

Complaint

58 F.T.C.

ration, and Moses Gottlieb, individually and as a former officer of the corporate respondent, 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.

IN THE MATTER OF

CHAMBERS-SHERWIN, INC., ET AL.

CONSENT ORDER ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 8269. Complaint, Dec. 30, 1960—Decision, Apr. 13, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by failing to comply with invoicing and labeling requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Chambers-Sherwin, Inc., a corporation, and Albert M. Chambers and Monroe Sherwin, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Chambers-Sherwin, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 350 Seventh Avenue, New York, New York.

Albert M. Chambers and Monroe Sherwin are officers of the corporate respondent. They control, formulate and direct the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, offering for sale, transportation and distribution, in commerce, of fur products; and have manufactured for sale, sold, advertised,

offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4 (2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was mingled with non-required information, in violation of Rule 29(a) of said Rules and Regulations.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not completely set out on one side of labels, in violation of Rule 29(a) of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in that information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was set forth in abbreviated form in violation of Rule 4 of said Rules and Regulations.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

Mr. Arthur Wolter, Jr., supporting the complaint.
Respondents, *pro se*.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On December 30, 1960, the Federal Trade Commission issued a complaint charging the above-named respondents with misbranding

and falsely and deceptively invoicing certain of their fur products in violation of the Federal Trade Commission Act and the Fur Products Labeling Act.

After issuance and service of the complaint, the respondents and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director, Acting Associate Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Chambers-Sherwin, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Albert M. Chambers and Monroe Sherwin are officers of said corporate respondent. Said individual respondents formulate, direct and control the acts, policies and practices of the corporate respondent. All respondents have their office and principal place of business at 350 Seventh Avenue, New York, New York.

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

ORDER

It is ordered, That respondents Chambers-Sherwin, Inc., a corporation, and its officers, and Albert M. Chambers and Monroe Sherwin, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, manufacture for introduction, or the sale, advertising, offering for sale, transportation or distribution in commerce of fur products; or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Setting forth on labels affixed to fur products information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with non-required information.

3. Failing to set forth on labels affixed to fur products all the information required to be disclosed by Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on one side of such labels.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

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 13th day of April 1961, 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

Complaint

58 F.T.C.

a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

BILLIE LEBOW, INC., ET AL.

CONSENT ORDER ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE FUR PRODUCTS LABELING ACTS

Docket 8252. Complaint, Dec. 29, 1960—Decision, Apr. 18, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by pricing fur products fictitiously on invoices, by failing in other respects to observe invoicing and advertising requirements, and by failing to keep adequate records as a basis for pricing and savings claims made in advertising.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Billie Lebow, Inc., a corporation, Furs by Billie, Ltd., a corporation, and Billie Lebow, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Billie Lebow, Inc. and Furs by Billie, Ltd., are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their offices and principal places of business located at 333 Seventh Avenue, New York, New York.

Billie Lebow is president of both the said corporate respondents and controls, formulates and directs the acts, practices and policies of the said corporate respondents. Her office and principal place of business is the same as that of the said corporate respondents.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been and are now engaged in the introduction into commerce, and in the sale, advertising, and offering for sale, in commerce, and in the transportation

and distribution, in commerce, of fur products; and have sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were falsely and deceptively invoiced by respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act, and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced in that the respondents, on invoices, made representations as to the prices of fur products, which prices were in fact fictitious, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 5. Certain of said fur products were falsely and deceptively advertised in that the respondents, on consignment invoices, made representations and gave notices concerning said fur products, which representations and notices were not in accordance with the provisions of Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and which representations and notices were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 6. Respondents in making pricing and savings claims and representations in advertisements failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based, in violation of Rule 44(e) of the Rules and Regulations under the Fur Products Labeling Act.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

Mr. Charles W. O'Connell and Mr. David J. McKean for the Commission.

Respondents, *pro se*.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On December 29, 1960, the Federal Trade Commission issued a complaint charging the above-named respondents with falsely and deceptively invoicing and advertising certain of their said fur prod-

Findings

58 F.T.C.

ucts in violation of the Federal Trade Commission Act and the Fur Products Labeling Act.

After issuance and service of the complaint, the respondents and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the Director, Associate Director and the Assistant Director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said 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.

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Billie Lebow, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 333 Seventh Avenue, in the City of New York, State of New York.

2. Respondent Furs by Billie, Ltd., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 333 Seventh Avenue, in the City of New York, State of New York.

3. Individual respondent Billie Lebow is president of both the said corporate respondents and controls, formulates and directs the acts, practices and policies of the said corporate respondents. Her office and principal place of business is the same as that of the said corporate respondents.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Billie Lebow, Inc., a corporation, and its officers, and Furs by Billie, Ltd., a corporation, and its officers, and Billie Lebow, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Representing directly or by implication on invoices that the regular or usual prices of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

2. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly in the sale, or offering for sale of fur products and which:

A. Represents directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of business.

B. Misrepresents in any manner the savings available to purchasers of respondents' fur products.

3. Making pricing claims or representations respecting prices and values of fur products unless respondents maintain full and adequate records disclosing the facts upon which such claims and representations are based.

Decision

58 F.T.C.

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 18th day of April 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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.

IN THE MATTER OF

BOND APPLIANCE CENTERS, INC., ET AL.

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

Docket 7315. Complaint, Nov. 25, 1958—Decision, Apr. 22, 1961

Order dismissing, without prejudice, complaint charging a Boston, Mass., sewing machine retailer no longer in business, with bait advertising, conducting deceptive radio quiz contests, fictitious pricing, and furnishing misleading five-year guarantees.

Mr. Garland S. Ferguson for the Commission.

Mr. George V. Flavan, of Quincy, Mass., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 25, 1958, charging Respondents with violation of the Federal Trade Commission Act by the dissemination of false and deceptive statements concerning their sewing machines and the prices thereof.

On February 2, 1959, counsel for the Respondents filed a motion requesting an extension of time within which to file an answer herein, stating that on December 29, 1958, a Receiver was appointed for the corporate Respondent, Bond Appliance Centers, Inc., in Suffolk County Equity Court, Massachusetts, in the matter of *De Silva Vacuum Cleaner Co. vs. Bond Appliance Centers, Inc.*, Docket 74980. He further stated that under Massachusetts law, upon the appointment of a State Court Receiver, the corporation involved in such receivership and its officers, were stopped from conducting the business of the corporation, and from defending or prosecuting any suit or action on behalf of the corporation. No answer on behalf of Respondents has ever been filed.

On February 16, 1961, counsel supporting the complaint submitted a motion requesting that the complaint herein be dismissed without prejudice. He states that a recent investigation of the Respondents has been conducted by the Bureau of Investigation to determine their present status, and that the final report of this investigation, dated February 7, 1961, shows that the corporate Respondent has been in receivership, as stated by counsel for the Respondents, since December 29, 1958, and that the liabilities of the corporate Respondent far exceed its assets. The report further shows that the individual Respondents have not been engaged in the business of selling sewing machines, or in a similar business, since 1958, and that they have stated that they have no intention of resuming such business. Counsel supporting the complaint states that under the circumstances, he believes that the further prosecution of this case would not be in the public interest.

The Hearing Examiner, after having considered the entire record herein, concurs in the conclusion reached by counsel supporting the complaint. Accordingly,

It is ordered, That the complaint herein be, and the same hereby is, dismissed without prejudice to the right of the Commission to institute further proceedings against the Respondents herein, should future circumstances so warrant.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 22nd day of April 1961, become the decision of the Commission.

IN THE MATTER OF

BORG-WARNER CORPORATION ET AL.

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

Docket 7667. Complaint, Dec. 1, 1959—Decision, Apr. 27, 1961

Consent order requiring a Chicago manufacturer and its corporate sales subsidiary—maintaining warehouse stocks in many States and with overall sales in 1958 approximating \$533,000,000—to cease discriminating in price between different purchasers of their automotive replacement parts in violation of Sec. 2(a) of the Clayton Act, by giving jobbers belonging to buyer groups higher discounts on purchases than their non-member competitors.

Complaint

58 F.T.C.

COMPLAINT

The Federal Trade Commission having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described have violated and are 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, Section 13) hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Borg-Warner Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with principal office and place of business located at 200 South Michigan Avenue, Chicago, Illinois. Borg-Warner Corporation's numerous divisions and corporate subsidiaries are variously located and engaged in the manufacture, sale and distribution of many diversified products, including repair or replacement parts for installation and use in automotive vehicles. Borg-Warner Corporation's overall product sales for 1958 totalled approximately \$533,000,000.

Respondent, Borg-Warner Service Parts Company, a wholly-owned and controlled subsidiary of respondent Borg-Warner Corporation, is a corporation organized, existing and doing business under the laws of the State of Delaware, with principal office and place of business located at 6 North Michigan Avenue, Chicago, Illinois. Borg-Warner Service Parts Company is engaged in the sale and distribution of the automotive replacement parts manufactured by its parent Borg-Warner Corporation. Borg-Warner Service Parts Company maintains warehouse stocks for such purpose in the cities of Atlanta, Ga., Boston, Mass., Charlotte, N. C., Chicago, Ill., Cleveland, Ohio, Dallas, Texas, Detroit, Mich., Houston, Texas, Kansas City, Mo., Los Angeles, Calif., Minneapolis Minn., New York, N. Y., Oakland, Calif., Philadelphia, Pa., Pittsburgh Pa. Portland, Oregon, Richmond, Va., Seattle, Wash. and St. Louis, Mo.

Respondents, Borg-Warner Corporation and Borg-Warner Service Parts Company, in the course and conduct of their business as aforesaid have caused and now cause the said parts to be shipped and transported from the State or States of location of their various manufacturing plants, warehouses and places of business, to the purchasers thereof located in States other than the State or States wherein said shipment or transportation originated. Said parts have been and are so sold to different purchasers for use or resale within the United States and the District of Columbia, and respondents in the sale of said parts have at all times relevant herein been and

now are engaged in commerce, as "commerce" is defined in the Clayton Act .

PAR. 2. The aforescribed sales of said automotive replacement parts annually total in the substantial millions of dollars and respondents, in the course and conduct of their business as aforesaid, have been and now are discriminating in price between different purchasers of their automotive replacement parts of like grade and quality, by selling said parts at higher and less favorable prices to some purchasers than the same are sold to other purchasers, many of whom have been and now are in competition with the purchasers paying the higher prices.

For example, respondents classify said different purchasers of their automotive replacement parts and extend and set terms and conditions of sale for each such classification, according to the following agreements or arrangements:

(1) Jobber Franchise:

A purchaser classified as a "jobber" is normally engaged in reselling said replacement parts to automotive vehicle fleets, and to garages, gasoline service stations, and others in the automotive repair trade serving the general public. Jobbers purchase at a net price set out in respondents' "Jobber's Net Price List". Jobbers are given a 15% discount on purchases of 100 or more in quantity of cross and bearing assemblies made at one time, but receive no discounts on the purchases of respondents' other parts. Respondents sell to approximately 2,500 such "jobber" purchasers throughout the United States.

(2) Warehouse Distributor Franchise:

A purchaser classified as a "warehouse distributor" normally resells only to jobbers. A warehouse distributor purchases from respondents' "Jobber's Net Price List" less 15%, less 2% freight allowance, in the case of all parts other than universal joints and cross and bearing assemblies. On universal joints and cross and bearing assemblies the warehouse distributor receives a 20%, plus 10% discount, which equals a 28% discount from the jobber's net price. Respondents sell to 43 such "warehouse distributors".

(3) Redistributor Franchise:

A purchaser classified as a so-called "redistributor" is a jobber who resells both as a jobber and on occasion as a warehouse distributor. Each month such a purchaser certifies as to whether the sale was made as a "jobber" or "warehouse distributor" and accordingly is allowed thereon either the "jobber's net price", or a "jobber's net price" less the aforesaid applicable warehouse distributor discount. To obtain the warehouse distributor discounts the sales must be made by the "redistributor" to other and bona fide jobbers approved

Complaint

58 F.T.C.

in advance by respondents' authorized sales representatives. Respondents sell to 121 such "redistributors".

(4) Purchases made by individual jobbers engaged in so-called "group buying":

In 1957 respondents commenced selling universal joints and components thereof to the Southern California Jobbers, Inc. organization at the net prices set out in respondents' "Jobber's Net Price List", with a 15% discount on all purchases of said parts without regard to the quantity purchased. Southern California Jobbers, Inc., a California corporation with principal office and place of business in Los Angeles, California, has been and is now maintained, managed, controlled and operated by and for the particular individual jobber members associated together at any given time for the effectuation of the purchasing policies and practices described in PARAGRAPH THREE following of this complaint. On March 26, 1959, respondents classified said Southern California Jobbers, Inc., as a "warehouse distributor" and commenced giving it a 28% discount from jobber's net price on purchases of universal joints and the components thereof. Shortly thereafter, in April 1959, respondents attempted, and without success, to induce the Southern California Jobbers, Inc. organization to serve as such a "warehouse distributor" for their entire line of other products subject to only the 15% discount and 2% freight allowance. Respondents' sales to the Southern California Jobbers, Inc. organization are substantial, as is indicated by a gross billing therefor of \$19,742.65 for April 1959, and of \$10,755.19 for May 1959.

PAR. 3. In practice and effect, Southern California Jobbers, Inc. has been and is now serving as the medium or instrumentality by, through or in conjunction with which, its numerous jobber members exert the influence of their combined bargaining power on manufacturers and sellers of automotive replacement parts. When, and if, such recognition is granted by any particular seller, the subsequent purchase transactions between said seller and the individual jobber members have been and are billed to and paid for through the afore-said organizational device of Southern California Jobbers, Inc. Said corporation thus purports to be the commodity purchaser, when in truth and in fact, it has been and is now serving only as agent for the several individual purchasers aforescribed, and is a mere book-keeping device for facilitating the inducement and receipt by the said jobber purchasers from the said seller of discriminatory purchase prices.

Southern California Jobbers, Inc., has not and does not function as a purchaser for its own account for the use or resale of the commodities concerned. Respondents' recognition of this device of so-

