

## Complaint

## IN THE MATTER OF

## PAPERMAKERS FELT ASSOCIATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-828. Complaint, Sept. 9, 1964—Decision, Sept. 9, 1964*

Consent order requiring a trade association of papermakers felts and its members to cease conspiring to fix and maintain prices and terms of sale, using a zone pricing system, requiring customers to accept shipments within specified times, and engaging in other trade restraints.

## COMPLAINT

The Federal Trade Commission, having reason to believe that the respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating Section 5 of the Federal Trade Commission Act (U.S.C., Title 15, Section 45), 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 with respect thereto as follows:

PARAGRAPH 1. Respondent Papermakers Felt Association, hereinafter sometimes referred to as the "respondent association," is an unincorporated trade association, with its principal office and place of business located at 1215 Unity Street, Philadelphia, Pennsylvania, having as its members the respondent manufacturers hereinafter described, and has been in continuous existence since the year 1924.

Respondent Albany Felt Company is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at 1373 Broadway, Albany, New York, and is, and continuously has been, a member of respondent association since the year 1924.

Respondent Appleton Mills is a corporation organized and existing under the laws of the State of Wisconsin, with its principal office and place of business located at 614 South Oneida Street, Appleton, Wisconsin, and is, and continuously has been, a member of respondent association since the year 1924.

Respondent Draper Brothers Company is a corporation organized and existing under the laws of the State of Massachusetts, with its principal office and place of business located at 23 Draper Lane, Canton, Massachusetts, and is, and continuously has been, a member of respondent association since the year 1924.

Respondent Huyck Corporation is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Rensselaer, New York, and is, and continuously has been, a member of respondent association since the year 1924.

Respondent The Knox Woolen Company is a corporation organized and existing under the laws of the State of Maine, with its principal office and place of business located at 33 Mechanic Street, Camden, Maine, and is, and continuously has been, a member of respondent association since the year 1924.

Respondent Lockport Felt Company, Inc., is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Newfane, New York, and is and continuously has been, a member of respondent association since the year 1924.

Respondent The Orr Felt & Blanket Company is a corporation organized and existing under the laws of the State of Ohio, with its principal office and place of business located at Piqua, Ohio, and is, and continuously has been, a member of respondent association since the year 1924.

Respondent The Philadelphia Felt Company is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 1215 Unity Street, Philadelphia, Pennsylvania, and is, and continuously has been a member of respondent association since the year 1929.

Respondent Porritts & Spencer (U.S.A.), Inc., is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Skaneateles Falls, New York, and is, and continuously has been, a member of respondent association since the year 1960. In July 1960, Porritts & Spencer (U.S.A.), Inc., acquired the assets, good will and business of The Waterbury Felt Company, a corporation that had been a member of respondent association from the year 1924 to the year 1960, and continued the membership of the acquired company in said association.

Respondent H. Waterbury & Sons Company is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Oriskany, New York, and is, and continuously has been, a member of respondent association since the year 1927.

Respondents Paul Benninghofen and Charles C. Shuler are the active general partners of Shuler & Benninghofen, a partnership, with their office and principal place of business located at 2346 Pleasant

Avenue, Hamilton, Ohio. The said partnership and its active general partners are, and continuously have been, members of respondent association since the year 1924.

All of the respondents named herein, other than respondent Papermakers Felt Association, are sometimes collectively referred to hereinafter as "respondent manufacturers".

PAR. 2. Respondent manufacturers, either directly or through operating divisions, are engaged in the manufacture, sale and distribution of papermakers felts.

Papermakers felts are used in the paper, paperboard and related product industries; they may be either needled or woven; they may be made of either wool or synthetic fibers or a combination thereof; and they may or may not be chemically treated. Papermakers felts are used on the wet end of the papermaking machine to remove water from the wet sheet or pulp. No paperboard or related products can be manufactured without the use of papermakers felts.

Papermakers felts are sold by respondent manufacturers directly to paper mills, paperboard mills and manufacturers in related industries. These customers are located throughout the United States. Hereinafter the term "papermakers felts" will be used to include both needled and woven papermakers felts. Total industry sales of papermakers felts in recent years have been substantial with woven papermakers felts constituting about 90% of such total. In the year 1962 sales of papermakers felts amounted to approximately \$50,000,000.

PAR. 3. Respondent Papermakers Felt Association is a trade association whose membership includes all of the aforesaid respondent manufacturers, as well as Drycor Felt Company, Inc., not named herein as a respondent. Respondent association has been and now is engaged through its committees and operating units in a wide range of activities of mutual interest to its members including standardization programs, traffic and transportation problems, tariff problems, collection and distribution of information on wool markets, credit problems, and other manufacturing distribution and sales procedures.

PAR. 4. Respondent manufacturers maintain, and at all times mentioned herein have maintained, either directly or indirectly, a substantial and continuous course of trade in woven papermakers felts in commerce, as "commerce" is defined in the Federal Trade Commission Act, between and among the various States of the United States. Respondent association has been and now is engaged in aiding and abetting respondent manufacturers in placing in effect and carrying out the unlawful methods, acts and practices as alleged herein, which have directly and substantially interfered with and prevented or

tended to prevent competition in such "commerce," between and among said respondent manufacturers and others.

PAR. 5. Respondent manufacturers and Drycor Felt Company, Inc. comprise the entire papermakers felt industry in the United States, and said manufacturers are in substantial competition with each other in the manufacture, sale, processing and distribution of woven papermakers felts, except to the extent that such competition, actual and potential, has been hindered, lessened, restricted and eliminated by the unfair methods of competition and unfair acts and practices hereinafter set forth.

PAR. 6. Respondent manufacturers, either directly or indirectly, acting between and among themselves and through and by means of respondent association, have for many years last past and continuing to the present time, maintained and do now maintain and have placed in effect and are carrying out an understanding, agreement, conspiracy or combination to pursue, and they have pursued, and are now pursuing a planned common course of action between and among themselves to adopt, engage in and carry out certain practices and policies to hinder, lessen, restrict, restrain, suppress or eliminate competition in the manufacture, distribution and sale of woven papermakers felts in the course of the aforesaid commerce.

Pursuant to, and as a part of said agreement, understanding, conspiracy, combination or planned common course of action, and in furtherance thereof, respondents have adopted, engaged in and carried out the following acts, practices, methods, systems and policies, among others:

(a) Fixed or caused to be fixed or maintained or caused to be maintained arbitrary, artificial or rigid prices of woven papermakers felts.

(b) Fixed or caused to be fixed or maintained or caused to be maintained uniform terms and conditions of sale of woven papermakers felts.

(c) Adopted or maintained a uniform single zone delivered price system through the use of which all respondent manufacturers are enabled to and do offer for sale and sell woven papermakers felts at identical or substantially identical prices to any destination in the United States, regardless of the point of origin of shipment of said products.

(d) Adopted, fixed or maintained or caused to be adopted, fixed or maintained standard classifications and weight limits for different types or grades of woven papermakers felts for the purpose or with the effect of fixing, establishing or maintaining identical or substantially identical prices and price quotations, terms or conditions of sale

and delivery affecting prices at which woven papermakers felts are sold or offered for sale.

(e) Fixed or maintained or caused to be fixed or maintained arbitrary or artificial minimum prices for treatments used in connection with the manufacture of woven papermakers felts.

(f) Adopted, maintained and carried out a policy to limit, restrict, control or prevent, and did limit, restrict, control or prevent the development, manufacture, production, offering for sale or sale of woven papermakers felts.

(g) Established or maintained or caused to be established or maintained a policy to require customers to accept shipment of woven papermakers felts within specified periods of time from the date of entry of an order.

Furthermore, as part of, and in order to effectuate and carry out said agreement, understanding, conspiracy, combination or planned course of action and the aforescribed policies:

(1) Respondent manufacturers, with the active cooperation and assistance of respondent association, have communicated between and among themselves and with respondent association, through correspondence, so-called "broadcasts," telephone, telegraph and otherwise, confidential and other information concerning past, current and future prices and price quotations, terms and conditions of sale, delivery and production which have been and now are or are to be quoted and charged by said respondents to purchasers or prospective purchasers of woven papermakers felts. Through and by means of such acts, practices and methods, all respondent manufacturers are enabled to keep informed and have knowledge and understanding of the prices and pricing factors and policies expected to be, and which have been, and are being used by each of the respondent manufacturers in the sale, or offering for sale, of woven papermakers felts.

(2) Respondent manufacturers, with the active co-operation and assistance, through meetings and otherwise, of respondent association, have planned, adopted and carried out certain programs and policies for the purpose and with the effect of fixing, establishing and maintaining identical or substantially identical prices and price quotations, terms and conditions of sale, delivery and production and other factors affecting prices at which woven papermakers felts are sold or offered for sale by such respondent manufacturers.

(3) Respondent manufacturers have held and continue to hold meetings from time to time under the auspices and supervision of respondent association, during the course of which, and at other times, said trade association has cooperated with and assisted, and continues

to cooperate with and assist said respondent manufacturers in furthering and carrying out the unlawful acts, practices, and methods set forth herein.

PAR. 7. The agreements, understandings, conspiracy, combination or planned common course of action and the acts, practices, methods and policies, as hereinabove alleged are all singularly unfair and to the prejudice of the public and against public policy because of their dangerous tendency unduly to hinder competition and to restrain and monopolize trade and commerce and thereby constitute unfair methods of competition and unfair acts or practices in commerce within the meaning of Section 5 of the Federal Trade Commission Act, as amended.

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Papermakers Felt Association is an unincorporated trade association with its principal office and place of business located at 1215 Unity Street, Philadelphia, Pennsylvania.

Respondent Albany Felt Company is a corporation organized and existing under the laws of the State of New York with its principal office and place of business located at 1373 Broadway, Albany, New York.

Respondent Appleton Mills is a corporation organized and existing under the laws of the State of Wisconsin with its principal office and place of business located at 614 South Oneida Street, Appleton, Wisconsin.

Respondent Draper Brothers Company is a corporation organized and existing under the laws of the State of Massachusetts with its principal office and place of business located at 23 Draper Lane, Canton, Massachusetts.

Respondent Huyck Corporation is a corporation organized and existing under the laws of the State of New York with its principal office and place of business located at Rensselaer, New York.

Respondent The Knox Woolen Company is a corporation organized and existing under the laws of the State of Maine with its principal office and place of business located at 33 Mechanic Street, Camden, Maine.

Respondent Lockport Felt Company, Inc., is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Newfane, New York.

Respondent The Orr Felt & Blanket Company is a corporation organized and existing under the laws of the State of Ohio, with its principal office and place of business located at Piqua, Ohio.

Respondent The Philadelphia Felt Company is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal office and place of business located at 1215 Unity Street, Philadelphia, Pennsylvania.

Respondent Porritts & Spencer (U.S.A.) Inc., is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Skaneateles Falls, New York.

Respondent H. Waterbury & Sons Company is a corporation organized and existing under the laws of the State of New York, with its principal office and place of business located at Oriskany, New York.

Respondents Paul Benninghofen and Charles C. Shuler are the active general partners of Shuler & Benninghofen, a partnership, with their office and principal place of business located at 2346 Pleasant Avenue, Hamilton, Ohio.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

## I

*It is ordered,* That respondents Papermakers Felt Association, an unincorporated trade association; Albany Felt Company, a corporation; Appleton Mills, a corporation; Draper Brothers Company, a corporation; Huyck Corporation, a corporation; The Knox Woolen

Company, a corporation; Lockport Felt Company, Inc., a corporation; The Orr Felt & Blanket Company, a corporation; The Philadelphia Felt Company, a corporation; Porritts & Spencer (U.S.A.), Inc., a corporation; H. Waterbury & Sons Company, a corporation; and Paul Benninghofen and Charles C. Shuler, individually, and as partners trading and doing business as Shuler & Benninghofen, and their respective officers, agents, representatives, employees, successors or assigns, directly or through any corporate or other device in connection with the manufacture, offering for sale, sale or distribution of papermakers felts in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any combination, conspiracy, agreement, understanding, or planned common course of action between or among any two or more of said respondents, or between any one or more of said respondents and others not parties hereto, to do or perform any of the following acts or practices:

1. Fixing or maintaining prices of papermakers felts;
2. Fixing or maintaining uniform terms or conditions of sale of papermakers felts;
3. Adopting or maintaining a uniform single zone delivered pricing system or any system through which prices of papermakers felts are equalized at destination without regard to actual shipping cost;
4. Adopting, fixing or maintaining standard classifications or weight limits for types or grades of papermakers felts for the purpose or with the effect of fixing, establishing or maintaining prices or price quotations, terms or conditions of sale and delivery;
5. Fixing or maintaining prices for treatments used in connection with the manufacture of papermakers felts;
6. Limiting, restricting, controlling or preventing the development, manufacture, production, distribution, offering for sale or sale of papermakers felts;
7. Establishing or maintaining any policy to require any customer to accept shipment of papermakers felts within any specified period of time;
8. Exchanging, distributing or circulating any information between or among respondents concerning prices, discounts, terms or conditions of sale, or any other pricing policies of papermakers felts, other than credit information not constituting a term or condition of sale.

## II

*It is further ordered,* That each respondent manufacturer shall, within ninety (90) days after the date of service of this Order, individually and independently, revise its prices and pricing systems and policies on woven papermakers felts in the following manner:

1. Review its prices, price lists, discounts, terms and conditions of sale, and pricing systems and policies, on the basis of its own costs, the margin of profit individually desired, and other lawful considerations;

2. Withdraw its presently effective prices, price lists, discounts, terms and conditions of sale and pricing systems;

3. Establish new prices, price lists, discounts and terms and conditions of sale determined under (1) immediately above, which prices shall become effective not later than ninety (90) days after the date of service of this Order. Nothing contained herein shall prevent any respondent acting independently, from thereafter deviating from, modifying or otherwise changing the established new prices, price lists, discounts, terms or conditions of sale for any lawful purpose;

4. In the event any prices, price lists, discounts, or terms or conditions of sale established pursuant to this Order are changed within the period of two (2) years following their adoption, the respondent making such change shall have the burden of establishing, for a period of three (3) years, that such change was made in good faith to meet a competitive pricing situation or for any lawful purpose.

## III

*It is further ordered,* That each of the respondent manufacturers, its officers, representatives, agents, employees, successors or assigns, directly or through any corporate or other device, in connection with the offering for sale, distribution or sale of papermakers felts in interstate commerce, do forthwith cease and desist from:

1. Attending any meeting with any respondent or manufacturer of papermakers felts not a party hereto at which the establishment or maintenance of prices, discounts, terms or conditions of sale are discussed or considered;

2. Circulating, disseminating, or communicating to any other manufacturer of papermakers felts or to any trade association of, or central agency or committee of such manufacturers for consideration, comment, discussion, or adoption, any prices, discounts,

terms or conditions of sale or system or method of pricing suggested or under consideration for future adoption;

3. Exchanging with, disseminating, or communicating to any other manufacturer of papermakers felts any price lists, prices, discounts, terms or conditions of sale relating to papermakers felts.

## IV

*It is further ordered*, That respondent Papermakers Felt Association, its officers, representatives, agents, employees, successors or assigns, directly or through any divisions, committees or other operating units or devices, formally or informally, in connection with the manufacture, offering for sale, sale or distribution of papermakers felts, do forthwith cease and desist from planning or performing any of the following things:

1. Obtaining or disseminating any information as to quotations of prices, discounts, terms or conditions of sale, or delivery;

2. Conducting or holding any meeting at which discussion is had or consideration is given concerning information as to quotations of prices, discounts, terms or conditions of sale, or delivery;

3. Cooperating in the formulation of any program or policy with the purpose or effect of controlling, restricting, or limiting the production or distribution of papermakers felts, or fixing, maintaining or tampering with any prices, discounts, terms or conditions of sale;

4. Acting, directly or indirectly, as an instrumentality or medium for promoting, aiding or rendering more effective any cooperative or concerted effort with any of the other respondents herein or any others not parties hereto in carrying out any of the acts prohibited by this Order.

## V

*It is further ordered*, That:

A. Nothing contained in this Order shall prevent or be construed to prevent any respondent manufacturer, acting independently, from negotiating or carrying out in good faith a contract to manufacture, to grant or receive licenses, otherwise lawful, for the use of patents or knowhow, or to sell to or buy from any bonafide customer or supplier, whether the licensee, licensor, customer or supplier is or is not a respondent herein.

B. Nothing in this Order shall prevent respondent manufacturers from disseminating any information to respondent Papermakers Felt Association or any other person, firm or corporation for the purpose

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of joint or several presentations to any legislative, judicial or executive body, provided that any information collected disclosing any prices, terms or conditions of sale of papermakers felts in individual transactions shall not be disclosed to or made available to any other competing manufacturer.

## VI

*It is further ordered,* That each of the respondents shall, within sixty (60) days after the service upon them of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with Parts I, III, and IV of this Order, and shall, within ninety (90) days after the service of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with Part II of this Order.