

Complaint

55 F.T.C.

IN THE MATTER OF
MIDWEST WAREHOUSE DISTRIBUTORS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(f) OF THE CLAYTON ACT

Docket 6888. Complaint, Sept. 17, 1957—Decision, Sept. 24, 1958

Consent order requiring a trade association in Kansas City, Mo., and its twenty-one jobber members in eleven Midwestern States from Illinois to Colorado, to cease violating Section 2(f) of the Clayton Act by inducing and accepting illegal price advantages from their suppliers of automotive products.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of subsection (f) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Sec. 13), hereby issues its complaint stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Midwest Warehouse Distributors, Inc., hereinafter sometimes referred to as respondent MWDI, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 1801-05 Grand Avenue, Kansas City, Mo.

Respondent MWDI, although utilizing corporate form, is a membership organization, organized, maintained, managed, controlled, and operated by and for its members. The membership of respondent MWDI is composed of corporations, partnerships, and individuals whose business consists of the jobbing of automotive products and supplies.

Respondent MWDI, as constituted and operated, is known and referred to in the trade as a buying group.

Respondent Eugene T. Wanderer is the chief administrative officer of respondent MWDI, with the title of general manager. His office and principal place of business as general manager of respondent MWDI is located at 1801-05 Grand Avenue, Kansas City, Mo.

PAR. 2. The following respondent corporations and individuals,

sometimes hereinafter referred to as respondent jobbers, constitute respondent MWDI:

Respondent Auto Parts Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 3201 Locust Street, St. Louis, Mo.

The following respondent individuals are principal officers of said respondent corporation:

Walter T. Mills, president,

W. Thomas Mills, vice president.

Respondent Auto Tire & Parts Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 501 Broadway, Cape Girardeau, Mo.

The following respondent individual is a principal officer of said respondent corporation:

J. P. Tlappek, president.

Respondent Barron Motor, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Iowa, with its principal office and place of business located at 728 Third Avenue SE., Cedar Rapids, Iowa.

The following respondent individuals are principal officers of said respondent corporation:

William J. Barron, president,

William J. Barron, Jr., secretary-treasurer.

Respondent Cummings & Emerson, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 424 South Washington Street, Peoria, Ill.

The following respondent individuals are principal officers of said respondent corporation:

David C. Cummings, president,

Arthur P. Johnson, vice president.

Respondents B. Scott Reardon, Jr., and Thomas M. Reardon are copartners doing business under the firm name and style of The Dakota Iron Store, a partnership with their office and principal place of business located at 431-33 North Main Avenue, Sioux Falls, S.Dak.

Respondent Eagle Machine Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 635 East Market Street, Indianapolis, Ind.

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The following respondent individuals are principal officers of said respondent corporation:

Charles W. Yount, chairman of the board,
George W. Yount, president and general manager.

Respondent The Foster Auto Supply Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its principal office and place of business located at 550 Acoma Street, Denver, Colo.

The following respondent individuals are principal officers of said respondent corporation:

Thomas A. Foster, president,
John W. Foster, treasurer,
Robert L. Stanton, secretary.

Respondent Hermann-Brownlow Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 633 College Street, Springfield, Mo.

The following respondent individuals are principal officers of said respondent corporation:

William A. Dyche, president,
W. R. Dyche, vice president.

Respondent Fred V. Kuehn is a partner doing business under the firm name and style of Kuehn Baymiller Co., a partnership, with his office and principal place of business located at 2410 Harney Street, Omaha, Neb.

Respondent Motor Equipment Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 214 West Douglas Avenue, Wichita, Kans.

The following respondent individual is a principal officer of said respondent corporation:

George W. Huston, president.

Respondent Harry B. Eck is a sole proprietor doing business under the firm name and style Motor Service Company, with his principal office and place of business at 604 Fourth Avenue S.W., Minot, N.Dak.

Respondent John G. Moffet is a sole proprietor doing business under the firm name and style Motor Supply Company, with his principal office and place of business located at 1315 West Locust Street, Des Moines, Iowa.

Respondent Motor Supply Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the

State of Colorado, with its principal office and place of business at 607 North Santa Fe Street, Pueblo, Colo.

The following respondent individual is a principal officer of said respondent corporation:

Carl B. Campbell, president.

Respondent National Bushing & Parts Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business located at 1221 Harmon Place, Minneapolis, Minn.

The following respondent individuals are principal officers of said respondent corporation:

Alme E. Pouliot, president,

J. Raymond Riley, secretary and treasurer,

W. H. Bitting, assistant treasurer.

Respondent Paul Automotive, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 207-223 North Larch Street, Lansing, Mich.

The following respondent individual is a principal officer of said respondent corporation:

Charles S. Phillips, president.

Respondent Quanrud, Brink & Reibold, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of North Dakota, with its principal office and place of business located at 122 First Street, Bismarck, N.Dak.

The following respondent individuals are principal officers of said respondent corporation:

Alden E. Brink, president,

Theodore S. Quanrud, vice president.

Respondent Red Rooster Sales Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business located at 120 East Third Street, Grand Island, Nebr.

The following respondent individuals are principal officers of said respondent corporation:

George A. Miller, president,

Ralph Farrall, vice president,

Robert F. Day, treasurer.

Respondent Standard Battery & Electric Co., is a corporation organized, existing, and doing business under and by virtue of

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the laws of the State of Iowa, with its principal office and place of business located at 217-21 West Fifth Street, Waterloo, Iowa.

The following respondent individual is a principal officer of said respondent corporation:

Frank M. Wood, president.

Respondent Stickney's, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado, with its principal office and place of business located at 101 Main Street, Sterling, Colo.

The following respondent individuals are principal officers of said respondent corporation:

Max W. Polland, president,

Ronald J. Kent, vice president,

Clem Hoffman, vice president.

Respondent Triangle Supply Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 407 West Coates Street, Moberly, Mo.

The following respondent individuals are principal officers of said respondent corporation:

Raymond S. Eckles, secretary and treasurer,

Herbert E. Lawrence, president,

Harry Meinert, vice president.

Respondent United Wholesalers, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Iowa, with its principal office and place of business located at 623-37 Water Street, Sioux City, Iowa.

The following respondent individuals are principal officers of said respondent corporation:

Robert L. Terry, president,

Alvin U. Blackburn, secretary and treasurer.

PAR. 3. The respondent jobbers set forth in paragraph 2 have purchased and now purchase in commerce from suppliers engaged in commerce numerous automotive products and supplies for use, consumption, or resale within the United States. Respondent jobbers and said suppliers cause the products and supplies so purchased to be shipped and transported among and between the several States of the United States from the respective State or States of location of said suppliers to the respective different States or States of location of the said respondent jobbers.

PAR. 4. In the purchase and the resale of said automotive

products and supplies, respondent jobbers are in active competition with independent jobbers not affiliated with respondent MWDI; and the suppliers selling to respondent jobbers and to their independent jobber competitors are in active competition with other suppliers of similar automotive products and supplies.

PAR. 5. Respondent MWDI, since its formation in 1949, has been and is now maintained, managed, controlled, and operated by and for the respondent jobbers set forth in paragraph 2 and each said respondent has participated in, approved, furthered, and cooperated with the other respondents in the carrying out of the procedures and activities hereinafter described.

In practice and effect, respondent MWDI has been and is now serving as the medium or instrumentality by, through, or in conjunction with, which said respondent jobbers exert the influence of their combined bargaining power on the competitive suppliers hereinbefore described. As a part of their operating procedure, said respondent jobbers direct the attention of said suppliers to their aggregate purchasing power as a buying group and, by reason of such, have knowingly demanded and received, upon their individual purchases discriminatory prices, discounts, allowances, rebates, and terms and conditions of sale. Suppliers not acceding to such demands are usually replaced as sources of supply for the commodities concerned and such market is closed to them in favor of such suppliers as can be and are induced to afford the discriminatory prices, discounts, allowances, rebates, and terms and conditions of sale so demanded.

Respondent jobbers demand that those suppliers who sell their products pursuant to a quantity discount schedule shall consider their several purchases in the aggregate as if made by one purchaser and grant quantity discounts, allowances, or rebates on the resultant combined purchase volume in accordance with said suppliers' schedule. This procedure effects a discrimination in price on goods of like grade and quality between respondent jobbers and competing independent jobbers whose quantity discounts, allowances, or rebates from such suppliers are based upon only their individual purchase volumes. From other suppliers the respondent jobbers demand the payment or allowance of trade discounts, allowances, or rebates which such suppliers do not ordinarily pay or allow to jobber customers. This procedure effects a discrimination in price on goods of like grade and quality between respondent jobbers and competing independent jobbers who are not afforded such trade discounts, allowances, or rebates.

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When and if a demand is acceded to by a particular supplier, the subsequent purchase transactions between said supplier and the individual jobber respondents have been and are billed to, and paid for through, the aforesaid organizational device of respondent MWDI. Said corporate organization thus purports to be the purchaser when in truth and in fact it has been and is now serving only as agent for the several respondent jobbers and as a mere bookkeeping device for facilitating the inducement and receipt by the aforescribed respondent jobbers of the price discriminations concerned.

PAR. 6. Respondents have induced or received from their suppliers, in the manner aforescribed, favorable prices, discounts, allowances, rebates, terms and conditions of sale which they knew or should have known constituted discriminations in price prohibited by subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

PAR. 7. The effect of the knowing inducement or receipt by respondents of the discriminations in price as above alleged has been and may be substantially to lessen, injure, destroy, or prevent competition between suppliers of automotive products and supplies and between respondent jobbers and independent jobbers.

PAR. 8. The foregoing alleged acts and practices of respondents in knowingly inducing or receiving discriminations in price prohibited by subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, are in violation of subsection (f) of Section 2 of said Act.

Mr. Francis C. Mayer and *Mr. William W. Rogal* for the Commission.

Mr. Henry J. Plagens, of Kansas City, Mo., for respondents.

INITIAL DECISION BY FRANK HIER, HEARING EXAMINER

Pursuant to the provisions of subsection (f) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C., Title 15, Sec. 13), the Federal Trade Commission on September 17, 1957, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On April 3, 1958, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order. By the terms of said agreement, respondents admit all the jurisdictional facts alleged in the complaint and agree that the

record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. By such agreement, respondents waive any further procedural steps before the hearing examiner and the Commission; waive the making of findings of fact and conclusions of law; and waive all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with its agreement. Such agreement further provides that it disposes of all of this proceeding as to all parties; that the record on which this initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the latter shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents, and, when so entered, it shall have the same force and effect as if entered after a full hearing, and may be altered, modified, or set aside in the manner provided for other orders; and that the complaint may be used in construing the terms of the order.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued.

1. Respondent Midwest Warehouse Distributors, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 1801-05 Grand Avenue, in the city of Kansas City, State of Missouri.

Respondent Eugene T. Wanderer is the general manager of respondent Midwest Warehouse Distributors, Inc. His office and principal place of business as manager of respondent Midwest Warehouse Distributors, Inc., is located at 1801-05 Grand Avenue, Kansas City, Mo.

Respondent Auto Parts Company is a corporation existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 3201 Locust Street, in the city of St. Louis, State of Missouri.

Respondents Walter T. Mills and W. Thomas Mills are presi-

dent and vice president, respectively, of respondent Auto Parts Company. Their office and principal place of business as officers of respondent Auto Parts Company is located at 3201 Locust Street, St. Louis, Mo.

Respondent Auto Tire & Parts Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 501 Broadway, in the city of Cape Girardeau, State of Missouri.

Respondent J. P. Tlappek is the president of respondent Auto Tire & Parts Co., Inc. His office and principal place of business as president of respondent Auto Tire & Parts Co., Inc., is located at 501 Broadway, Capt Girardeau, Mo.

Respondent Barron Motor, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 728 Third Avenue SE, in the city of Cedar Rapids, State of Iowa.

Respondents William J. Barron and William J. Barron, Jr., are president and secretary-treasurer, respectively, of respondent Barron Motor, Inc. Their office and principal place of business as officers of respondent Barron Motor, Inc., is located at 728 Third Avenue SE, Cedar Rapids, Iowa.

Respondent Cummings & Emerson, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 424 South Washington Street, in the city of Peoria, State of Illinois.

Respondents David C. Cummings and Arthur P. Johnson are president and vice president, respectively, of respondent Cummings & Emerson, Inc. Their office and principal place of business as officers of respondent Cummings & Emerson, Inc., is located at 424 South Washington Street, Peoria, Ill.

Respondents B. Scott Reardon, Jr., and Thomas M. Reardon are copartners doing business under the firm name and style of The Dakota Iron Store, a partnership, with their office and principal place of business located at 431-33 North Main Avenue, Sioux Falls, S. Dak.

Respondent Eagle Machine Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Indiana, with its office and principal place of business located at 635 East Market Street, in the city of Indianapolis, State of Indiana.

Respondents Charles W. Yount and George W. Yount are chairman of the board, and president and general manager, respectively, of respondent Eagle Machine Co., Inc. Their office and principal place of business as officers of respondent Eagle Machine Co., Inc., is located at 635 East Market Street, Indianapolis, Ind.

Respondent The Foster Auto Supply Company is a corporation existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 550 Acoma Street, in the city of Denver, State of Colorado.

Respondents Thomas A. Foster, John W. Foster and Robert L. Stanton are president, treasurer and secretary, respectively, of respondent The Foster Auto Supply Company. Their office and principal place of business as officers of respondent The Foster Auto Supply Company is located at 550 Acoma Street, Denver, Colo.

Respondent Hermann-Brownlow Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 633 College Street, in the city of Springfield, State of Missouri.

Respondents William A. Dyche and W. R. Dyche are president and vice president, respectively, of respondent Hermann-Brownlow Co., Inc. Their office and principal place of business as officers of respondent Hermann-Brownlow Co., Inc., is located at 633 College Street, Springfield, Mo.

Respondent Fred V. Kuehn is a partner doing business under the firm name and style of Kuehn Baymiller Co., a partnership, with his office and principal place of business located at 2410 Harney Street, Omaha, Nebr.

Respondent Motor Equipment Company is a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 214 West Douglas Avenue, in the city of Wichita, State of Kansas.

Respondent George W. Huston is the president of respondent Motor Equipment Company. His office and principal place of business as president of respondent Motor Equipment Company is located at 214 West Douglas Avenue, Wichita, Kans.

Respondent Harry B. Eck is a sole proprietor doing business under the firm name and style Motor Service Company, with his

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principal office and place of business at 604 Fourth Avenue SW, Minot, N. Dak.

Respondent John G. Moffet is a sole proprietor doing business under the firm name and style Motor Supply Company, with his principal office and place of business located at 1315 West Locust Street, Des Moines, Iowa.

Respondent Motor Supply Co. is a corporation existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 607 North Santa Fe Street, in the city of Pueblo, State of Colorado.

Respondent Carl B. Campbell is the president of respondent Motor Supply Co. His office and principal place of business as president of respondent Motor Supply Co. is located at 607 North Santa Fe Street, Pueblo, Colo.

Respondent National Bushing & Parts Co. is a corporation existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at 1221 Harmon Place, in the city of Minneapolis, State of Minnesota.

Respondents Alme E. Pouliot, J. Raymond Riley and W. H. Bitting are president, secretary and treasurer, and assistant treasurer, respectively, of respondent National Bushing & Parts Co. Their office and principal place of business as officers of respondent National Bushing & Parts Co. is located at 1221 Harmon Place, Minneapolis, Minn.

Respondent Paul Automotive, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 207-223 North Larch Street, in the city of Lansing, State of Michigan.

Respondent Charles S. Phillips is the president of respondent Paul Automotive, Inc. His office and principal place of business as president of respondent Paul Automotive, Inc., is located at 207-223 North Larch Street, Lansing, Mich.

Respondent Quanrud, Brink & Reibold, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of North Dakota, with its office and principal place of business located at 122 First Street, in the city of Bismarck, State of North Dakota.

Respondents Alden E. Brink and Theodore S. Quanrud are president and vice president, respectively, of respondent Quanrud,

Brink & Reibold, Inc. Their office and principal place of business as officers of respondent Quanrud, Brink & Reibold, Inc., is located at 122 First Street, Bismarck, N. Dak.

Respondent Red Rooster Sales Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Nebraska, with its office and principal place of business located at 120 East Third Street, in the city of Grand Island, State of Nebraska.

Respondents George A. Miller, Ralph Farrall and Robert F. Day are president, vice president and treasurer, respectively, of respondent Red Rooster Sales Co., Inc. Their office and principal place of business as officers of respondent Red Rooster Sales Co., Inc., is located at 120 East Third Street, Grand Island, Nebr.

Respondent Standard Battery & Electric Co. is a corporation existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 217-21 West Fifth Street, in the city of Waterloo, State of Iowa.

Respondent Frank M. Wood is the president of respondent Standard Battery & Electric Co. His office and principal place of business as president of respondent Standard Battery & Electric Co., is located at 217-21 West Fifth Street, Waterloo, State of Iowa.

Respondent Stickney's, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 101 Main Street, in the city of Sterling, State of Colorado.

Respondent Max W. Polland is the president and respondents Ronald J. Kent and Clem Hoffman are the vice presidents of respondent Stickney's, Inc. Their office and principal place of business as officers of respondent Stickney's, Inc., is located at 101 Main Street, Sterling, Colo.

Respondent Triangle Supply Co., Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 407 West Coates Street, in the city of Moberly, State of Missouri.

Respondents Raymond S. Eckles, Herbert E. Lawrence and Harry Meinert are secretary and treasurer, president and vice president, respectively, of respondent Triangle Supply Co., Inc. Their office and principal place of business as officers of respondent Triangle Supply Co., Inc., is located at 407 West Coates Street, Moberly, Mo.

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Respondent United Wholesalers, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 623-37 Water Street, in the city of Sioux City, State of Iowa.

Respondents Robert L. Terry and Alvin U. Blackburn are president, and secretary and treasurer, respectively, of respondent United Wholesalers, Inc. Their office and principal place of business as officers of respondent United Wholesalers, Inc., is located at 623-37 Water Street, Sioux City, Iowa.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

ORDER

It is ordered, That respondents Midwest Warehouse Distributors, Inc., a corporation, and Eugene T. Wanderer, individually and as general manager; Auto Parts Company, a corporation, and Walter T. Mills and W. Thomas Mills, individually and as officers; Auto Tire & Parts Co., Inc., a corporation, and J. P. Tlappek, individually and as an officer; Barron Motor, Inc., a corporation, and William J. Barron and William J. Barron, Jr., individually and as officers; Cummings & Emerson, Inc., a corporation, and David C. Cummings and Arthur P. Johnson, individually and as officers; B. Scott Reardon, Jr., and Thomas M. Reardon, copartners doing business under the firm name and style of The Dakota Iron Store; Eagle Machine Co., Inc., a corporation, and Charles W. Yount and George W. Yount, individually and as officers; The Foster Auto Supply Company, a corporation, and Thomas A. Foster, John W. Foster, and Robert L. Stanton, individually and as officers; Hermann-Brownlow Co., Inc., and William A. Dyche and W. R. Dyche, individually and as officers; Fred V. Kuehn, a partner trading under the firm name and style of Kuehn Baymiller Co., a partnership; Motor Equipment Company, a corporation, and George W. Huston, individually and as an officer; Harry B. Eck, doing business under the firm name and style of Motor Service Company, a sole proprietorship; John G. Moffet, doing business under the firm name and style of Motor Supply Company, a sole proprietorship; Motor Supply Co., a corporation, and Carl B. Campbell, individually and as an officer; National Bushing & Parts Co., a corporation, and Alme E. Pouliot, J. Raymond Riley and W. H. Bitting, individually and as officers; Paul Automotive, Inc., a corporation, and Charles S. Phillips, individually and as an officer; Quanrud,

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Brink & Reibold, Inc., a corporation, and Alden E. Brink, and Theodore S. Quanrud individually and as officers; Red Rooster Sales Co., Inc., a corporation, and George A. Miller, Ralph Farrall, and Robert F. Day, individually and as officers; Standard Battery & Electric Co., a corporation, and Frank M. Wood, individually and as an officer; Stickney's, Inc., a corporation, and Max W. Polland, Ronald J. Kent and Clem Hoffman, individually and as officers; Triangle Supply Co., Inc., a corporation, and Raymond S. Eckles, Herbert E. Lawrence, and Harry Meinert, individually and as officers; United Wholesalers, Inc., a corporation, and Robert L. Terry and Alvin U. Blackburn, individually and as officers, their officers, agents, representatives and employees in connection with the offering to purchase or purchase of any automotive products or supplies in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Knowingly inducing or knowingly receiving or accepting any discrimination in the price of such products and supplies, by directly or indirectly inducing, receiving, or accepting from any seller a net price known by respondents to be below the net price at which said products and supplies of like grade and quality are being sold by such seller to other customers, where the seller is competing with any other seller for respondents' business, or where respondents are competing with other customers of the seller.

For the purpose of determining "net price" under the terms of this order, there shall be taken into account discounts, rebates, allowances, deductions or other terms and conditions of sale by which net prices are effected.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 24th day of September 1958, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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 the order to cease and desist.

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IN THE MATTER OF
THE AMERICAN NATIONAL RETAIL JEWELERS
ASSOCIATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6986. Complaint, Dec. 13, 1957—Decision, Sept. 24, 1958

Consent order requiring a trade association and its over 6,000 retail jeweler members throughout the United States, to cease concertedly fixing, maintaining, or enhancing profit margins or prices of silverware products.

Mr. Rufus E. Wilson, Mr. Ross D. Young, and Mr. James R. Fruchterman for the Commission.

Philip E. Hoffman, Esq., New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of §5 of the Federal Trade Commission Act.

On July 30, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents signatory thereto, their counsel, and counsel supporting the complaint, under date of July 29, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent The American National Retail Jewelers Association, referred to herein sometimes as respondent ANRJA, is an incorporated trade association existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 551 Fifth Avenue in the city of New York, State of New York.

Respondent Charles M. Isaac is executive vice president of respondent The American National Retail Jewelers Association