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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

and has his office at 551 Fifth Avenue in the city of New York, State of New York.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 13, 1957, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on each respondent.

3. 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.

4. This agreement disposes of all of this proceeding as to all parties. Respondents Leo F. Henebry, Oscar Kind, Jr., Maurice Adelsheim, William H. Shreve, and Allen Davidson were named in the complaint as officers of the respondent association, and as individuals representative of the entire membership of said association. The order to cease and desist in this agreement is not directed to these named individual respondents or the membership of the respondent association as said association is being dissolved after being consolidated with a new association, as hereinafter described in paragraph 9. In the opinion of counsel supporting the complaint, adequate relief can be secured in this proceeding by an order directed to the respondent association, its successor association, their officers, respondent Charles M. Isaac as the executive vice president of both respondent association and its successor, and said respondents' agents, representatives and employees. Therefore, it is believed that the complaint herein should be dismissed as to respondents Leo F. Henebry, Oscar Kind, Jr., Maurice Adelsheim, William H. Shreve, and Allen Davidson, as individuals. The term respondent, as used hereinafter, will not include these named individual respondents.

5. Respondents waive:

- (a) Any further procedural steps before the hearing examiner and the Commission;
- (b) The making of findings of fact or conclusions of law; and
- (c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record

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unless and until it becomes a part of the decision of the Commission.

8. This 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.

9. Respondent ANRJA is now in the process of being dissolved, such dissolution having been authorized and directed by its membership on or about January 31, 1958. Sometime prior thereto, on or about June 12, 1957, a tripartite agreement between respondent American National Retail Jewelers Association, National Jewelers Association, a Michigan corporation, and Retail Jewelers of America, Inc., was entered into whereby respondent ANRJA and the National Jewelers Association, with the consent of their memberships, would transfer all of their assets and entire memberships to, and become a part of, the Retail Jewelers of America, Inc. This agreement, calling for consolidation with the retail Jewelers of America, Inc., was ratified by two-thirds of respondent's membership and is now in effect. The Retail Jewelers of America, Inc., a New York corporation, has its headquarters and principal place of business located at 551 Fifth Avenue, New York, N.Y. The Retail Jewelers of America, Inc., hereby stipulates and agrees that it is the successor corporation to respondent The American National Retail Jewelers Association, and further stipulates and agrees that said corporation, as the successor to respondent corporation, will accept the terms and conditions of the consent settlement herein set forth and that it, together with its officers and assigns, are to be and will be bound by the provisions of the order to cease and desist contained herein, in all respects as is respondent The American National Retail Jewelers Association and authorizes its president to execute this consent agreement accordingly.

10. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered, it shall have the same force and effect as if entered after full hearing. It may be altered, modified, or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," said agreement is hereby approved and accepted and is ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from the

complaint and the said agreement that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states legal causes for complaint under the Federal Trade Commission Act against each of the respondents but as to respondents Leo F. Henebry, Oscar Kind, Jr., Maurice Adelsheim, William H. Shreve, and Allen Davidson, as individuals, the complaint should be dismissed in accordance with the said agreement; that this proceeding is in the interest of the public; and that said order, therefore, should be and hereby is entered as follows:

ORDER

It is ordered, That respondent, The American National Retail Jewelers Association, an incorporated trade association, and its successors and assigns, either directly or through their respective officers, agents, representatives and employees, and respondent Charles M. Isaac as executive vice-president of the American National Retail Jewelers Association or as an officer of said association's successors or assigns, in connection with the offering for sale, sale or distribution of silverware in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Entering into, maintaining, or carrying out any planned common course of action, agreement, understanding, combination or conspiracy, with each other or with any other person, persons, association or corporation, to fix, maintain, or enhance the profit margins or prices of silverware products.

It is further ordered, That the complaint in this matter be, and hereby is, dismissed as to the following named individuals: Leo F. Henebry, Oscar Kind, Jr., Maurice Adelsheim, William H. Shreve and Allen Davidson.

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 above-named respondents except respondents Leo F. Henebry, Oscar Kind, Jr., Maurice Adelsheim, William H. Shreve, and Allen Davidson, as individuals, shall,

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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.

Complaint

IN THE MATTER OF
GUARANTEED PARTS CO., INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(a) OF THE CLAYTON ACT*Docket 6987. Complaint, Dec. 13, 1957—Decision, Sept. 24, 1958*

Consent order requiring a manufacturer of automotive ignition replacement parts, in Seneca Falls, N.Y., which sold to some 300 wholesalers throughout the United States, many of them banded together in buying groups, to cease discriminating in price in violation of Section 2(a) of the Clayton Act by means of a discount schedule (ranging from 3 percent to 20 percent, depending on annual purchases) under which smaller independent wholesalers paid higher prices than their competitors buying in greater volume; and by giving members of buying groups discounts of 20 percent to 30 percent without regard to their annual purchases, thereby favoring them over the small independents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described has violated and is now violating the provisions of subsection (a) 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. Guaranteed Parts Co., Inc., respondent herein, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located in Seneca Falls, N.Y.

PAR. 2. Respondent is engaged in the business of manufacturing and selling automotive ignition replacement parts. Respondent's total sales in 1956 exceeded \$1,000,000.

Respondent sells and distributes said automotive replacement parts from its principal place of business in Seneca Falls, N.Y., to approximately 300 automotive replacement parts wholesalers located throughout the United States and in the District of Columbia. Respondent in the sale of such parts has at all times relevant herein been and now is engaged in commerce, as "commerce," is defined in the amended Clayton Act.

PAR. 3. Among respondent's approximately 300 wholesaler