

Complaint

IN THE MATTER OF

JAN-WARREN CORPORATION ET AL.

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (c) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 6073. Complaint, Dec. 15, 1952—Decision, June 25, 1953

Where three corporations with a common address and the four individuals who were their officers and owned their outstanding stock, engaged in the purchase, sale, and distribution of frozen food, frozen juices, and other food products—

- (a) Received and accepted, directly and indirectly, commissions, brokerage, or allowances, or discounts in lieu thereof, in substantial amounts from interstate sellers on purchases made by the aforesaid corporations, and by said individuals through said corporations, on food products purchased for their respective accounts for resale; and

Where said corporations and individuals—

- (b) Received and accepted directly or indirectly commissions, brokerage, or allowances or discounts in lieu thereof in substantial amounts from interstate sellers on food products purchased by said individuals and one of said corporations for the account of the other two for resale:

Held, That such acts and practices of said corporations and individuals, and each of them, individually and collectively, in receiving and accepting commissions, broker's fees, or other compensation, allowances, or discounts in lieu thereof on purchases of food products in commerce made directly or indirectly for their own accounts were in violation of subsec. (c) of Sec. 2 of the Clayton Act as amended.

Before *Mr. John Lewis*, hearing examiner.

Mr. Austin H. Forkner and *Mr. Edward S. Ragsdale* for the Commission.

Abelove, Myers & Rosenblum, of Utica, N. Y., for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the corporations and individuals named in the caption hereof (hereinafter designated respondents, and more particularly described), individually and collectively, since June 19, 1936 have violated and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act (U. S. C. Title 15, Sec. 13) as amended by the Robin-

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son-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto, as follows:

PARAGRAPH 1. Respondent Jan-Warren Corporation, is a corporation organized, existing and doing business under the laws of the State of New York, with its principle office and place of business located at 215 North Genesee Street, Utica, New York. Respondent is engaged in the business of buying, selling and distributing frozen foods, frozen juices and other food products, all of which are hereinafter designated as food products.

PAR. 2. Respondent Oneida Frozen Food Corporation, is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 215 North Genesee Street, Utica, New York. Respondent is engaged in the business of buying, selling and distributing frozen foods, frozen juices and other food products, all of which are hereinafter designated as food products.

PAR. 3. Respondent Minute Maid Representatives of New York State, Inc., is a corporation organized under the laws of the State of New York, with its principal office and place of business located at 215 North Genesee Street, Utica, New York.

Respondent is engaged in the business of buying, selling and distributing frozen juices, which are hereinafter designated as food products.

PAR. 4. Respondent, Maurice S. Levinson, is an individual residing at 105 Arlington Road, Utica, New York. He is now president of Jan-Warren Corporation and of Minute Maid Representatives of New York State, Inc., and Treasurer of Oneida Frozen Food Corporation. After becoming an officer, and at the present time, and for some time past as President and Treasurer of above named respondent corporations, said respondent together with respondent Mrs. Harriet (Maurice S.) Levinson, Earl Copeland, and Warren E. Copeland, has exercised and still exercises complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distribution policies.

PAR. 5. Respondent Mr. Harriet (Maurice S.) Levinson, is an individual residing at 105 Arlington Road, Utica, New York, and is the wife of respondent Maurice S. Levinson.

Said respondent is Vice President of Jan-Warren Corporation, and Secretary of Oneida Frozen Food Corporation. After becoming an officer, and at the present time and for some time past as President and Secretary of respective respondent corporations, respondent together with respondents Maurice S. Levinson, Earl Copeland

and Warren E. Copeland, has exercised, and still exercises, complete control over the business conducted by said respondent corporations, including the direction of their buying and selling, and distributing policies.

PAR. 6. Respondent Earl Copeland is an individual residing at 47 Emerson Avenue, Utica, New York. He is now President of Oneida Frozen Food Corporation and Treasurer of Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

After becoming an officer, and at the present time, and for some time past as President and Treasurer of the respective respondent corporations, said respondent together with respondents Warren E. Copeland, Maurice S. Levinson, and Mrs. Harriet (Maurice S.) Levinson, has exercised and still exercises, complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distributing policies.

PAR. 7. Respondent Warren E. Copeland, is an individual residing at One Allen Road, Utica, New York, and is a son of respondent Earl Copeland. Said respondent is now Vice President of Oneida Frozen Food Corporation; and Secretary of Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

After becoming an officer and at the present time, and for some time past, as Vice President and Secretary, of the respective respondent corporations, said respondent together with respondents Earl Copeland, Maurice S. Levinson and Mrs. Harriet (Maurice S.) Levinson has exercised and still exercises complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distribution policies.

PAR. 8. All of the capital stock of each of the three respondent corporations is wholly owned by four individual respondents, the two individual Levinson respondents owning 50% of the capital stock of each of the three respondent corporations, while the remaining 50% of the capital stock of each of said respondent corporations is owned by the two individual Copeland respondents.

A summary of the corporate organization of each of the three respondent corporations, together with their respective stockholders, is set out herewith:

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Officers	Jan-Warren Corporation	Oneida Frozen Food Corporation	Minute Maid Representatives of New York State, Inc.
President.....	Maurice S. Levinson.....	Earl Copeland.....	Maurice S. Levinson.
Vice President.....	Harriet Levinson.....	Warren E. Copeland.....	Warren E. Copeland.
Secretary.....	Warren E. Copeland.....	Mrs. Harriet Levinson.....	Warren E. Copeland.
Treasurer.....	Earl Copeland.....	Maurice S. Levinson.....	Earl Copeland.
Number of Shares Owned			
By:			
Maurice S. Levinson.....	50	54	750
Harriet (Maurice S.) Levinson.....		1	
Earl Copeland.....	50	54	750
Warren E. Copeland.....		1	
Total number of shares outstanding..	100	110	1,500

Respondent Jan-Warren Corporation has issued and outstanding, 100 shares of capital stock, 50 shares of which is owned by respondent Maurice S. Levinson, and the remaining 50 shares by respondent Earl Copeland.

Respondent Oneida Frozen Food Corporation, has issued and outstanding 110 shares of capital stock, 54 shares of which is owned by respondent Maurice S. Levinson and 1 share by his wife, respondent Harriet Levinson. 54 shares is owned by respondent Earl Copeland and one share by his son, respondent Warren E. Copeland.

Respondent Minute Maid Representatives of New York State, Inc., has issued and outstanding 1,500 shares of capital stock, 750 shares of which is owned by Maurice S. Levinson, and the remaining 750 shares is owned by Earl Copeland.

Thus, there is a complete interlocking stock ownership, of each of the three respondent corporations. The income received by each of the three respondent corporations is for the benefit of the respective stockholders.

PAR. 9. In the course and conduct of their business, said corporate and individual respondents, and each of them, continuously since June 19, 1936, or more particularly since January 1, 1947, made purchases of food products from sellers with places of business located in several States of the United States, other than the State where said respondents are located, and respondents, and each of them, corporate and individual, directly or indirectly caused such food products so purchased to be transported from said States to destinations in other States. There is and has been at all times mentioned herein a continuous course of trade and commerce as "commerce" is defined in the Clayton Act, as amended, in said food products, across State lines between said respondents and each of them and the sellers of said food

products. Said food products are sold and distributed for use, consumption or resale within the various States of the United States.

PAR. 10. Respondents Jan-Warren Corporation, Oneida Frozen Food Corporation, and Minute Maid Representatives of New York State, Inc., and individual respondents, and each of them through said corporate respondents, since June 19, 1936, and more particularly since January 1, 1947 have purchased food products for their own account for resale and said respondents, corporate and individual, and each of them, received and accepted, directly or indirectly, commissions, brokerage, or allowances or discounts in lieu thereof, in substantial amounts from interstate sellers on such purchases.

Respondent Jan-Warren Corporation and individual respondents and each of them through said corporate respondent since June 19, 1936, and more particularly since January 1, 1947 have purchased food products for the account of respondents Oneida Frozen Food Corporation and Minute Maid Representatives of New York State, Inc., for resale and said respondents, corporate and individual, and each of them received and accepted, directly or indirectly, commissions, brokerage, or allowances or discounts in lieu thereof in substantial amounts from interstate sellers on such purchases.

PAR. 11. The Acts and practices of respondents corporate and individual, and each of them, individually and collectively since June 19, 1936, or more particularly since January 1, 1947, in receiving and accepting commissions, brokerage fees or other compensation, allowances or discounts in lieu thereof on purchases of food products in commerce made directly or indirectly for their own account as above alleged, are in violation of subsection (c) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act.

CONSENT SETTLEMENT¹

Pursuant to the provisions of an Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, (the Clayton Act) as amended by an Act of Congress approved June 19, 1936, (the Robinson-Patman Act) (15 U. S. C. A. Section 13) the Federal Trade

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on June 25, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

Commission on December 15, 1952, issued and subsequently served its complaint on the respondents, and each of them, named in the caption hereof, charging them, and each of them, with receiving and accepting commissions, brokerage fees or other compensation, allowances or discounts in lieu thereof on purchases of food products in commerce made directly or indirectly for their own account in violation of subsection (c) of Section 2 of the Clayton Act as amended by the Robinson-Patman Act.

The respondents, and each of them, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, and review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of the answer to said complaint heretofore filed and which, upon acceptance by the Commission of this settlement, are to be withdrawn from the record, hereby:

1. Admit all the jurisdictional allegations set forth in the complaint.

2. Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, and each of them, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

3. Agree that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. That respondent Jan-Warren Corporation, is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 215 North Genesee Street, Utica, New York. Respondent is engaged in the business of buying, selling and distributing frozen

foods, frozen juices and other food products, all of which are hereinafter designated as food products.

PAR. 2. That respondent Oneida Frozen Food Corporation, is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 215 North Genesee Street, Utica, New York. Respondent is engaged in the business of buying, selling and distributing frozen foods, frozen juices and other food products, all of which are hereinafter designated as food products.

PAR. 3. That respondent Minute Maid Representatives of New York State, Inc., is a corporation organized under the laws of the State of New York, with its principal office and place of business located at 215 North Genesee Street, Utica, New York. Respondent is engaged in the business of buying, selling and distributing frozen juices, which are hereinafter designated as food products.

PAR. 4. That respondent Maurice S. Levinson is an individual residing at 105 Arlington Road, Utica, New York. He is now President of Jan-Warren Corporation and, as of the date of the complaint herein, he was also Treasurer of Oneida Frozen Food Corporation. After becoming an officer, and for some time prior to the date of the complaint, as President and Treasurer of above named respondent corporations, said respondent, together with respondents Mrs. Harriet (Maurice S.) Levinson, Earl Copeland, and Warren E. Copeland, exercised complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distribution policies. At the present time, said respondent still exercises such control over the business conducted by Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

PAR. 5. That respondent Mrs. Harriet (Maurice S.) Levinson, is an individual residing at 105 Arlington Road, Utica, New York, and is the wife of respondent Maurice S. Levinson.

That said respondent is Vice President of Jan-Warren Corporation, and, as of the date of the complaint, she was Secretary of Oneida Frozen Food Corporation. After becoming an officer, and for some time prior to the date of the complaint, as Vice President and Secretary of the respective respondent corporations, said respondent, together with respondents Maurice S. Levinson, Earl Copeland and Warren E. Copeland, exercised complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distributing policies. At the present time, said

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respondent still exercises such control over the business conducted by Jan-Warren Corporation.

PAR. 6. That respondent Earl Copeland is an individual residing at 47 Emerson Avenue, Utica, New York. He is now President of Oneida Frozen Food Corporation and as of the date of the complaint, he was Treasurer of Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

That after becoming an officer, and for some time prior to the date of the complaint, as President and Treasurer of the respective respondent corporations, said respondent, together with respondents Warren E. Copeland, Maurice S. Levinson, and Mrs. Harriet (Maurice S.) Levinson, exercised complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distributing policies. At the present time, said respondent still exercises such control over the business conducted by Oneida Frozen Food Corporation.

PAR. 7. That respondent Warren E. Copeland is an individual residing at One Allen Road, Utica, New York, and is a son of respondent Earl Copeland. Said respondent is now Vice President of Oneida Frozen Food Corporation, and, as of the date of the complaint, he was Vice President of Minute Maid Representatives of New York State, Inc. and Secretary of Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

That after becoming an officer, and for some time prior to the date of the complaint, as Vice President and Secretary of the respective respondent corporations, said respondent, together with respondents Earl Copeland, Maurice S. Levinson and Mrs. Harriet (Maurice S.) Levinson, exercised complete control over the business conducted by said respondent corporations, including the direction of their buying, selling and distribution policies. At the present time, said respondent still exercises such control over the business conducted by Oneida Frozen Food Corporation.

PAR. 8. That as of the date of the complaint all of the capital stock of each of the three respondent corporations was wholly owned by the four individual respondents, the two individual Levinson respondents owning 50 percent of the capital stock of each of the three respondent corporations, while the remaining 50 percent of the capital stock of each of said respondent corporations was owned by the two individual Copeland respondents.

That a summary of the corporate organization of each of the three respondent corporations, together with their respective stockholders, as of the date of the complaint, is set out herewith:

Findings

Officers	Jan-Warren Corporation	Oneida Frozen Food Corporation	Minute Maid Representatives of New York State, Inc.
President.....	Maurice S. Levinson.....	Earl Copeland.....	Maurice S. Levinson.
Vice President.....	Harriet Levinson.....	Warren E. Copeland.....	Warren E. Copeland.
Secretary.....	Warren E. Copeland.....	Mrs. Harriet Levinson.....	Warren E. Copeland.
Treasurer.....	Earl Copeland.....	Maurice S. Levinson.....	Earl Copeland.
Number of Shares Owned By:			
Maurice S. Levinson.....	100	54	750
Harriet (Maurice S.) Levinson.....		1	
Earl Copeland.....	100	54	750
Warren E. Copeland.....		1	
Total number of shares outstanding.	200	110	1,500

That as of the date of the complaint respondent Jan-Warren Corporation had issued and outstanding 200 shares of capital stock, 100 shares of which were owned by respondent Maurice S. Levinson, and the remaining 100 shares by respondent Earl Copeland.

That respondent Oneida Frozen Food Corporation had issued and outstanding 110 shares of capital stock, 54 shares of which were owned by respondent Maurice S. Levinson and 1 share by his wife, respondent Harriet Levinson. 54 shares were owned by respondent Earl Copeland and one share by his son, respondent Warren E. Copeland.

That as of said date respondent Minute Maid Representatives of New York State, Inc., had issued and outstanding 1,500 shares of capital stock, 750 shares of which were owned by Maurice S. Levinson, and the remaining 750 shares were owned by Earl Copeland.

That thus, as of said date, there was a complete interlocking stock ownership of each of the three respondent corporations. The income received by each of the three respondent corporations was for the benefit of the respective stockholders.

PAR. 9. That subsequent to the date of the complaint the respondents Maurice S. and Harriet Levinson did assign all of their common stock and interest in Oneida Frozen Food Corporation to the respondents Earl and Warren E. Copeland. That subsequent to the date of the complaint the respondents Earl and Warren E. Copeland did assign all of their common stock and interest in Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc., to the respondents Maurice S. and Harriet Levinson.

That as of the date hereof the respondents Maurice S. and Harriet Levinson have no interest in nor are they officers of the respondent Oneida Frozen Food Corporation.

That as of the date hereof the respondents Earl and Warren E. Copeland have no interest in nor are they officers of the respondents Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

PAR. 10. That in the course and conduct of their business, said corporate and individual respondents, and each of them, continuously since June 19, 1936, or more particularly since January 1, 1947, made purchases of food products from sellers with places of business located in several States of the United States, other than the State where said respondents are located, and respondents, and each of them, corporate and individual, directly or indirectly caused such food products so purchased to be transported from said States to destinations in other States. There is and has been at all times mentioned herein a continuous course of trade and commerce, as "commerce" is defined in the Clayton Act, in said food products, across State lines between said respondents and each of them and the sellers of said food products. Said food products are sold and distributed for use, consumption or resale within the various States of the United States.

PAR. 11. That respondents Jan-Warren Corporation, Oneida Frozen Food Corporation, and Minute Maid Representatives of New York State, Inc., and the individual respondents, and each of them through said corporate respondents, subsequent to June 19, 1936, and more particularly between January 1, 1947 and the date of the complaint, purchased food products for their respective accounts for resale, and said respondents, corporate and individual, and each of them, received and accepted, directly or indirectly, commissions, brokerage, or allowances or discounts in lieu thereof, in substantial amounts, from interstate sellers on such purchases.

That respondent Jan-Warren Corporation and the individual respondents, and each of them through said corporate respondent, subsequent to June 19, 1936, and more particularly between January 1, 1947 and the date of the complaint, purchased food products for the account of respondents Oneida Frozen Food Corporation and Minute Maid Representatives of New York State, Inc., for resale, and said respondents, corporate and individual, and each of them, received and accepted, directly or indirectly, commissions, brokerage, or allowances or discounts in lieu thereof, in substantial amounts from interstate sellers on such purchases.

PAR. 12. That the acts and practices of respondents, corporate and individual, and each of them, individually and collectively, subsequent to June 19, 1936, or more particularly between January 1, 1947

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and the date of the complaint, in receiving and accepting commissions, brokerage fees or other compensation, allowances or discounts in lieu thereof on purchases of food products in commerce made directly or indirectly for their own accounts as above found, were in violation of subsection (c) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

CONCLUSION

In receiving and accepting commissions, brokerage fees, or other compensation, allowances or discounts in lieu thereof on purchases of food products in commerce as set forth in paragraph eleven hereof, the respondents, and each of them, have violated the provisions of Section 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act.

ORDER TO CEASE AND DESIST

It is ordered, That the respondents, Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc., corporations, and their officers, and the individual respondents Maurice S. Levinson and Mrs. Harriet (Maurice S.) Levinson, individually and as officers of said corporations, and their respective representatives, agents and employees, directly or through any corporate or other device, in connection with the purchase of food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for the accounts of Jan-Warren Corporation or Minute Maid Representatives of New York State, Inc., or where the respondents Maurice S. Levinson or Mrs. Harriet (Maurice S.) Levinson, or both, are the agents, representatives or other intermediaries acting for, or in behalf of, or subject to the direct or indirect control of any buyer.

It is further ordered, That the respondent Oneida Frozen Food Corporation, a corporation, its officers, and the individual respondents Earl Copeland and Warren E. Copeland, individually and as officers of said corporation, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the purchase of food products in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from receiving or accepting, directly or indirectly, from any

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seller anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon any purchase of food products by or for the account of Oneida Frozen Food Corporation, or where the respondents Earl Copeland or Warren E. Copeland, or both, are the agents, representatives, or other intermediaries acting for, or in behalf of, or subject to the direct or indirect control of any buyer.

It is further ordered, That the respondents shall, within sixty (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.

JAN-WARREN CORPORATION,
a corporation.

By [S] MAURICE S. LEVINSON, *Pres.*
ONEIDA FROZEN FOOD CORPORATION,
a corporation.

By [S] EARL COPELAND
Pres., MINUTE MAID REPRESENTATIVES OF NEW YORK STATE, INC.,
a corporation.

By [S] MAURICE S. LEVINSON
Pres., MAURICE S. LEVINSON, individually and as *President* of Jan-Warren Corporation, and Minute Maid Representatives of New York State, Inc., and formerly Treasurer of Oneida Frozen Food Corporation.

[S] MAURICE S. LEVINSON
Maurice S. Levinson
MRS. HARRIET (MAURICE S.) LEVINSON,
individually and as *Vice President* of Jan-Warren Corporation, and formerly Secretary of Oneida Frozen Food Corporation.

[S] HARRIET C. LEVINSON
Mrs. Harriet (Maurice S.) Levinson
EARL COPELAND
individually and as *President* of Oneida Frozen Food Corporation, and formerly Treasurer of Jan-Warren Corporation and Minute Maid Representatives of New York State, Inc.

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[S] EARL COPELAND

Earl Copeland

WARREN E. COPELAND

individually and as *Vice President* of On-
eida Frozen Food Corporation, and form-
erly Vice President and Secretary of
Minute Maid Representatives of New
York State, Inc., and formerly Secretary
of Jan- Warren-Corporation.

[S] WARREN E. COPELAND

Warren E. Copeland

Date:

The foregoing consent settlement is hereby accepted by the Federal
Trade Commission and entered of record on this the 25th day of
June, 1953.

IN THE MATTER OF
SIMMONDS UPHOLSTERY CO., INC. ET AL.

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

Docket 6080. Complaint, Feb. 6, 1953—Decision, June 25, 1953

Where two corporations and their three officers, engaged in the business of reupholstering furniture and in the sale of materials therefor, in competition with others similarly engaged, under a plan whereby one of the two, with principal office in Massachusetts and with branch offices in New York, New Hampshire, Connecticut, Vermont, Rhode Island, and New Jersey, granted franchise to local upholsters in various states pursuant to which they were allowed to use the name of the other; said local upholsterers had full responsibility for production, financing, pick up and delivery, and servicing of sales of upholstering; and said granting corporation furnished them with a schedule of minimum fees, and collected from said dealers 20% of the minimum fee, and all of the amount charged over said minimum, plus a \$30.00 management fee on each upholstering job; in advertisements in newspapers, radio continuities, and other advertising media—

- (a) Represented that their business was established in 1899; when in fact it was not established until many years thereafter;
- (b) Represented that a featured price of \$59.00 for completely reupholstering a sofa and a chair was a special price and offered for a limited time only, and that a sofa and chair reupholstered for said price would be covered with beautiful fabrics with floral designs;
- When in fact the offer was not limited but was continuous; it was made only to arouse interest of prospective purchasers; their salesmen were instructed not to consummate sales at such a price, and in the rare instance where it was done, the customer's furniture was not covered with beautiful fabric with floral designs, but instead with cheap denim;
- (c) Represented that regardless of the style or condition of the furniture, they would remodel or custom build the frames; the facts being that in many instances they and their franchise representatives did not thus remodel or custom build old frames accepted by them, and in some instances replaced the old frame with an inexpensive one;
- (d) Misleadingly represented that their reupholstery work was fully guaranteed for a period of ten years, which guarantee might reasonably be interpreted as covering both workmanship and materials; when in fact it did not extend to the latter, and in many instances they did not conform thereunder even as to workmanship;
- (e) Represented that they owned and operated a seven-story factory in which the work would be done, through depiction of a large, seven-story factory building bearing their corporate name and the statement "Our 7-story fac-