use by respondents of the practices and activities hereinabove found in connection with their sale of cordage products are that:

1. They stifle and eliminate price competition and restrain trade between respondents.

2. They result in substantially uniform differentials in price between products of uniformly varying sizes, weights, and descriptions.

1115

Order

3. They result in substantially identical prices, trade discounts, terms, or conditions of sale and freight allowances.

4. They result in unlawful resale price maintenance and restrain trade among respondent manufacturers' customers.

PAR. 6. The combination, conspiracy, agreements, and understandings of the respondents and the acts, practices, pricing methods, devices, and policies found herein are unfair and to the prejudice of the public; deprive the public of the benefit of competition; have dangerous tendencies and capacities to unlawfully restrain commerce in the said products; have hindered, frustrated, suppressed, and eliminated competition in said products in commerce.

CONCLUSION

The aforesaid acts and practices of respondents as hereinabove set out are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

This proceeding having been heard by a trial examiner of the Federal Trade Commission upon the complaint of the Commission and the answers of the respondents, in which respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts; and the said trial examiner having made his findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That Samson Cordage Works, a corporation, Puritan Cordage Mills, a corporation, Shuford Mills, Incorporated, a corporation, Cleveland Mill & Power Co., a corporation, Southern Mills Corp., a corporation, Rockford Manufacturing Co., a corporation, Wm. E. Hooper & Sons Co. of Baltimore City, a corporation, and Paul B. Halstead, an individual, and Bascom B. Blackwelder, an individual, their officers, directors, agents, representatives, and employees, directly or through any corporate or other device, in connection with offering for sale, sale, and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of cordage products, including cotton sash cords, awning cords, clothes lines, and other cotton cordage similarly constructed or used for substantially similar purposes as any of the foregoing, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying

out any planned common course of action, understanding, mutual agreement, combination, or conspiracy between and among any two or more of said respondents, or between any one or more of said respondents and another or others not parties hereto, to do or perform any of the following:

Fixing, establishing, or maintaining prices, discounts, terms, or conditions of sale.

Fixing, modifying, or eliminating trade discounts.

Curtailing, restricting, or regulating production by reducing the total number of work hours or by any other means.

Eliminating grades or weights of cordage products in conjunction with, pursuant to, or in furtherance of, the fixing or stabilizing of prices.

Making uniform deductions or allowances from actual shipping costs.

Establishing standards or specifications for sizes, weights, and descriptions for cordage products when the action taken or information exchanged is for the purpose of fixing or maintaining prices or differentials in prices or has the tendency to fix or maintain prices or differentials in price.

Denying purchasers the benefit of market price declines.

Exchanging, distributing, or relaying between or among the respondents, or between or among any of them, or between or among any of their representatives, agents, or employees, or through any medium or central agency the following information with respect to the business practices or sales policies of any particular respondent, to wit: Current or future prices, or terms or conditions of sale, or trade discounts, or freight charges or allowances therefrom, or price quotations submitted or to be submitted on any prospective piece of business.

It is further ordered, That the respondents herein, or any of them, their officers, representatives, agents, and employees, acting separately or in concert, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of cordage products in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into or continuing in operation any contract, agreement, or understanding with customers which provides that cordage products are not to be advertised, offered for sale, or sold by such customers at prices other than those specified or fixed by the respective respondents, acting separately or in concert.

1115

Order

It is further ordered, That nothing contained herein shall be construed to prohibit (a) any seller from independently entering into an agreement with a purchaser as to the price to be charged such purchaser, the terms or conditions of sale, trade discounts, weights, grades, standards, or specifications for cordage products, price differentials, and freight charges or allowances, independently determined and offered by either such seller or buyer and independently accepted by either such seller or buyer in any bona fide transaction, or (b) any prospective seller from making, or any prospective purchaser from receiving, an offer of sale in contemplation of a bona fide transaction between such prospective seller and prospective purchaser; provided that such agreement or offer of sale is not for the purpose nor has the effect of restraining trade.

It is further ordered, That nothing contained herein shall be construed to prohibit 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.

It is further ordered, That nothing contained herein shall be construed to affect the duty, authority, or power of the Commission to reopen this proceeding, as provided for by law, and to alter, modify, or set aside, in whole or in part, any provision of this order whenever, in the opinion of the Commission, conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That respondents, Samson Cordage Works, Puritan Cordage Mills, Shuford Mills, Inc., Cleveland Mill & Power Co., Southern Mills Corp., Rockford Manufacturing Co., Wm. E. Hooper & Sons Co. of Baltimore City, Paul B. Halstead, and Bascom B. Blackwelder 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 the order to cease and desist [as required by said declaratory decision and order of March 26, 1951].

IN THE MATTER OF
BIBB MANUFACTURING COMPANY 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 5838. Complaint, Jan. 8, 1951—Decision, Mar. 27, 1951

Where nine corporations and the former president of four concerns which were merged into one of the nine, engaged in the interstate sale and shipment of twine products, including cotton wrapping twines, sewing twines, polished twines and tobacco twines, hose cords, and other similar cotton twines; and two trade association officers who, while not engaged in commerce themselves, had for many years cooperated with the others in carrying out the unlawful acts in commerce below setout;

Engaged in organizing and developing a combination, agreement, and planned common course of action to suppress and eliminate competition among themselves and others in said products; pursuant to which they—

- (a) Agreed to and did fix and maintain prices; fix, modify, or eliminate certain trade discounts; and adhere to their respective published prices;
- (b) Agreed to and did reduce the number of hours or shifts for work in their manufacturing plants;
- (c) Agreed to and did formulate, adopt, and place in operation the practice of making uniform allowances from shipping charges;
- (d) Agreed to and did adopt and use uniform terms and conditions of sale, and abandon the practice of guaranteeing prices against decline;
- (e) Exchanged among themselves, directly and indirectly, information relating to current and future prices, terms, or conditions of sale, and freight charges and deductions therefrom; and
- (f) Agreed to and did use uniform standards for sizes, weights, and descriptions for said products, and maintain substantially uniform price differentials between products of uniformly varying sizes, weights, and descriptions;

With effect of stifling price competition among them and restraining trade and of establishing substantially uniform price differentials between products of uniformly varying sizes, weights, and descriptions; and substantially identical prices, trade discounts, terms, or conditions of sale, and freight allowances:

Held, That said combination, etc., and said acts, practices, pricing methods, devices, and policies were unfair and to the prejudice of the public; deprived it of the benefit of competition; had dangerous tendencies and capacities to unlawfully restrain commerce in said products, and suppressed and eliminated competition therein; and that said acts and practices were all to the prejudice of the public and of their competitors, and constituted unfair methods of competition in commerce.

Before *Mr. Everett F. Haycraft*, trial examiner.

Mr. Leslie S. Miller and *Mr. J. Wallace Adair* for the Commission.

Jones, Jones & Sparks, of Macon, Ga., for Bibb Manufacturing Co.

Mr. Young M. Smith, of Hickory, N. C., for Shuford Mills, Inc.

Kramer, McNabb & Greenwood, of Knoxville, Tenn., for Rockford Manufacturing Co.

Mr. John Henry Lewin and *Mr. J. Crossan Cooper, Jr.*, of Baltimore, Md., for Mt. Vernon-Woodberry Mills, Inc.

Mr. A. Milton Vance, of Houston, Tex., for Houston Cotton Mills Co.

Tillett, Campbell, Craighill & Rendleman, of Charlotte, N. C., for E. Owen Fitzsimons.

Dorr, Hammond, Hand & Dawson, of New York City, for Paul B. Halstead.

COMPLAINT

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

PARAGRAPH 1. Respondents named and described herein have combined and conspired to lessen and eliminate competition and to restrain trade in commerce, as "commerce" is defined in the Federal Trade Commission Act in the sale of "twine products," including cotton wrapping twines, sewing twines, polished twines, tobacco twines, pea twines, bean twines, hop twines, hose cords, and other cotton twines similarly constructed or used for substantially similar purposes as any of the foregoing, but not including carded sales yarn except insofar as the same may be manufactured and sold for use as twine. Respondents accomplished the combination and conspiracy herein alleged through agreements, understandings, and concerted action among themselves and with others. Each respondent named herein has used trade restraining and unfair methods and practices in furtherance of, and to make more effective, the objectives of the combination and conspiracy as alleged.

PAR. 2. The following is a description of the corporate respondents, including their respective corporate status and principal office and place of business:

1. Bibb Manufacturing Co., a Georgia corporation, Main and Water Streets, Macon, Ga.

2. Shuford Mills, Inc., a North Carolina corporation, Hickory, N. C. Shuford Mills, Inc., represents a merger of A. A. Shuford Mills

Complaint

47 F. T. C.

Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co.; said merger having become effective January 1, 1947.

3. Oakdale Cotton Mills, a North Carolina corporation, Jamestown, N. C.

4. Cleveland Mill & Power Co., a North Carolina corporation, Lawndale, N. C.

5. January & Wood Co., a Kentucky corporation, Maysville, Ky.

6. Rockford Manufacturing Co., a Tennessee corporation, Rockford, Tenn.

7. Mount Vernon-Woodberry Mills, Inc., a Maryland corporation, Mercantile Trust Building, Baltimore 2, Md.

8. Houston Cotton Mills Co., a Texas corporation, 8100 Washington Avenue, Houston, Tex.

9. Samson Cordage Works, a Massachusetts corporation, 89 Broad Street, Boston, Mass.

The following are individual respondents:

10. E. Owen Fitzsimons, an individual, Johnston Building, Charlotte, N. C., individually; said E. Owen Fitzsimons has been president and treasurer of the Carded Yarn Association, Inc., since its organization in January 1946; he has previously served as treasurer of the Carded Yarn Association, as secretary of the Carded Yarn Group, as field representative or agent of the Cotton-Textile Institute, Inc., and as an organizer, sponsor, guide, and officer of the Twine and Cordage Group of the carded yarn group of the Cotton-Textile Institute, Inc.

11. Bascom B. Blackwelder, an individual, Quaker Meadow Mills, Inc., Hildebran, N. C., individually and in his former capacity as president of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co.

12. Paul B. Halstead, an individual, 271 Church Street, New York, N. Y., individually and in his former capacity as secretary-treasurer of the Cotton-Textile Institute, Inc.

PAR. 3. All of the aforesaid respondents, with the exception of individual respondents E. Owen Fitzsimons and Paul B. Halstead, in the course and conduct of their business, have regularly sold and shipped their twine products to purchasers at points in the several States of the United States and in the District of Columbia, other than the State of origin of the shipment, in a regular current and flow of commerce, as commerce is defined in the Federal Trade Commission Act.

Because of the adoption and use of methods, practices, and policies hereinafter described, active and substantial competition between the manufacturing and selling respondents and others engaged in the manufacturing and selling of twine products has been lessened or eliminated.

Respondents, E. Owen Fitzsimons and Paul B. Halstead, in their individual capacities and in their former capacities as officers of organizations not named herein as respondents, though not engaged in commerce themselves, have been for many years engaged in cooperating as co-conspirators with the other respondents named herein in carrying out the unlawful acts in commerce, as hereinafter alleged.

PAR. 4. The aforesaid respondents have been engaged in organizing and developing a combination, agreement, and planned common course of action to suppress and eliminate competition as to prices, and otherwise, among themselves and others, for twine products. As steps in and toward the accomplishment of this purpose and objective, and in furtherance of and pursuant to the combination, agreement, and planned common course of action engaged in by the respondents, each of said respondents has adopted and utilized one or more of the following methods or practices:

1. Respondents have agreed to fix and maintain, and pursuant thereto have fixed and maintained prices.

2. Respondents have agreed to fix, modify, or eliminate, and have fixed, modified, or eliminated certain trade discounts.

3. Respondents have agreed to adhere, and in pursuance thereof have adhered, to their respective published prices.

4. Respondent manufacturers have agreed to reduce, and in pursuance thereof did reduce, the number of hours or shifts for work in their respective plants for the purpose or with the effect of curtailing production in furtherance of their program of concerted action to create scarcity of their products so as to further facilitate their acts and practices of fixing, raising, pegging, and stabilizing prices.

5. Respondents agreed to formulate, adopt, and place in operation; and, in pursuance thereof, did formulate, adopt, and place in operation the practice of making uniform allowances from shipping charges.

6. Respondents agreed upon, adopted, and used uniform terms and conditions of sale.

7. Respondents agreed to abandon, and, in pursuance thereof, did abandon the practice of guaranteeing prices against declines.

8. Respondents have exchanged among themselves, directly and indirectly, information relating to current and future prices, terms,

or conditions of sale, and freight charges and allowances or deductions which are made therefrom.

9. Respondent manufacturers have agreed to adopt, maintain, and use, and, in pursuance thereof, have adopted, maintained, and used uniform standards or specifications for sizes, weights, and descriptions for twine products for pricing purposes, and have agreed to fix, establish, and maintain, and, in pursuance thereof, have fixed, established, and maintained substantially uniform differentials in prices between twine products of uniformly varying sizes, weights, and descriptions.

PAR. 5. The effects of the adoption and use by respondents of the practices and activities hereinabove alleged in connection with their sale of twine products are that:

1. They stifle and eliminate price competition and restrain trade between respondents.

2. They result in substantially uniform differentials in price between products of uniformly varying sizes, weights, and descriptions.

3. They result in substantially identical prices, trade discounts, terms, or conditions of sale and freight allowances.

PAR. 6. The combination, conspiracy, agreements, and understandings of the respondents and the acts, practices, pricing methods, devices, and policies alleged herein are unfair and to the prejudice of the public; deprive the public of the benefit of competition; have dangerous tendencies and capacities to unlawfully restrain commerce in the said products; have hindered, frustrated, suppressed, and eliminated competition in said products in commerce and constitute unfair methods of competition and unfair or deceptive acts and practices in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act.

DECISION OF THE COMMISSION

Pursuant to rule XXII of the Commission's rules of practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance," dated March 27, 1951, the initial decision in the instant matter of trial examiner Everett F. Haycraft, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY EVERETT F. HAYCRAFT, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 8, 1951, issued and subse-

quently served its complaint in this proceeding upon the respondents Bibb Manufacturing Co., Shuford Mills, Inc., Oakdale Cotton Mills, Cleveland Mill & Power Co., January & Wood Co., Rockford Manufacturing Co., Mount Vernon-Woodberry Mills, Inc., Houston Cotton Mills Co., and Samson Cordage Works, corporations, their officers, directors, agents, representatives, and employees, and E. Owen Fitzsimons, Bascom B. Blackwelder, and Paul B. Halstead, individuals, charging them with the use of unfair methods of competition and unfair or deceptive acts or practices in commerce in violation of the provisions of said act. On January 18, 1951, respondents filed their answers in which answers they admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearings as to the said facts. Thereafter, the proceeding regularly came on for final consideration by the above-named trial examiner, theretofore duly designated by the Commission, upon said complaint and answers thereto (all intervening procedure having been waived) and said trial examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The following is a description of the corporate respondents, including their respective corporate status and principal office and place of business:

Bibb Manufacturing Co., a Georgia corporation, Main and Water Streets, Macon, Ga.

Shuford Mills, Incorporated, a North Carolina corporation, Hickory, N. C. Shuford Mills, Inc., represents a merger of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co., said merger having become effective January 1, 1947.

Oakdale Cotton Mills, a North Carolina corporation, Jamestown, N. C.

Cleveland Mill & Power Co., a North Carolina corporation, Lawn-dale, N. C.

January & Wood Co., a Kentucky corporation, Maysville, Ky.

Rockford Manufacturing Co., a Tennessee corporation, Rockford, Tenn.

Mt. Vernon-Woodberry Mills, Inc., a Maryland corporation, Mercantile Trust Building, Baltimore 2, Md.

Houston Cotton Mills Co., a Texas corporation, 8100 Washington Avenue, Houston, Tex.

Samson Cordage Works, a Massachusetts corporation, 89 Broad Street, Boston, Mass.

PAR. 2. The following is a description of the individual respondents, including their respective office and place of business:

E. Owen Fitzsimons, an individual, P. O. Box 869, Charlotte, N. C., a former president and treasurer of the Carded Yarn Association, Inc., secretary of the Carded Yarn Group, field representative of the Cotton-Textile Institute, Inc., also organizer, sponsor, guide, and officer of the Twine and Cordage Group of the Cotton-Textile Institute, Inc.

Bascom B. Blackwelder, an individual, Quaker Meadow Mills, Inc., Hildebran, N. C., a former president of A. A. Shuford Mills Co., Granite Falls Manufacturing Co., Highland Cordage Co., and Granite Cordage Co.

Paul B. Halstead, an individual, 271 Church Street, New York, N. Y., a former secretary-treasurer of the Cotton-Textile Institute, Inc.

PAR. 3. All of the aforesaid respondents, with the exception of individual respondents E. Owen Fitzsimons and Paul B. Halstead, in the course and conduct of their business, have regularly sold and shipped their twine products, including cotton wrapping twines, sewing twines, polished twines, tobacco twines, pea twines, bean twines, hop twines, hose cords, and other cotton twines similarly constructed, but not including carded sales yarn except in so far as same may be manufactured and sold for use as twine, to purchasers at points in the several States of the United States and in the District of Columbia, other than the State of origin of the shipment, in a regular current and flow of commerce, as commerce is defined in the Federal Trade Commission Act.

Respondents, E. Owen Fitzsimons and Paul B. Halstead, in their individual capacities and in their former capacities as officers of organizations not named herein as respondents, though not engaged in commerce themselves, have been for many years engaged in cooperating as co-conspirators with the other respondents named herein in carrying out the unlawful acts in commerce, as hereinafter found.

PAR. 4. The aforesaid respondents have been engaged in organizing and developing a combination, agreement, and planned common course of action to suppress and eliminate competition as to prices, and otherwise, among themselves and others, for said twine products. As

steps in and toward the accomplishment of this purpose and objective, and in furtherance of and pursuant to the combination, agreement, and planned common course of action engaged in by the respondents, each of said respondents has adopted and utilized one or more of the following methods of practices:

1. Respondents have agreed to fix and maintain, and pursuant thereto have fixed and maintained prices.

2. Respondents have agreed to fix, modify, or eliminate, and have fixed, modified, or eliminated certain trade discounts.

3. Respondents have agreed to adhere, and in pursuance thereof have adhered, to their respective published prices.

4. Respondent manufacturers have agreed to reduce, and in pursuance thereof did reduce, the number of hours or shifts for work in their respective plants for the purpose or with the effect of curtailing production in furtherance of their program of concerted action to create scarcity of their products so as to further facilitate their acts and practices of fixing, raising, pegging, and stabilizing prices.

5. Respondents agreed to formulate, adopt, and place in operation; and, in pursuance thereof, did formulate, adopt, and place in operation the practice of making uniform allowances from shipping charges.

6. Respondents agreed upon, adopted, and used uniform terms and conditions of sale.

7. Respondents agreed to abandon, and, in pursuance thereof, did abandon the practice of guaranteeing prices against decline.

8. Respondents have exchanged among themselves, directly and indirectly, information relating to current and future prices, terms, or conditions of sale, and freight charges and allowances or deductions which are made therefrom.

9. Respondent manufacturers have agreed to adopt, maintain, and use, and, in pursuance thereof, have adopted, maintained, and used uniform standards or specifications for sizes, weights, and descriptions for twine products for pricing purposes, and have agreed to fix, establish, and maintain, and, in pursuance thereof, have fixed, established, and maintained substantially uniform differentials in prices between twine products of uniformly varying sizes, weights, and descriptions.

PAR. 5. The effects of the adoption and use by respondents of the practices and activities hereinabove found in connection with their sale of twine products are that:

1. They stifle and eliminate price competition and restrain trade between respondents.

Order

47 F. T. C.

2. They result in substantially uniform differentials in price between products of uniformly varying sizes, weights and descriptions.

3. They result in substantially identical prices, trade discounts, terms or conditions of sale and freight allowances.

PAR. 6. The combination, conspiracy, agreements, and understandings of the respondents and the acts, practices, pricing methods, devices, and policies found herein are unfair and to the prejudice of the public; deprive the public of the benefit of competition; have dangerous tendencies and capacities to unlawfully restrain commerce in the said products; have hindered, frustrated, suppressed, and eliminated competition in said products in commerce.

CONCLUSION

The aforesaid acts and practices of respondents as hereinabove set out are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

This proceeding having been heard by a trial examiner of the Federal Trade Commission upon the complaint of the Commission and the answers of respondents, in which answers respondents admit certain of the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts; and the said trial examiner having made his findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act,

It is ordered, That Bibb Manufacturing Co., a corporation, Shuford Mills, Incorporated, a corporation, Oakdale Cotton Mills, a corporation, Cleveland Mill & Power Co., a corporation, January & Wood Co., a corporation, Rockford Manufacturing Co., a corporation, Mount Vernon-Woodberry Mills, Inc., a corporation, Houston Cotton Mills Co., a corporation, Samson Cordage Works, a corporation, and E. Owen Fitzsimons, an individual, Bascom B. Blackwelder, an individual, and Paul B. Halstead, an individual, their officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of twine products, including cotton wrapping twines, sewing twines, polished twines, tobacco twines, pea twines, bean twines, hop twines, hose cords, and other cotton twines similarly

construed or used for substantially similar purposes as any of the foregoing, but not including carded sales yarn except insofar as same may be manufactured and sold for use as twine, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, mutual agreement, combination, or conspiracy between and among any two or more of said respondents, or between any one or more of said respondents and another or others not parties hereto, to do or perform any of the following:

1. Fixing, establishing, or maintaining prices, discounts, terms, or conditions of sale.
2. Fixing, modifying, or eliminating trade discounts.
3. Curtailing, restricting, or regulating production by reducing the total number of work hours or by any other means.
4. Making uniform deductions or allowances from actual shipping costs.
5. Denying purchasers the benefit of market price declines.
6. Exchanging, distributing, or relaying between or among the respondents, or between or among any of them, or between or among any of their representatives, agents, or employees, or through any medium or central agency, the following information with respect to the business practices or sales policies of any particular respondent, to wit: Current or future prices, or terms or conditions of sale, or trade discounts, or freight charges or allowances therefrom, or price quotations submitted or to be submitted on any prospective piece of business.
7. Establishing standards or specifications for sizes, weights, and descriptions for twine products when the action taken or information exchanged is for the purpose of fixing or maintaining prices or differentials in prices, or has the tendency to fix or maintain prices or differentials in prices;

Provided however, That the prohibitions contained in subparagraphs 3 and 6 above shall not be applicable to nor operative against respondent, E. Owen Fitzsimons.

It is further ordered, That nothing contained herein shall be construed to prohibit (a) any seller from independently entering into an agreement with a purchaser as to the price to be charged such purchaser, the terms or conditions of sale, trade discounts, weights, grades, standards, or specifications for twine products, price differentials, and freight charges or allowances, independently determined and offered by either such seller or buyer and independently accepted by either such seller or buyer in any bona fide transaction, or (b) any pro-

Order

47 F. T. C.

spective seller from making, or any prospective purchaser from receiving, an offer of sale in contemplation of a bona fide transaction between such prospective seller and prospective purchaser; *Provided*, That such agreement or offer of sale is not for the purpose nor has the effect of restraining trade.

It is further ordered, That nothing contained herein shall be construed to prohibit 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.

It is further ordered, That nothing contained herein shall be construed to affect the duty, authority, or power of the Commission to reopen this proceeding, as provided for by law, and, as provided for by law to alter, modify, or set aside, in whole or in part, any provisions of this order whenever, in the opinion of the Commission, conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That respondents, Bibb Manufacturing Co., Shuford Mills, Inc., Oakdale Cotton Mills, Cleveland Mill & Power Co., January & Wood Co., Rockford Manufacturing Co., Mount Vernon-Woodberry Mills, Inc., Houston Cotton Mills Co., Samson Cordage Works, E. Owen Fitzsimons, Bascom B. Blackwelder, and Paul B. Halstead 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 the order to cease and desist [as required by said declaratory decision and order of March 27, 1951].

Syllabus

IN THE MATTER OF
CARTER PRODUCTS, INC., ET AL.COMPLAINT, FINDINGS, ORDER AND STATEMENT IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4970. Complaint, May 28, 1943—Decision, Mar. 28, 1951*

No rational man is opposed to advertising or to any other legitimate form of merchandising, nor is the Commission or any Commissioner or Commission employee so opposed.

The Commission is not opposed to self-medication, nor to the manufacture and sale of laxative compounds when the consumer—who is often the unjust, and sometimes tragic victim in the general field of self-medication associated with the word "laxative"—is warned and assured of protection against fraud or against any condition or practice which would be inimical to his health or which would result in the pilfering of his pocketbook.

As respects the false advertising of medicinal products, there is every reason to believe that the consumers who are victims of misrepresentation of such products are all too often the less-informed and less able to protect themselves and their pocketbooks, and that all too often, weakened by fear of illness and burdensome medical expenses, and by unemployment, they become the ready victims of those who would thus prey upon them; and the time has long passed when those engaged in the manufacture and distribution of medicinal preparations and in associated advertising must again take steps—as they did some years ago—to rid the house of those who have less regard for the truth of their representations to the public.

As regards such practices, the Commission is ready and anxious to cooperate in every way and at all times with everyone interested in protecting such honorable professions and businesses as the advertising profession, and the manufacture and distribution of medicinal preparations, from the unlawful practices of the few.

Unrestricted consumption of laxative compounds often invites injury to the health of the consumer; and the advertising columns in many publications now indicate all too clearly that the consumption of laxatives has become a fad or a craze induced by high-pressure advertising practices.

As respects the inclusion in cease and desist orders in false and misleading advertising cases of advertising agencies as involved therein and as concerned in the instant proceeding, it appearing that the Commission has included such agencies in orders on some occasions, and in others has not done so, the Commission will be asked to instruct its staff that hereafter advertising agencies will be cited in every case when the facts warrant such action.

Where a corporation engaged in the interstate sale and distribution of its Carter's Little Liver Pills through wholesale drug jobbers, chain stores, and department stores; through words, phrases, statements, and representations in advertising material, disseminated by it, directly and by implication—

(a) Represented that said preparation represented a fundamental principle of nature in self-treatment; the facts being that since laxation afforded by