

Complaint

84 F.T.C.

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 contained herein.

IN THE MATTER OF

INTERNATIONAL SERVICE INDUSTRIES, INC., ET AL.

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

Docket C-2539. Complaint, Sept. 5, 1974—Decision, Sept. 5, 1974

Consent order requiring a Downey, Calif., operator of physical fitness and/or health salons, among other things to cease misrepresenting its promotional sales plans, services as free, limited offers, savings which purchasers may achieve, and guarantees.

Appearances

For the Commission: *William M. Rice, Jr.*

For the respondents: *Raymond Jackson*, Beverly Hills, Calif., *Kevin J. Quinn, Refkind & Sterling*, Beverly Hills, Calif.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that International Service Industries, Inc., a corporation, and Sidney Craig and Allen Bergendahl, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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. Respondent International Service Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Utah, with its principal office and place of business located at 9132 East Stonewood Street, in the city of Downey, State of California.

Respondent Sidney Craig is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices

hereinafter set forth. His address is the same as that of the corporate respondent.

Respondent Allen Bergendahl is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been engaged in the operation of physical fitness and/or health salons, and in the advertising, offering for sale, and sale of memberships and related services to the public in said physical fitness and/or health salons. Respondents' physical fitness and/or health salons are operated under the name Gloria Marshall Figure Control Salons.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, memberships in their fitness and/or health salons to be advertised and sold to purchasers thereof located in various other States of the United States, and maintain and, at all times mentioned herein, have maintained a substantial course of trade in said memberships and related services, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of memberships in their fitness and/or health salons, and related services, respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, by means of television broadcasts and in other promotional material. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Call your nearest salon for FREE figure analysis and complimentary treatment.

* * * * *

Start Now You Can Lose 2 Bathing Suit Sizes in 1 month.

* * * * *

Only \$2.50 per 1/2 hour treatment on any program.

* * * * *

Pay Less Because You Reduce Faster.

* * * * *

Quick Lasting Results.

* * * * *

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, and through their salesmen, agents and representatives, the respondents have represented, and are now representing directly or by implication, that:

1. Prospective customers will receive free figure analyses and/or complimentary treatments without any obligation.

2. Purchasers will lose two bathing suit sizes or some substantial reduction in body size and weight within one month, or some similarly short period of time.

3. Purchasers may purchase a membership in one of respondents' health salons for two dollars and fifty cents (\$2.50) per treatment.

4. Respondents' program is the least expensive method of figure reduction, since it allows faster reductions than other reducing programs.

5. Weight and figure reduction accomplished through respondents' programs will last without any dietary restrictions.

PAR. 6. In truth and in fact:

1. Prospective customers do not receive free figure analyses and/or complimentary treatments; instead, when prospective customers are induced into respondents' salons by such offers, respondents' sales personnel expose them to sales pitches by which they attempt to sell and do sell them expensive health and weight programs.

2. Few, if any, purchasers are able to achieve a specified reduction in body size or in weight in a stated period of time.

3. Purchasers may not purchase treatments at two dollars and fifty cents (\$2.50) per treatment, but must purchase a minimum contract of one hundred forty (140) treatments.

4. Respondents' program does not permit purchasers to save money by their losing weight more quickly than in other programs. On the contrary, respondents' use of minimum contracts often requires customers to spend more money than necessary.

5. Purchasers losing weight as a result of respondents' programs cannot achieve lasting results without dietary restrictions.

Therefore, the statements, representations and practices as set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. In the course and conduct of their business as aforesaid, respondents have made, and are now making numerous statements and representations that guaranteed weight reduction is assured to all purchasers of respondents' health salon programs without adequately disclosing: (1) the nature and extent of the guarantee, (2) conditions and

limitations on the guarantee, (3) which programs are guaranteed, (4) the duration of the guarantee, and (5) the manner in which the guarantor will perform.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and are now in substantial competition in commerce with corporations, firms and individuals in the sale of memberships and related services in their physical fitness and/or health salons, said memberships and related services being of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the unfair, false, misleading and deceptive statements, representations and practices has had, and now has, a capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of memberships in respondents' physical fitness and/or health salons by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors, and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have

violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Sec. 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent International Service Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Utah, with its office and principal place of business located at 9132 East Stonewood Street, city of Downey, State of California.

Respondents Sidney Craig and Allen Bergendahl are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above address.

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

ORDER

It is ordered, That respondents International Service Industries, Inc., a corporation, its successors and assigns, and its officers, and Sidney Craig and Allen Bergendahl, individually and as officers of said corporation, and respondents' officers, agents, affiliates, franchisees, licensees, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, and sale of health salon memberships, or related services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally or in writing, that:

(a) Prospective purchasers will receive free figure analyses, complimentary treatments or similar inducements to visit respondents' health salons, without disclosing, clearly and conspicuously, in writing, that an attempt will be made to sell fitness and/or health salon memberships to said prospective customers.

(b) Membership in respondents' fitness and/or health salon programs and/or use of respondents' fitness and/or health salon facilities automatically means that every such member will alter his body size or configuration or will lose weight.

Decision and Order

(c) Respondents' fitness and/or health salon memberships are available for any period of time less than the shortest period for which a significant number of memberships are in fact sold to the public.

(d) Respondents' fitness and/or health salon programs will allow purchasers to save money, by producing weight reduction more rapidly than comparable weight reduction programs.

(e) Any reduction in body size or configuration or in weight will be lasting, without regard to dietary habits.

2. Representing that any of respondents' health salon programs or related services are guaranteed unless:

(a) Respondents disclose clearly, adequately and accurately in immediate conjunction therewith:

- (1) The nature and extent of the guarantee;
 - (2) The conditions and limitations on the guarantee;
 - (3) Which programs are guaranteed;
 - (4) The duration of the guarantee;
 - (5) The manner in which the guarantor will perform;
- and

(b) Respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such guarantee; and

(c) Respondents honor the guarantees of all purchasers who have substantially complied with the conditions of their guarantee, allowing flexibility for sickness and vacations.

It is further ordered, That respondents herein deliver by registered mail a copy of this decision and order to each of the present and future employees, salesmen, agents, solicitors, independent contractors, advertising agent, or to any other person who promotes, offers for sale, sells or distributes any health club membership or any other product or service offered by respondents.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further 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 this order.

Complaint

84 F.T.C.

IN THE MATTER OF

MEYERS OUTFITTERS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2540. Complaint, Sept. 5, 1974—Decision, Sept. 5, 1974*

Consent order requiring a Newark, N.J., retailer of furniture and appliances, among other things to cease using bait advertising.

*Appearances*For the Commission: *William Popoff.*For the respondents: *Samuel March, Livingston, N.J.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Meyers Outfitters, Inc., a corporation and Charles Adler, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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. Respondent Meyers Outfitters, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 78 Springfield Avenue, Newark, N.J.

Respondent Charles Adler is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time last past been engaged in the purchasing, offering for sale, sale and distribution of furniture, appliances and related products to the public at retail in the metropolitan New Jersey area.

PAR. 3. In the course and conduct of their business as aforesaid, and at all times mentioned herein, respondents have been and now are in substantial competition in commerce, as "commerce" is defined in the Federal Trade Commission Act, with corporations, firms and individuals in the sale of furniture, appliances and related products.

PAR. 4. In the course and conduct of their business as aforesaid, respondents regularly purchase furniture, appliances and other merchandise from suppliers and distributors in states other than New Jersey and then sell and offer to sell to residents of New Jersey said furniture, appliances and other merchandise and deliver said furniture, appliances and other merchandise to said residents of New Jersey. In the further course and conduct of their business, respondents also cause and have caused to be transmitted and received in the course of purchasing, selling, delivering and collecting payment for said furniture, appliances and other merchandise among and between the several States of the United States, checks, bills, letters, and other documents by the United States mails and other means in commerce.

PAR. 5. In the further course and conduct of their business, as aforesaid, respondents also disseminate and cause to be disseminated certain advertisements by the United States mail, and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to, advertisements inserted in newspapers of interstate circulation, for the purpose of inducing and which are likely to induce, directly or indirectly, the sale of its said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. Respondents through their advertising as set forth in Paragraph Five are likely to induce directly or indirectly, residents of New York State to come into the State of New Jersey for the purpose of purchasing furniture from respondents to be delivered to their residences outside the State of New Jersey.

PAR. 7. By virtue of the aforesaid acts and practices, respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 8. In the course and conduct of their business and for the purpose of inducing the sale and purchase of their merchandise, respondents have made and are now making numerous and various statements and representations in advertisements inserted in newspapers of general interstate circulation.

Typical and illustrative of the foregoing, but not all inclusive thereof, is the following:

3-Rooms New Furniture 3-Pc. Bedroom Set 3-Pc. Living Rm. 3-Pc. Dinette Set
All 3 Rooms-\$179—Free Delivery

In addition to the aforesaid statements and representations, respondents and their sales representative have made, and are now making

numerous oral statements and representations to customers and prospective customers regarding the merchandise to be sold and delivered by the respondents.

PAR. 9. By and through the use of the aforesaid statements, representations and others of similar import and meaning not specifically set out herein, respondents and their sales representative represent directly or by implication that:

1. The offer set forth in said advertisements was and is a bona fide offer to sell the advertised furniture of the kind therein described.
2. Three rooms of new furniture capable of adequately performing the function or purpose for which the furniture is advertised is available for sale.

PAR. 10. In truth and in fact:

1. The offer set forth in said advertisements is not a bona fide offer to sell furniture at the advertised price and of the kind therein described.
2. The three rooms of new furniture offered for sale at the advertised price is not capable of adequately performing the function and purpose for which the furniture is advertised for sale.

Therefore, the representations, acts and practices as set forth in Paragraph Eight were and are unfair, misleading and deceptive.

PAR. 11. The use by the respondents of the aforesaid false, misleading and deceptive statements and representations, directly or by implication, has had and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of furniture from respondents' place of business by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents, as alleged herein, were and are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Meyers Outfitters, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 78 Springfield Avenue, Newark, State of New Jersey.

Respondent Charles Adler is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

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

It is ordered, That respondents Meyers Outfitters, Inc., a corporation, its successors and assigns, and its officers, and Charles Adler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division or any other device in connection with the purchasing, advertising, offering for sale, sale and distribution of furniture and appliances, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly that any product or services are offered for sale when such is not a bona fide offer to sell such products or services.

2. Advertising or offering any products for sale for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered, and respondents maintain an adequate and readily available stock of said products.

3. Disparaging in any manner, or refusing to sell any product advertised.

4. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations designed to obtain leads or prospects for the sale of other merchandise.

5. Failing to maintain and produce for inspection and copying for a period of three years adequate records to document for the entire period during which each advertisement was run and for a period of six weeks after the termination of its publication in press or broadcast media:

- a. the cost of publishing each advertisement including the preparation and dissemination thereof;
- b. the volume of sales made of the advertised product or service at the advertised price; and
- c. a computation of the net profit from the sales of each advertised product or service at the advertised price.

It is further ordered, That respondents shall maintain for at least a one (1) year period, following the effective date of this order, copies of all advertisements, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized in the advertising, promotion or sale of merchandise.

It is further ordered, That for a period of one year, respondents post in a prominent place in each salesroom or other area wherein respondents sell furniture or other products and services, a copy of this cease and desist order, with a notice that any customer or prospective customer may receive a copy on demand.

It is further ordered, That nothing contained in this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other municipal, state or federal agency or act as a defense to actions instituted by municipal, state or federal agencies.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents

engaged in the consummation of any consumer credit transaction or in any aspect of preparation, creation, or placing of advertising, and to all personnel of respondents responsible for the sale or offering for sale of all products covered by this order, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That the respondents herein within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTERS OF

LEONARD F. PORTER, INC., ET AL.—DOCKET 8964
INDIAN ARTS & CRAFTS, INC., ET AL.—DOCKET 8965
J.L. HOUSTON, INC., ET AL.—DOCKET 8966
WESTERN NOVELTY CO., ET AL.—DOCKET 8967
HERMAN KRUPP, TRADING AS OCEANIC TRADING
COMPANY—DOCKET 8968
HEINZ LANGE, TRADING AS NORTHWEST ARTS AND
CRAFTS—DOCKET 8969

Interlocutory Order, Sept. 11, 1974

Order denying motion of complaint counsel to amend Rule 4.2(c). However, requirements of rule waived to extent that not more than 20 copies of notice of intention to appeal and of briefs before the Commission need be filed and no more than 10 copies of all other documents except notices of appearances and reports of compliance.

Complaint

84 F.T.C.

Appearances

For the Commission: *David R. Pender, Michael A. Katz and Thornton P. Percival.*

For the respondents: *Carl Pruzan, of Casey & Pruzan, Seattle, Wash.*

ORDER DENYING MOTION TO AMEND RULES OF PRACTICE AND
LIMITING NUMBER COPIES OF DOCUMENTS REQUIRED TO BE FILED

By order of Aug. 30, 1974, the administrative law judge certified to the Commission the motion of complaint counsel in *Leonard F. Porter, Inc., et al.*, that Section 4.2(c) of the Rules of Practice be amended by lessening the number of copies of documents required for filings under that section. While it would be inappropriate to modify a rule of general applicability on the basis of the particular facts of a single case or group of cases, it has been determined that a lesser number of copies will suffice in the *Porter* matter and the other captioned cases here. Accordingly,

It is ordered, That the motion to amend Rule 4.2(c) be, and it hereby is, denied.

It is further ordered, That the requirements of this rule be, and they hereby are, waived in these matters to the extent that no more than twenty (20) copies of a notice of intention to appeal and of briefs before the Commission need be filed, and that no more than ten (10) copies of all other documents will be required except for notices of appearances and reports of compliance, as to which only two (2) copies are required to be filed.

IN THE MATTER OF

GRAYCO CHEMICAL CORP., ET AL.

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

Docket C-2541. Complaint, Sept. 11, 1974—Decision, Sept. 11, 1974

Consent order requiring two affiliated Westwood, N.J., wholesale merchandisers from using exaggerated earnings claims and other misrepresentations to recruit salesmen for their products.

Appearances

For the Commission: *James Manos.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that Grayco Chemical Corp. and Grayco Industries, Inc., corporations, and Alvin Serkez, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said 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. Respondent Grayco Chemical Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 336 Old Hook Road, Westwood, N.J.

Respondent Grayco Industries, Inc., 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 at 336 Old Hook Road, Westwood, N.J.

Respondent Alvin Serkez is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including those hereinafter set forth. His address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time past have been engaged in the advertising, offering for sale, sale and distribution of various products at the wholesale level to persons who act as salesmen of these products to the public. Products sold by respondents have included, *inter alia*, personal protection sprays and cleaning cloths for car and household use. Sales of such merchandise to salesmen are induced by advertisements in national publications and by promotional materials sent by mail.

PAR. 3. Respondents, in the course and conduct of their business have been and are now engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondents promote their products and their product distribution plans by the use of advertisements in magazines of national circulation and by advertisements sent through the United States mail. Merchandise of substantial value is sold by respondents and is shipped from respondents' place of business in New Jersey to purchasers located in various other States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business, and in order to recruit salesmen to sell respondents' products to the general public,

respondents have disseminated, or caused the dissemination of, advertisements through the United States mails or printed in magazines or other print media. In conjunction therewith, respondents have published certain statements and representations respecting the large demand for respondents' products, the ease with which salesmen can sell them, and the high earnings which can be made by respondents' salesmen. Typical and illustrative of the statements and representations published by respondents in said advertisements, but not all inclusive thereof, are the following:

\$2.00 PRICE CHANGE CAN PUT \$2,000.00 INTO YOUR POCKET—* * * THIS COMING MONTH—AND EACH MONTH AFTER!

HERE'S HOW TO MAKE MORE MONEY THAN YOU CAN SPEND * * * AND GET A NEW CADILLAC FREE!

We've barely introduced 3 unique new products and already sales and the demand are booming beyond our wildest expectations.

You can make as much money as this * * * Mr. Coffey made \$88.00 in 3 hours—\$600.00 in 10 days. Mr. Davis made \$991.00 in one day. Mrs. Kemmer a grandmother made \$210.00 in one day. A woman in Georgia sold \$180.00 worth in 2 minutes. Mr. James McCue made \$300.00 in one day. I'm sure if you try, you will do well too.

And you can get into this rich business today without risking one penny.

EXTRA—LET ME HELP YOU GET A BRAND NEW CADILLAC—FREE! As an extra incentive, you enjoy a Free Cadillac Promotion with VACU-SHINE. Just accumulate 300 points and a brand new Cadillac (or \$6,800.00 in cash) is yours free and clear * * * **YOU CAN GET UP TO 101 POINTS ON YOUR STARTING ORDER!**

One of the most amazing things about distributing these wonderful products is the ease and simplicity with which you can make MONEY! * * * Not just "nickles and dimes" but an honest-to-goodness HIGH INCOME. There's only one thing that can limit the amount of money you make with an opportunity like this—that's yourself!

We have a unique EXCLUSIVE DISTRIBUTORSHIP PROGRAM for ambitious people. Unique—because there are no franchise fees, no hidden costs. Territories are awarded Free to ambitious people * * * with the privilege of obtaining merchandise at the below wholesale cost.

HOW IT SELLS: "I MADE \$645.00 IN ONE DAY—\$1,560.00 IN ONE WEEK * * * PART TIME. When I show people this product, they tell me—**THAT I NEED.**" (Testimonial of a Mr. Fleetwood)

"I reordered over \$5,000.00 worth my first month!" (Testimonial of a Mr. D. Wicklund)

"I MAKE \$30.00 PER HOUR—PART TIME. Almost everyone is interested in buying!" (Testimonial of a Mr. M. Mathews)

"I'm making approximately \$3,000.00 more per month now, than I was making before!" (Testimonial of a Mr. J. D. D.)

"I MADE \$100.00 IN 2 1/2 MINUTES. It used to take me three days to make as much money as I now make in one day—and the customers thank me." (Testimonial of a Mr. T. Sanders)

PAR. 5. By and through the use of the aforesaid statements and representations, and others similar thereto, but not specifically set forth herein, respondents have represented, directly or by implication, that:

1. Any person selling respondents' products may reasonably expect to regularly earn \$2000 or more per month.
 2. There is a substantial demand for respondents' products.
 3. Respondents have a reasonable basis from which to conclude that their products can be sold by salesmen easily, quickly, and in substantial quantities.
 4. Respondents' salesmen can obtain exclusive territories without any fees, obligations, or hidden costs.
 5. Respondents' salesmen will not incur any risk of loss when dealing with respondents' products.
 6. A participant in respondents' program who is reasonably diligent will be awarded a free Cadillac by respondents.
 7. The earnings made by certain of respondents' salesmen, as advertised by respondents, accurately represent the net earnings, after costs and operating expenses, made by such salesmen.
 8. The value of merchandise purchased from respondents by certain salesmen, as advertised by respondents, reflects the wholesale value of such purchases.
 9. The earnings, sales or wholesale purchases made by certain of respondents' salesmen, as advertised by respondents, accurately represent:
 - (a) earnings, sales or wholesale purchases continuously made over a substantial period of time, and
 - (b) earnings, sales or wholesale purchases which are average and typical of all sellers of respondents' products in the usual and ordinary course of business.
 10. Each representation of earnings, sales or wholesale purchases made by certain of respondents' salesmen is based on a separate testimonial letter, received by respondents recently and without solicitation.
- PAR. 6. In truth and in fact:
1. Persons selling respondents' products can not reasonably expect to regularly earn \$2,000.00 or more per month. Such earnings are gross exaggerations and are greatly in excess of the average earnings of persons selling respondents' products.
 2. There is not a substantial demand for respondents' products.
 3. Respondents have no reasonable basis from which to conclude that their products can be sold by salesmen easily, quickly, and in substantial quantities.
 4. Respondents' salesmen can not obtain exclusive territories without any fees, obligations, or hidden costs. A salesmen is given an exclusive territory only as long as he buys a stated minimum quantity of merchan-

dise each month. The minimum quantity required varies with the population of the territory.

5. Respondents' salesmen do incur risk of loss since they must bear the cost of their own operating expenses, advertising, and maintenance of inventory. In addition, unsold inventory may not be returned to respondents for refunds after an initial thirty day period.

6. A participant in respondents' program who is reasonably diligent will not be awarded a free Cadillac by respondents. No salesman has ever been awarded a Cadillac by respondents.

7. The earnings made by certain of respondents' salesmen, as advertised by respondents, do not accurately represent the net earnings, after costs and operating expenses, made by such salesmen.

8. The value of merchandise purchased from respondents by certain salesmen, as advertised by respondents, reflects the retail value, rather than the wholesale value, of such purchases.

9. The earnings, sales or wholesale purchases made by certain of respondents' salesmen, as advertised by respondents, accurately represent neither:

(a) earnings, sales or wholesale purchases continuously made over a substantial period of time, nor

(b) earnings, sales or wholesale purchases which are average and typical of all sellers of respondents' products in the usual and ordinary course of business.

10. Each representation of earnings, sales or wholesale purchases made by certain of respondents' salesmen is not based on a separate testimonial letter. In many instances a single letter is the basis for two or more testimonial quotations appearing in the same advertising material. Testimonial letters were not received by respondents recently, but rather three to five years prior to their appearance in respondents' advertisements. Respondents solicited testimonials by offering free advertising to salesmen who consented to being named and pictured in respondents' advertisements.

Therefore, the statements and representations set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive acts or practices.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, acts and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and to induce a substantial number thereof to purchase respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals engaged in the wholesale and retail sale of products of the same general type and nature as those sold by respondents.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 (b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Grayco Chemical Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 336 Old Hook Road, Westwood, N.J.

Respondent Grayco Industries, 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 336 Old Hook Road, Westwood, N.J.

Respondent Alvin Serkez is an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations, and his principal office and place of business is located at the above-stated address.

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

It is ordered, That respondents Grayco Chemical Corp., and Grayco Industries, Inc., corporations, their successors and assigns, and their officers, and Alvin Serkez, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of personal protection devices, automotive and household cleaning products, or any other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing directly or by implication that:

1. There is a substantial demand for respondents' products.
2. Salesmen can sell substantial quantities of respondents' products easily and quickly.
3. Salesmen may secure exclusive territories without any fees, obligations, or hidden costs.
4. Salesmen can sell respondents' products without risk of loss.

B. Representing any sum of money as possible earnings which might be made by selling respondents' products, unless such sum is not greater than the average net earnings consistently made by all salesmen of respondents' products in the ordinary course of business and under normal conditions and circumstances.

C. Publishing any representation of earnings made by any person which does not reflect the average net earnings, after costs and operating expenses, made consistently by such person in the ordinary course of business and under normal conditions and circumstances.

D. Publishing any representation of wholesale purchases of merchandise by salesmen in terms of the retail value of such merchandise or in any other manner which does not reflect the wholesale value of such merchandise.

E. Publishing any representation of earnings, sales or wholesale purchases made by any person which is in excess of the average earnings, sales or wholesale purchases made by all of respondents' salesmen, unless such representation is immediately and conspicuously followed by disclosures which:

1. state that such earnings, sales or wholesale purchases are exceptional and unusual, and
2. indicate the average earnings, sales or wholesale purchases made by all of respondents' salesmen.

F. Publishing any statement concerning an experience had by a salesman or user of respondents' products, unless such statement is immediately and conspicuously followed by the date when the experience occurred.

G. Representing that salesmen of respondents' products can receive a free Cadillac or other prize, unless immediately and conspicuously following such representation respondents disclose:

1. the number of salesmen who have in fact received such prize,
2. the dollar amount of purchases a salesman must make in order to receive such prize, and
3. any applicable time limit or other condition which may serve to disqualify a salesman from receiving such prize.

It is further ordered, That respondents shall maintain for at least a three (3) year period following each publication, copies of each advertisement, including newspaper, radio and television advertisements, direct mail and in-store solicitation literature, and any other such promotional material utilized for the purpose of soliciting salesmen to sell any product or utilized in the advertising, promotion, or sale of any product, together with all documentation and factual material in substantiation of the claims appearing in said advertisements and promotional materials.

It is further ordered, That respondents maintain files containing all inquiries or complaints from any source relating to acts or practices described in this order, for a period of three years after their receipt, and that such files be made available for examination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business for inspection and copying.

Decision and Order

84 F.T.C.

It is further ordered, That respondents or their successors or assigns notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporate respondents which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further 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 this order.

IN THE MATTER OF

INDIAN ARTS & CRAFTS, INC., ET AL.

Docket 8965. Interlocutory Order, Sept. 12, 1974

Order denying respondents' motion to disqualify Harry R. Hinkes as administrative law judge in this case.

Appearances

For the Commission: *David R. Pender, Michael A. Katz and Thornton P. Percival.*

For the respondents: *Carl Pruzan, Casey & Pruzan, Seattle, Wash.*

ORDER DENYING MOTION TO DISQUALIFY ADMINISTRATIVE LAW
JUDGE

Pursuant to Section 3.42(g)(2) of the Commission's Rules of Practice, respondents have moved to disqualify Harry R. Hinkes as administrative law judge in the above-captioned matter. Judge Hinkes has replied to this motion and respondents have filed a response to the reply which, although unauthorized by our rules, has been considered.

Although respondents advance eight separate points in support of their motion, only their charges of prejudgment as to the merits and of personal bias could—if proved—serve as grounds for Judge Hinkes' disqualification. These charges are based primarily on statements made by the judge in a telephone conversation with respondents' counsel who recorded it without the judge's knowledge. Reading those statements in context, we conclude that they do not constitute prejudgment of factual issues or personal bias such as would warrant the disqualification of an administrative law judge. Respondents' other charges relate to the reasonableness of the judge's decision in setting the trial date and not to his ability to preside at that trial. Respondents do not argue that this decision is so unreasonable as to be explicable only by the judge's lack of objectivity, nor would the documents before us support such an argument if they had made it.

Although we have considered the transcript of the above conversation in reaching our decision, we most emphatically do not approve of the method by which it was obtained. If, as respondents' counsel states, he merely wanted an accurate record of the conversation, he should have so informed the law judge at the outset. We are, therefore, taking under consideration the question of whether the actions of respondents' counsel warrant any further Commission action. Accordingly,

It is ordered, That the aforesaid motion be, and it hereby is, denied.

IN THE MATTER OF

LEAR SIEGLER, INCORPORATED, ET AL.

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

Docket C-2542. Complaint, Sept. 12, 1974—Decision, Sept. 12, 1974

Consent order requiring Santa Monica and Pasadena, Calif., manufacturers of safety helmets, among other things to cease interlocking directorates. Further, each corporation is required, for a five-year period, to obtain from each director or prospective director an annual report disclosing other corporations with sales over \$1 million of which he is a director and their principal products; and not to permit on their boards of directors anyone who fails to submit such a report or whose report reveals he is a director of a competing corporation.

Appearances

For the Commission: *Thornton P. Percival.*

For the respondents: *Henry C. Thumann, O'Melveny & Myers, Los Angeles, Calif., for Lear Siegler, Inc., Charles W. Stoll, Irsfeld, Irsfeld & Younger, Los Angeles, Calif., for Royal Industries.*

Complaint

84 F.T.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Lear Siegler, Incorporated, a corporation, and Royal Industries, Incorporated, a corporation, hereinafter referred to collectively as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act and Section 8 of the Clayton Act, as amended, and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Lear Siegler, Incorporated ("Lear Siegler"), 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 3171 South Bundy Drive, Santa Monica, Calif. At all times relevant to this complaint, Lear Siegler had capital, surplus and undivided profits aggregating in excess of one million dollars. In 1972, Lear Siegler had revenues of approximately \$556 million.

PAR. 2. Royal Industries, Incorporated ("Royal"), 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 980 South Arroyo Parkway, Pasadena, Calif. At all times relevant to this complaint, Royal had capital, surplus and undivided profits aggregating in excess of one million dollars. In 1972, Royal had revenues of approximately \$187 million.

PAR. 3. Robert L. Purcell ("Purcell") and Philip S. Fogg ("Fogg") were elected to the board of directors of Lear Siegler in 1962 and have served in that capacity from the time of their election to and including the date of this complaint. In 1966, Fogg was elected to the board of directors of Royal. In 1971, Purcell was elected to the board of directors of Royal. Purcell was a director of Royal from the date of his election until May 16, 1973. Fogg was a director of Royal from the date of his election until May 17, 1973.

PAR. 4. Lear Siegler and Royal are now and for some time last past have been engaged in the manufacture, advertising, offering for sale, sale and distribution of safety helmets and other products.

PAR. 5. Lear Siegler and Royal by the nature of their businesses and location of operations, are competitors with respect to safety helmets and other products. The elimination of competition by agreement between Lear Siegler and Royal would hinder, foreclose, and restrain competition or tend to create a monopoly in the safety helmet market.

PAR. 6. Lear Siegler and Royal sell and distribute safety helmets and other products from locations in various states of the United States to

purchasers located in other states of the United States. Lear Siegler and Royal engage in commerce as that term is defined in the Clayton Act and the Federal Trade Commission Act.

PAR. 7. The foregoing acts and practices of respondents, as hereinabove alleged, constitute a violation of Section 8 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of Section 5 of the Federal Trade Commission Act and Section 8 of the Clayton Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues the complaint, makes the following jurisdictional findings, and enters the following order:

1. Lear Siegler 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 3171 South Bundy Drive, Santa Monica, Calif.

Royal 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 980 South Arroyo Parkway, Pasadena, Calif.

Decision and Order

84 F.T.C.

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, their successors and assigns, do forthwith cease and desist from permitting any individual to serve on the boards of directors of Lear Siegler or Royal, if such individual is or would be at the same time a director of both corporations.

II

It is further ordered, That Lear Siegler and Royal shall within thirty days after service of this order, and annually for a period ending five years thereafter, obtain from each member of their respective boards of directors a written statement which discloses the name, location, and business, including principal products manufactured and sold of each other corporation having capital, surplus and undivided profits in excess of one million dollars of which such member is also a director.

III

It is further ordered, That for a period ending five years after service of this order, Lear Siegler and Royal, at least thirty (30) days prior to any directors' meeting at which one or more directors will be elected or the mailing of proxy statements for any shareholder meeting at which one or more directors will be elected, shall obtain from each person who is being considered as a member of their respective boards of directors, but has not been a member of the board of directors during the previous year, a written statement showing:

1. The name and address of each corporation having capital, surplus and undivided profits in excess of one million dollars of which the potential director is a director, and
2. The nature of its business including principal products manufactured and sold.

IV

It is further ordered, That for a period ending five years after service of this order, Lear Siegler and Royal shall not permit on their respective boards of directors any person who fails to submit a written statement pursuant to Paragraphs Two and Three, or any person who is a director of another corporation named in response to the statements required

pursuant to Paragraphs Two and Three when said statement also reveals to respondents that such other corporation is a competitor due to its principal product or products, business and location of operation.

V

It is further ordered, That Lear Siegler and Royal notify the Commission at least thirty (30) days prior to any proposed change in or to their respective corporations, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in the corporations which may affect compliance obligations arising out of this order.

VI

It is further ordered, That the respondents herein shall, within thirty (30) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

 IN THE MATTER OF

SANTA CLARA SEWING MACHINE CENTER, INC., ET AL.

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

Docket C-2543. Complaint, Sept. 12, 1974—Decision, Sept. 12, 1974

Consent order requiring a Santa Clara, Calif., sewing machine retailer, among other things to cease using bait and switch tactics in the advertising and sale of sewing machines. Specifically, respondents are prohibited from advertising a product for the purpose of obtaining leads, unless the product will do the job expected of it, and is adequately stocked and readily available for sale.

Appearances

For the Commission: *John M. Porter*

For the respondents: *Richard N. Salle, Becklund, Siner, Taketa & Salle, San Jose, Calif.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Santa Clara Sewing Machine

Center, Inc., a corporation, and Jerome Kushner and Martin Ivener, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said 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. Respondent Santa Clara Sewing Machine Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 3258 El Camino Real, Santa Clara, Calif.

Respondents Jerome Kushner and Martin Ivener are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of sewing machines and other household products to the public.

PAR. 3. In the course and conduct of their business, and for the purpose of inducing the purchase of and payment for their products and services, respondents have made and cause to be made, through advertisements published in a newspaper of general interstate circulation, statements and representations with respect to respondents' sewing machines for the purpose of inducing the sale of such sewing machines and other household products. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Among and typical, but not all inclusive, of such statements and representations are the following:

1972 SINGER ZIG-ZAG full price \$23.75 Terms. Used, but sews perfect. Embroiders, buttonholes, fancy stitches, etc. Does all zig-zag sew. without attach. 5 yr. mtr. warr. Call for free home demonstration.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning not specifically set out herein, and by oral statements and representations of their salesmen, the respondents represent, and have represented, directly or by implication:

That respondents were making a bona fide offer to sell a reconditioned Singer sewing machine, as described in said advertisement, for \$23.75.

PAR. 6. In truth and in fact:

Respondents were not making a bona fide offer to sell a reconditioned Singer sewing machine for \$23.75. On the contrary, respondents' representations were made for the purpose of obtaining leads to persons interested in purchasing a sewing machine. After obtaining such leads, respondents or their agent or representative called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places respondents or their sales agents or representatives would make no effort to sell the low priced product, but would discourage prospective purchasers from accepting the offer by various means, including disparagement of the product itself, in order to sell different and more expensive sewing machines.

Therefore, the representations referred to in Paragraph Five were and are false, misleading and deceptive.

PAR. 7. The use by respondents of the foresaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, were and are to the prejudice and injury to the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto 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 the 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 alleged in such complaint,

and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Santa Clara Sewing Machine Center, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 3258 El Camino Real, in the city of Santa Clara, Calif.

Respondents Jerome Kushner and Martin Ivener are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above stated address.

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

It is ordered, That respondents Santa Clara Sewing Machine Center, Inc., a corporation, its successors and assigns, and its officers, and Jerome Kushner and Martin Ivener, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of sewing machines or any other products in commerce, as "commerce" is defined in Federal Trade Commission Act, do forthwith cease and desist from:

1. Advertising or offering any products for sale for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered, and respondents maintain an adequate and readily available stock of said products.
2. Disparaging in any manner, or refusing to sell, any product advertised.

3. Representing directly or indirectly that any products or services are offered for sale when such is not a bona fide offer to sell said products or services.

4. Failing to maintain and produce for inspection and copying for a period of three years adequate records to document for the entire period during which each advertisement was run and for a period of six weeks after the termination of its publication in press or broadcast media:

- a. the cost of publishing each advertisement including the preparation and dissemination thereof;
- b. the volume of sales made of the advertised product or service at the advertised price; and
- c. a computation of the profit from the sales of each advertised product or service at the advertised price.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business. Such notice shall include respondents' new business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further 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 this order.

Complaint

84 F.T.C.

IN THE MATTER OF

GLORIA STEVENS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2544. Complaint, Sept. 12, 1974—Decision, Sept. 12, 1974*

Consent order requiring Brockton and Fall River, Mass., figure salons among other things to cease misrepresenting the prices and benefits of their figure improvement programs. Further, respondents must disclose to prospective patrons the nature of their equipment, programs and suggested diets, and suggest that prospective patrons under medical supervision consult with their physician before joining to insure that respondents' programs are compatible with health plans prescribed by such physician.

*Appearances*For the Commission: *Harold F. Moody.*For the respondents: *William C. O'Malley*, Brockton, Mass.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, The Federal Trade Commission, having reason to believe that Gloria Stevens, Inc., a corporation, J & M of Fall River, Inc., a corporation, and John Martin, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said 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. Respondents Gloria Stevens, Inc., and J & M of Fall River, Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Massachusetts. The principal office and place of business of Gloria Stevens, Inc. is located at 1666 South Main Street, in the city of Brockton, Commonwealth of Massachusetts.

The principal office and place of business of J & M of Fall River, Inc. is located at Harbour Mall, in the city of Fall River, Commonwealth of Massachusetts.

Respondent John Martin is an individual and officer of both corporate

respondents. He formulates, directs and controls the acts and practices of both the corporate respondents, including the acts and practices hereinafter set forth. His address is 1666 South Main Street, Brockton, Mass.

PAR. 2. Respondents are now, and for some time last past have been engaged in the operation of figure salons, and in the advertising, offering for sale, and sale of figure improvement programs and related services for women of the general public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their figure improvement programs and related services to be advertised and sold to purchasers thereof located in various other States of the United States, and maintain and, at all times mentioned herein, have maintained a substantial course of trade in said programs in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, for the purpose of obtaining leads or prospects for the sale of reducing programs, and for the purpose of inducing the purchase of figure improvement programs and related services, respondents have made and are now making numerous statements and representations in advertisements inserted in newspapers of general circulation with respect to the price of said figure improvement programs and related services and the benefits to those who enroll in a program.

Typical and illustrative of said statements and advertising representations, but not all inclusive thereof, are the following:

No Crash Diets

* * * * *

No Strenuous Exercise

* * * * *

IF YOU ARE A SIZE

14 You Can be a Size 10 in 30 Days

16 You Can be a Size 12 in 30 Days

18 You Can be a Size 14 in 45 Days

20 You Can be a Size 15 in 60 Days

22 You Can be a Size 16 in 60 Days

* * * * *

This Week Only-15% Discount-On our recommended program to the first 45 ladies to call.

This Week Only-25% Discount-On our recommended program to the first 65 ladies to call.

SPRING SPECIAL

Now that winter has been and gone we can no longer hide behind winter coats, baggy slacks to excuse all those excess pounds. Bathing suit weather is just around the corner so don't let this be another summer of avoiding beaches and pool parties. Let G.S. help you to help yourself to shed those unwanted, unattractive and unhealthy pounds with one of our guaranteed spring trim-up programs.

Here is Just One of the Many Hundreds Of Success Stories From GLORIA STEVENS!

For fifteen years I have been on and off diets and never stuck to it. Slowly I worked myself up to 240 lbs. Fat clubs didn't work for me. Once a week visits was not enough. I've heard and made all the excuses for not losing weight you can think of.

I saw Gloria Stevens ads in the papers, but I didn't go right away because I had heard that some figure salons charge horribly high fees and are full of gimmicks. Not at Gloria Stevens. The prices are extremely reasonable . . . and no gimmicks.

One of my friends decided to join. I saw her progress and then with my husband's blessing I joined last September. Until I saw my picture I really didn't think I looked any different.

My friends can't believe it, and some people don't recognize me. My husband says I'm beginning to look like the girl he married.

The girls at Gloria Stevens have been wonderful and so encouraging. Never embarrassing me, or making me feel that it was hopeless. The exercises have been great for me. I really needed them. I didn't even mind the diet. I followed it religiously and everything is working. I still want to lose 30-40 more pounds and I know I can do it at Gloria Stevens.

Gratefully
Marie Colman



BEFORE



AFTER

THIS WEEK ONLY
15% DISCOUNT
On our recommended
program to the first
45 ladies to call.

- No Crash Diets
- No Disrobing • No Contracts
- Individual Programming
- No Strenuous Exercise

IF YOU ARE A SIZE

14 You Can Be a Size 10 in 30 Days
16 You Can Be a Size 12 in 30 Days
18 You Can Be a Size 14 in 45 Days
20 You Can Be a Size 15 in 60 Days
22 You Can Be a Size 16 in 60 Days

GLORIA STEVENS Figure Salons

CALL NOW 584-2020 OR COME IN

"Where Service Counts"

1666 MAIN ST. (Southgate Plaza) Brockton 584-2020
OPEN DAILY 9 AM to 9 PM SATURDAY to 3 PM

SPRING TRIM UP TIME IS HERE AGAIN...



BEFORE

Now that winter has come and gone we can no longer hide behind winter coats & baggy slacks to excuse all those excess pounds. Bathing suit weather is just around the corner so don't let this be another summer of avoiding beaches and pool parties. Let G.S. help you to help yourself to shed those unwanted, unattractive and unhealthy pounds with one of our guaranteed spring trim up programs.



AFTER

THIS WEEK ONLY
25%
DISCOUNT
On our recommended
program to the first
65 ladies to call.

IF YOU ARE A SIZE
14 You Can Be a Size 10 in 30 Days
16 You Can Be a Size 12 in 30 Days
18 You Can Be a Size 14 in 45 Days
20 You Can Be a Size 15 in 60 Days
22 You Can Be a Size 16 in 60 Days

- No Crash Diets
- No Disrobing • No Contracts
- Individual Programming
- No Strenuous Exercise

Here is Just One of the Many Hundreds Of Success Stories From GLORIA STEVENS!

For fifteen years I have been on and off diets and never stuck to it. Slowly I worked myself up to 240 lbs. Fat clubs didn't work for me. Once a week visits was not enough. I've heard and made all the excuses for not losing weight you can think of.

I saw Gloria Stevens ads in the papers, but I didn't go right away because I had heard that some figure salons charge horribly high fees and are full of gimmicks. Not at Gloria Stevens. The prices are extremely reasonable... and no gimmicks.

One of my friends decided to join. I saw her progress and then with my husband's bless-

ing I joined last September. Until I saw my picture I really didn't think I looked any different.

My friends can't believe it, and some people don't recognize me. My husband says I'm beginning to look like the girl he married.

The girls at Gloria Stevens have been wonderful and so encouraging. Never embarrassing me, or making me feel that it was hopeless. The exercises have been great for me. I really needed them. I didn't even mind the diet. I followed it religiously and everything is working. I still want to lose 30-40 more pounds and I know I can do it at Gloria Stevens.

Gratefully
Marie Colman

GLORIA STEVENS FIGURE SALON

CALL NOW 679-0086 OR COME IN

HARBOUR MALL - FALL RIVER

PAR. 5. By and through the use of said advertisements, and others of similar import and meaning, but not expressly set out herein, respondents have represented, and are now representing, directly or by implication, that:

1. The prices of figure improvement programs and related services which are being offered are discount prices or special prices available for a limited period of time and to a limited number of women.

2. Respondents' programs will slenderize, beautify, proportion, and eliminate pounds and inches from every woman's figure, without dieting.

3. Respondents' programs will slenderize, beautify, proportion and eliminate pounds and inches from every woman's figure, without strenuous exercise.

4. Patrons can attain stated changes in body size, configuration or weight in specified periods of time.

PAR. 6. In truth and in fact:

1. The prices at which figure improvement programs and related services are sold are not special prices or discount prices, nor are they available for only a limited period of time or to a limited number of patrons. They are the usual and customary prices charged for respondents' figure improvement programs and related services, and they have been substantially the same for an extended period of time.

2. Respondents' programs will not slenderize, beautify, proportion, and eliminate pounds and inches from every woman's figure without dieting.

3. Respondents' programs will not slenderize, beautify, proportion and eliminate pounds and inches from every woman's figure without strenuous exercise.

4. Few, if any, patrons are likely to attain stated changes in body size, configuration or weight in specified periods of time.

Therefore, the statements, representations and practices as set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. Respondents have not at all times disclosed, in writing, to all prospective patrons, that those with health problems or who are under a doctor's care should consult their physician to be sure that respondents' programs are not incompatible with figure control or other health plans prescribed by such physician.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms, and individuals engaged in the sale of figure improvement programs and related

services in their figure salons; said programs being of the same general kind and nature as those sold by respondents' competition.

PAR. 9. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and does now have, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that such advertisements and representations were and are true, and into the purchase of substantial numbers of respondents' figure improvement programs and related services by reason of said erroneous and mistaken beliefs.

PAR. 10. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Boston Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedures prescribed in Section 2.34(b) of its rules, the Commission hereby issues

its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Gloria Stevens, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 1666 Main Street, Brockton, Mass.

Respondent J & M of Fall River, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts with its office and principal place of business located at Harbour Mall, Fall River, Mass.

Respondent John Martin is an officer of both corporations. He formulates, directs and controls the policies, acts and practices hereinafter set forth. His address is 1666 South Main Street, Brockton, Mass.

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

It is ordered, That respondents Gloria Stevens, Inc., and J & M of Fall River, Inc., corporations, doing business as Gloria Stevens Figure Salons or under any other trade name or names, and their officers, and John Martin, individually and as an officer of said corporations, and respondents' officers, successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or sale of figure improvement programs and related services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that the price charged for any reducing program or related service is a special or reduced price unless such price represents a significant reduction from an established selling price at which such program or service has been sold with substantial frequency by respondents in the recent regular course of their business; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' reducing programs.

2. Misrepresenting, directly or by implication, that the availability of any service, specially priced program or other inducement for enrollment is limited in time or otherwise; or failing to disclose completely and accurately in immediate conjunction with any represented promotional inducement all conditions and limitations on its availability.

3. Representing, directly or by implication, that:

A. Respondents' programs are effective in reducing body weight or dimensions, unless respondents disclose in immediate conjunction therewith that said programs include a suggested diet.

B. Respondents' programs are effective in reducing body weight or dimensions, unless respondents disclose in immediate conjunction therewith that said programs include a series of physical exercise.

C. Respondents' programs will cause any stated change in body size, configuration or weight in any specified period of time, unless such representation is fully substantiated by controlled scientific tests conducted by independent experts, and the results are available for inspection by the general public at no charge.

4. Failing to disclose clearly, conspicuously, completely and accurately both orally and in writing, before enrolling any person in any program:

A. The nature of respondents' programs, equipment and suggested diets.

B. That prospective patrons with health problems or who are under a doctor's care should consult their physician to be sure that respondents' programs are not incompatible with figure control or other health plans prescribed by such physician.

5. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations for the purpose of obtaining leads or prospects for the sale of reducing programs.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondents now or hereafter engaged in the offering for sale, or sale of respondents' programs or services, or in any aspect of preparation, creation or placing of advertising; and that respondents secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents maintain at all times complete records relative to the manner and form of their compliance, during the immediately ensuing twelvemonth period, with the above terms and provisions of this order. Such records shall include copies of all advertising, and shall indicate with respect to each sale the type of program and/or service, the price charged for such program and/or service, the

Complaint

84 F.T.C.

terms of each such program or service and the name and address of each purchaser thereof.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any of the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of any successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business of employment and of his affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further 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 this order.

IN THE MATTER OF

EASTERN INVESTORS COMPANY, INC., ET AL.

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

Docket C-2545. Complaint, Sept. 13, 1974—Decision, Sept. 13, 1974

Consent order requiring a Statesville, N.C., seller and distributor of vending machines and merchandise for them, among other things to cease using false earnings claims and other misrepresentations. Further, respondent must give future distributors a three-day right of cancellation with full refund rights, and make immediate refunds to prospective distributors who show violations of this order or have signed leasing agreements but have not received products purchased by the effective date of this order.

Appearances

For the Commission: *David Krischer.*

For the respondents: *William R. Whittenton, Jr.,* Statesville, N.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade

Commission, having reason to believe that Eastern Investors Company, Inc., a corporation and William R. Stacy, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said 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. Respondent Eastern Investors Company, Inc., is a corporation organized existing and doing business under and by virtue of the laws of the State of North Carolina with its principal office and principal place of business located at 110-J Stockton Street, Statesville, N.C.

Respondent William R. Stacy is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have engaged in the advertising, offering for sale, sale and distribution of refrigerated fruit juice vending machines, hot food vending machines and merchandise sold in vending machines to distributors and potential distributors. Said distributors purchase respondents vending machines under a distribution agreement whereby respondents agree to locate vending machines in areas of high potential customer concentration and perform various other acts helpful to distributors, and distributors agree to purchase respondents' cold drink products for distribution in their vending machines.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents have caused vending machines and merchandise, when sold, to be shipped or delivered from their supplier in the State of Connecticut to purchasers thereof located in other States of the United States and have disseminated in newspapers of interstate circulation and by the United States mail, advertisements designed and intended to induce sales of vending machines and merchandise, and thereby maintain, and at all times mentioned herein have maintained, a substantial course of trade in said vending machines and merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of vending machines and merchandise, respondents have made numerous statements and representations in newspapers and promotional material. Typical and illustrative of such

Complaint

84 F.T.C.

statements and representations, but not all inclusive thereof, are the following:

* * * * *

Incredible profit on these fast moving famous juices.

* * * * *

\$10,000 per year part time.
\$50,000 per year full time.

* * * * *

We provide: Company secured locations in factories, schools, motels, health clubs, hospitals, auto agencies, etc.

* * * * *

We provide: Installation of all equipment, training and skilled guidance.

* * * * *

NO INVESTMENT NECESSARY. Our investors will put up the necessary capital for a qualified individual; however, applicant must have adequate working capital for inventory.

* * * * *

PAR. 5. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of vending machines and merchandise, respondents, through their agents and representatives, have made and are now making, numerous oral statements and representations regarding ownership and operation of vending machines sold by respondents. Typical and illustrative of such statements and representations, which are made directly or by implication, but not all inclusive thereof, are the following:

—Eastern is in business to sell juice products and not to sell refrigerated juice vending machines.

—Eastern representatives train distributors to repair and service their machines.

—Eastern would deliver the ordered vending machines within thirty days.

—Eastern guarantees that it will place vending machines in high traffic locations.

—Eastern has a working arrangement with a leasing company which will underwrite the leasing of vending machines by distributors.

PAR. 6. By and through the use of the statements and representations set forth in Paragraph Four and others of similar import but not specifically set forth therein, and through said oral statements set forth in Paragraph Five, and others of similar import but not specifically set forth therein made by respondents, their employees, agents and repre-

sentatives, respondents have represented, and do now represent, directly or by implication to the purchasing public, that:

1. Distributors can earn \$10,000 per year part time or \$50,000 per year full time operating vending machines purchased from respondents.
2. Distributors will be set up and operating within thirty (30) days of their signing the distributor agreement.
3. Respondents will obtain high traffic and thus profitable sales producing locations for the placement of vending machines purchased from them.
4. Respondents' representatives will train distributors in servicing and repairing mechanical problems and otherwise enable distributors to be self-sufficient in the care and operation of respondents' products.
5. The prime business of respondents is the sale of juice products and not the sale of vending machines.
6. Respondents are prepared to deliver vending machines to a distributor under a leasing agreement between the distributor and a leasing company with whom respondent does business.
7. Distributors need not invest their own capital in order to obtain respondents' vending machines.

PAR. 7. In truth and in fact:

1. The representations of part time or full time yearly earnings cannot be substantiated; relatively few, if any, of respondents' distributors has earned \$10,000 per year part time or \$50,000 per year full time.
2. In many instances, distributors have had to wait over ninety (90) days until their vending machines were delivered and in many cases, distributors have had to wait up to five months for delivery.
3. In many instances, respondents have failed to secure top sales producing locations, and in at least one instance failed to secure any location.
4. Respondents fail to train distributors in servicing and repairing vending machines and provide little, if any, assistance to distributors who request it.
5. The prime interest of respondents is selling vending machines.
6. Respondents have delivered vending machines to relatively few, if any, of their distributors who have signed a leasing agreement because they have been unable to locate a company to underwrite the leasing of vending machines.
7. Distributors must make substantial payments to respondents when the contract is signed.

Therefore, the statements and representations, as set forth in Paragraphs Four and Five hereof, were and are, false, misleading and deceptive.

PAR. 8. In the course and conduct of their aforesaid business and at all times mentioned herein, respondents have been in substantial competition in commerce, as "commerce" is defined in the Federal Trade Commission Act, with corporations, firms and individuals in the sale of vending machines and merchandise sold in vending machines of the same kind and nature of those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations, acts and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and complete and into the purchase of substantial quantities of vending machines and merchandise offered by respondents by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Atlanta Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure pre-

scribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint making the following jurisdictional findings, and enters the following order:

1. Respondent Eastern Investors Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its office and principal place of business located at 110-J Stockton Street, Statesville, N.C.

Respondent William R. Stacy is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation. His address is the same as that of the corporate respondent.

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

It is ordered, That respondents Eastern Investors Company, Inc., a corporation, its successors and assigns, and its officers, and William R. Stacy, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, divisions or other device, in connection with the advertising, offering for sale, sale or distribution of vending machines, merchandise sold in vending machines, and any other products or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication, that:

1. Distributors will earn or can reasonably expect to earn or receive any stated or gross or net amount of earnings or profits; or representing, in any manner the past earnings of distributors unless in fact the past earnings represented are those of a substantial number of distributors and accurately reflect the average earnings of said distributors under circumstances similar to those of the person to whom the representation is made.

2. Respondents will deliver their merchandise within a specific period of time, or on a specific date, unless in each instance such delivery is made as represented by respondents; subject to any possibilities of delay which will be disclosed in writing at the point of sale; or misrepresenting in any manner the time within which respondents' merchandise will be delivered.

3. Respondents, their agents, representatives or employees will secure high traffic vending machine locations for their distributors, unless in each instance such high traffic locations are secured as

represented by respondents; or misrepresenting, in any manner, the amount of time and effort respondents will spend in attempting to obtain such locations for their distributors.

4. Distributors will be trained or assisted in the operation of their distributorship or misrepresenting, in any manner, the quality, amount or nature of training or assistance respondents will provide their distributors.

5. Respondents are primarily in the business of selling merchandise sold in vending machines or misrepresenting in any manner the true nature of respondents' business activities.

6. Respondents will sell vending machines under a leasing agreement unless in each instance the leasing agreement is arranged within ten days of receipt by respondents of a downpayment.

7. Distributors need not make a capital investment to obtain respondents vending machines or misrepresenting, in any manner the amount of money a prospective distributor must invest to obtain a distributorship.

It is further ordered, That respondents:

a. Inform orally all prospective distributors and customers and provide in writing in all contracts entered into after the effective date of this order, that (1) the contract may be canceled for any reason by notification to respondents in writing within three days from the date of execution and that (2) respondents obligations will not be fulfilled until vending machine locations are secured as represented.

b. Refund immediately all monies received on contracts entered into after the effective date of this order to (1) prospective distributors who have requested contract cancellation in writing within three days from the execution thereof and to (2) prospective distributors showing that respondents' contract, solicitations or performance were attended by or involved violations of any of the provisions of this order in contracts entered into after effective date of this order.

c. Refund immediately all monies received on contracts entered into before the effective date of this order to distributors who have signed a leasing agreement and who have not received, as of the effective date of this order, all of the vending machines or other products which had been purchased from respondents.

It is further ordered, That respondents maintain files containing all inquiries or complaints on contracts entered into after the effective date of this order from any source relating to acts or practices prohibited by this order, for a period of two (2) years after their receipt, and that such

files be made available for examination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business for inspection and copying.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future employees, agents and representatives engaged in the offering for sale or sale of respondents' distributorships or products or in any aspect of preparation, creation or placing of advertising and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and his affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further 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 this order.

IN THE MATTER OF
CAREER ACADEMY, INC.

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

Docket C-2546. Complaint, Sept. 13, 1974—Decision, Sept. 13, 1974

Consent order requiring a Milwaukee, Wis., resident/correspondence school, among other things to cease using deceptive means to sell its correspondence-resident instruction courses and to recruit franchised distributors; and to cease misrepresenting that the school's diplomas are equivalent to degrees from accredited colleges and that course credits are transferrable. Further, respondent is required to give enrollees a three-day cooling-off period in which to cancel their contracts and receive full refunds of all monies paid and to set up a restitution procedure to be triggered by a successful civil penalty action in which the firm has been shown to have committed designated violations of the order.

Appearances

For the Commission: *James S. Teborek.*

For the respondent: *William H. Alverson, Godfrey and Kahn, Milwaukee, Wis.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Career Academy, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said 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. Respondent Career Academy, Inc. 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 611 East Wells Street, in the city of Milwaukee, State of Wisconsin.

PAR. 2. Respondent is now and for some time last past has been engaged in the advertising, offering for sale and sale to the public of resident and correspondence courses of instruction in a variety of subjects, and for some time last past has been engaged in the advertising, offering for sale and sale of franchised regional directorships and area directorships for the selling of such courses to the public. Among and including, but not necessarily all inclusive of said courses of instruction, are those designated "Famous Broadcasters," "Lewis Hotel-Motel School" and "Investment Operations."

PAR. 3. In the course and conduct of its business, as aforesaid, respondent now causes, and for some time last past has caused, the home study portions of said courses to be sent from its place of business in the State of Wisconsin to purchasers thereof located in various other States of the United States. Also in the course and conduct of its business, respondent now causes and for some time last past has caused persons selling said courses to visit members of the general public located in various states other than the State of Wisconsin, for the purpose of soliciting sales of said courses of instruction. In the course of the solicitation and sale of said franchises and courses of instruction, enrollment contracts, checks, and other commercial instruments have been and are transmitted through the United States mails and by other means to respondent's place of business in the State of Wisconsin from various other

Complaint

states. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said franchises and courses of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, and at all times mentioned herein, the respondent has been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of franchises and courses of instruction of the same general kind as those sold by respondent.

PAR. 5. In the course and conduct of its business, respondent has operated a sales plan to market its courses of instruction by enfranchising persons to sell such courses under "Regional Director Agreements" purporting to assign a particular territory in which the franchisee could sell one or more of the aforesaid courses of instruction to members of the public.

During the course of its presentation to prospective franchisees, various promotional materials were displayed in conjunction with oral representations respecting the aforesaid courses of instruction, the earnings and profits to be realized by selling such courses, the training and business assistance to be given by respondent to said franchisees, and the leads as to prospective students which would be furnished to said prospective franchisees by respondent.

Induced by respondent or its representatives to enter into such agreements, many of said franchisees signed notes for substantial sums of money as an initial downpayment, and agreed to pay the balance over an extended period.

Typical and illustrative, but not all inclusive, of the statements made by respondent or its representatives to said prospective franchisees, are the following:

Opportunity of a lifetime.

A business opportunity that has been planned, programmed and proven to have high profit potential.

Never before has there been such an overwhelming demand for occupational education.

Our own tremendous growth has created a limited number of openings which can be highly lucrative for new Regional Directors.

* * * once selected, a new Regional Director will be fully supported, backed by and supplied with the techniques, materials and services that only the vast resources of a company the size and stature of Career Academy, Inc. can provide.

Sound advice and guidance available through the Career Academy, Inc. management team assures you of steady growth.

You need only work hand in hand with Career Academy, Inc. to build an effective sales organization.

Providing Regional Directors and their representatives with inquiries from qualified, prospective students is a vital part of our business.

PAR. 6. By and through the use of the statements set forth in Paragraph Five hereof, and others, including oral statements, similar thereto but not specifically set out herein, respondent has represented, directly or by implication, that purchasers of said franchises for the sale of said courses of instruction would receive:

(a) advice and assistance from respondent for successfully maintaining and operating their business

(b) a substantial number of leads from respondent as to prospective and qualified purchasers of said courses of instruction

(c) a substantial income from the operation of a profitable business.

PAR. 7. In truth and in fact, in a substantial number of instances, purchasers of said franchises did not receive:

(a) advice or assistance from respondent for successfully maintaining and operating their business

(b) a substantial number of leads from respondent as to prospective and qualified purchasers of said courses of instruction

(c) a substantial income from the operation of a profitable business.

Therefore, respondent's statements and representations as set forth in Paragraphs Five and Six hereof, were, and are, unfair, false, misleading or deceptive acts or practices.

PAR. 8. In the course and conduct of its business as aforesaid, and for the purpose of enrolling prospective students and thereby promoting the sale of the aforesaid "Famous Broadcasters," "Lewis Hotel-Motel School," "Investment Operations" and various other courses of instruction, respondent makes numerous statements through advertisements inserted and published in newspapers and periodicals having general circulation throughout the United States; in pamphlets, leaflets, circulars, form letters, cards, printed contracts and other media distributed through the United States mail; through printed material including interview scripts furnished to franchised sales representatives for use in making sales to prospective students; through oral representations similar thereto but not specifically set forth herein made by said representatives; on radio and television, and by other means and media, with respect to the nature of such courses of instruction and the advantages and benefits which the enrollees therein will receive from completion of said courses. Typical and illustrative of the statements, but not all inclusive thereof, are the following:

*** The coveted Certificate of Proficiency which is awarded to the Career Academy graduate is the key that can open doors to the life of the professional broadcaster—a life of prestige, respect, travel and financial security! ***

*** Whether you're in your late teens or early forties, you could step into one of the many important and well-paying positions in the booming field of broadcasting ***

*** At this time next year, you can be a radio-TV personality ***
 *** The Academy is constantly receiving requests for graduates. To satisfy these requests and the needs of its graduates the Academy operates a sophisticated placement department ***
 *** Our success in helping place our graduates is due to a number of factors ***
 *** Radio-TV stations everywhere need both men and women ***
 *** Screening all of those who apply for admission to Career Academy must be a very time-consuming and costly procedure. Why do you invest all of this in each and every applicant ***?
 *** the network and local studios at our school are limited to 15 students each and naturally they do fill in advance ***
 *** The Academy's instructors have a unique ability to communicate—to teach you everything *** They'll work closely with you giving you their best in personal guidance and encouragement ***
 *** The Academy will provide you with opportunities to secure a part-time job that will not interfere with your training ***
 *** The Housing Director at each Resident school approves and supervises housing for out-of-town students, seeing that they have a comfortable and pleasant "home away from home" ***

*** The world famous Lewis *** School can qualify you for the position of your choice
 *** Thousands of today's successful hotel/motel owners and executives got their training this short cut Lewis way***
 *** Imagine living in your favorite resort area *** enjoying your favorite sports *** and being well paid for the work you enjoy! ***
 *** Where are jobs like these? In the resort industry for Hotel Managers *** Innkeepers *** executives of every kind ***
 *** You can qualify for hundreds of the most glamorous well paid opportunities waiting to be filled everywhere as an eagerly sought after graduate of the Lewis *** School ***
 A Lewis diploma with the help of our nationwide placement assistance will open many doors for you ***
 *** Our directors have to be very careful and very selective in the type of person they accept for training ***
 *** Prepare for a high paying position anywhere in the country***
 *** we can accept only a limited number of students from each section of the country every month ***
 *** you'll find that classes are kept small, so you can be given as much individual attention as you need ***

*** In just four months you can enjoy a good income, prestige position as an investment operations specialist. That's all it takes ***
 *** good jobs go begging ***
 *** Career Academy is constantly receiving requests for its graduates. To satisfy these requests and the career goals of its students, the Academy operates an extensive placement department ***
 *** This is the nation's only fully documented, nationally recognized course *** for a Staff Position in Operations ***

Complaint

84 F.T.C.

*** This need is not limited to large cities. It extends to every community in the land, large and small, coast to coast and border to border where there are brokerage houses, banks, mutual fund organizations *** demand extends beyond the Continental U.S.***

*** Our success in helping to place graduates is due to—carefully selecting applicant for training ***

*** due to the limited classes, they do fill far in advance ***

*** There is a great deal of personalized supervision ***

PAR. 9. By and through the use of the statements set forth in Paragraph Eight, and others, including oral statements, similar thereto but not specifically set forth herein, respondent has represented directly or indirectly:

a) That there was or is now a reasonable basis from which to conclude the existence of an urgent need or demand for many additional trained people in the subject fields of its said courses.

b) That enrollees in its said courses of instruction:

1) Will be required to qualify under highly selective procedures, and that only limited numbers will be accepted for enrollment.

2) Will have instructors available for consultation and individualized instruction and to observe their performance throughout their training and tests.

3) Will be provided all of the necessary instruction and experience to qualify them for a high level position in the field for which they train.

4) Will be provided suitable housing and leads to suitable part-time employment, if needed, when they become resident students.

5) Will be able, through respondent's placement service, to secure employment in the field for which they train, and at significantly higher salaries than would be earned without said training.

PAR. 10. In truth and in fact:

a) Respondent had no reasonable basis from which to conclude there was or is now an urgent need or demand for many additional trained people in the subject fields of its said courses.

b) Many if not most enrollees in said courses:

1) Were not required to qualify under highly selective procedures, nor were only limited numbers accepted for enrollment. To the contrary, respondent generally enrolled applicants who were high school graduates, furnished two recommendations, and who agreed to pay the required fees.

2) Did not have instructors available to them for consultation or individualized instruction, nor to observe their performance throughout their training and testing. To the contrary, respondent furnished group classroom instruction and furthermore, instructors often failed to at-

tend classes or were otherwise unobservant of or unavailable to enrollees.

3) Were not provided with the necessary instruction nor experience to qualify for a high level position in the field for which they trained. To the contrary, said positions generally required additional and different training and experience.

4) Were provided neither suitable housing nor leads to suitable part-time employment, if needed, when they became resident students. To the contrary, such housing as was made available was often of poor quality or at distant or inconvenient locations, and few, if any, enrollees were able to secure suitable part-time employment through leads furnished by respondent.

5) Were unable, through respondent's placement service, to secure employment in the field for which they trained, and few, if any, who did secure such employment, received a significantly higher salary than they would have earned without such training.

Therefore, respondent's statements and representations, as set forth in Paragraphs Eight and Nine hereof were, and are unfair, false, misleading or deceptive acts or practices.

PAR. 11. In the further course and conduct of its business of selling or inducing the sale of said courses of instruction, as aforesaid, and by means of the statements and representations set out in Paragraphs Eight through Ten hereof, in conjunction with oral statements of its sales representatives, respondent made the following additional statements and representations, directly or indirectly, to prospective enrollees in said courses of instruction:

a. A diploma or certificate of proficiency or completion from respondent or its schools is the equivalent of a degree from an accredited college or university, and that enrollees can transfer credits from such courses toward graduation from an accredited college or university.

b. The total cost of tuition plus books and laboratory or studio fees, as listed on the enrollment contract, are all the costs which enrollees will have to bear.

c. Prospective enrollees must enroll at the time of the sales representative's call or they will lose all opportunity for acceptance.

PAR. 12. In truth and in fact:

a. Enrollees who receive a diploma or certificate of proficiency or completion from respondent or its schools do not have the equivalent of a degree from an accredited college or university, nor can they transfer credit from such courses to an accredited college or university.

b. The total cost of tuition plus books and laboratory or studio fees, as listed in the enrollment contract, are not all the costs which enrollees

have to bear. To the contrary, additional items at additional costs to enrollees are ordinarily required.

c. Prospective enrollees need not necessarily enroll at the time of the sales representative's call, for the reason that in many instances the representatives call back if there appears to be the prospect of a sale.

Therefore, respondent's statements and representations, as set forth in Paragraph Eleven hereof were, and are unfair, false, misleading or deceptive acts or practices.

PAR. 13. In the further course and conduct of its business of selling or inducing the sale of said courses of instruction, and by means of and in conjunction with the statements and representations set out in Paragraphs Eight through Twelve hereof, respondent failed to disclose the following material facts:

- a. the recent percentage of graduates of such courses who obtained employment in the field for which they took training
- b. the employers that hired such graduates, and
- c. the initial salary said graduates received.

Knowledge of such facts would indicate the possibility of securing future employment upon graduation and the nature of such employment. Thus, respondent has failed to disclose material facts which, if known to certain prospective enrollees, would be likely to affect their consideration of whether or not to purchase such courses of instruction. Therefore, respondent's said statements and representations, and its failure to disclose said material facts, were and are unfair, false, misleading or deceptive acts or practices.

PAR. 14. In the further course and conduct of its business of selling or inducing the sale of said courses of instruction, and by means of and in conjunction with the statements and representations set out in Paragraphs Eight through Twelve hereof, respondent has represented, directly or indirectly, that there was an urgent need or demand for additional trained people in the fields which are the subject of the aforesaid courses. At the time of said statements and representations, respondent did not have competent and reliable statistical or other evidence or other reasonable basis which was, and is now, adequate to substantiate said statements and representations. Therefore, respondent's said statements and representations were and are unfair, false, misleading or deceptive acts or practices.

PAR. 15. (a) Respondent has been and is now using the aforesaid unfair, false, misleading or deceptive acts and practices, which a reasonably prudent person should have known, under all of the facts and circumstances, were unfair, false, misleading or deceptive, to induce persons to pay or to contract to pay over to it substantial sums of money

to purchase or pay for courses of instruction which, to such purchasers in connection with their future employment and careers was, and is, virtually worthless. Respondent has received the said sums and has failed to offer refunds and has failed to refund such sums to or to rescind such contractual obligations of substantial numbers of enrollees and participants in such courses who were unable to secure employment in the positions and fields for which they had been purportedly trained by respondent.

The use by respondent of the aforesaid acts and practices, its continued retention of said sums and its continued failure to rescind such contractual obligations of its customers, as aforesaid, are unfair acts or practices.

(b) In the alternative and separate from Paragraph Fifteen (a) herein, respondent, who is in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of vocational instruction, has been and is now using, as aforesaid, false, misleading, deceptive or unfair acts or practices, to induce persons to pay over to respondent substantial sums of money to purchase courses of instruction.

The effect of using the aforesaid acts and practices to secure substantial sums of money is or may be to substantially hinder, lessen, restrain, or prevent competition between respondent and the aforesaid competitors.

Therefore, the said acts and practices constitute an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

PAR. 16. By and through the use of the aforesaid statements, representations, acts and practices, respondent has placed in the hands of others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 17. In the course and conduct of its business and at all times mentioned herein, the respondent has been and is now in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of instruction covering the same or similar subjects.

PAR. 18. The use by respondent of the unfair, false, misleading and deceptive statements, representations, acts and practices and its failure to disclose material facts as aforesaid, has had, and now has the capacity and tendency to mislead and deceive many members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete and, to a substantial

number thereof, into the purchase of franchises for the sale of said courses of instruction, and to other substantial numbers thereof, into the purchase of respondent's courses by reason of said erroneous and mistaken belief.

PAR. 19. The aforesaid acts and practices of respondent, as herein alleged, were and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Career Academy, Inc. is a corporation organized, 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 611 East Wells Street, city of Milwaukee, State of Wisconsin.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

Decision and Order

ORDER

I

It is ordered, That respondent Career Academy, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, solicitation, offering for sale, sale or distribution of courses of training or instruction, or of franchises or distributorships for the sale of courses of training or instruction, or of any other product or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, visually, in writing or in any other manner, directly or indirectly, unless respondent maintains records showing the factual, documented, verifiable basis for such claims, as required by Paragraph 4 of this order, that purchasers of franchises or distributorships, or others engaged in the sale or distribution of any product or service:

(a) Will receive advice or assistance for maintaining or operating any business.

(b) Will be furnished leads as to prospective or qualified purchasers of said courses or products.

(c) Can earn a substantial income, or a specified or approximate amount of income, from the operation of any business, or that any such business will or can be operated at a profit; or making any statement or representation as to past, present or prospective income, earnings or profits.

2. Representing, orally, visually, in writing or in any other manner, directly or indirectly, unless respondent maintains records showing the factual, documented, verifiable basis for such claims, as required by Paragraph 4 of this order, that prospective enrollees in or purchasers of any course of training or instruction:

(a) Will be required to qualify under highly selective or other procedures, or that enrollment is limited.

(b) Will have instructors available for consultation, or individualized instruction, or to observe their performance in training or tests.

(c) Will be provided the necessary instruction or experience to qualify for a particular position or positions in the given field for which the student enrolled.

(d) Will be furnished suitable housing, or leads to suitable employment during resident training.

(c) Will secure employment in the fields for which they train, or at a higher salary than they would earn without such training or instruction, or that they will receive assistance in securing such employment.

(f) Will not have to bear any expense or cost charged by respondent other than those set out on an enrollment contract or otherwise stated.

(g) Must enroll at the time of the sales representative's call, or that they will have no other opportunity to enroll.

3. Representing, orally, visually, in writing or in any other manner, directly or indirectly, unless respondent maintains records showing the factual, documented, verifiable basis for such claims, as required by Paragraph 4 of this order, that:

(a) There is an urgent need or demand, or a need or demand of any size, proportion or magnitude, for trained people in any field for which training or instruction is being offered or sold, or otherwise representing that opportunities for employment, or opportunities of any size, figure or number, are available to any person completing any such course.

(b) Enrollees in or graduates of any school or of any course of training or instruction have been placed in, or have secured any position in the field for which they were trained, or that any person may secure employment or receive assistance in any position or field. *Provided further, however*, That no representation shall be made as to placement efficacy unless, in immediate conjunction therewith and in a clear and conspicuous manner, there is disclosed the current and active placement data for such school, location or facility percentage rate at such school location or facility for the advertised course of instruction or training, computed in the manner set forth in Paragraph 6(b) (1) of this order.

(c) Any amount of salary or other remuneration will or may be earned by any person completing any course of training or instruction.

4. Making, or furnishing the means and instrumentalities through or by means of which any person or firm may make any statement or representation prohibited by Paragraphs (1) through (3) inclusive of this order; *Unless*, respondent has a reasonable basis for each such statement or representation and maintains and upon reasonable notice, provides access to the Commission or its

representatives for purposes of inspection or copying, for a period of three years, full, complete and accurate records which will disclose:

(a) The time, frequency and duration of use or publication, and the content of each such statement or representation, and details as to the media or other means utilized in its dissemination or publication; and

(b) A factual, documented and verifiable basis for substantiation of each such statement or representation. *Provided further*, That with respect to any statement or representation as to:

(1) Past, present or prospective earnings, profits, or salaries, such substantiation includes a statistically valid survey or other appropriate substantiating material which establishes the reasonable basis for each such statement or representation.

(2) Efficacy of placement or employment, such substantiation includes a list of firms or employers which are currently hiring graduates of such courses in substantial numbers and in the positions for which such graduates have been trained, and the salary range of such graduates, determined in the manner set forth in Paragraph 6(b) of this order.

5. Representing, orally, visually, in writing, or in any other manner, directly or indirectly, that any diploma, certificate, or any other document or record issued or furnished upon completion of or in connection with any course of training or instruction, is or may be considered as the equivalent of a degree from any accredited college or university; that academic credits can be earned in connection with such courses, or that they can be transferred to, or will be recognized by any such accredited college or university.

6. Failing to deliver to each person who shall contract for the purchase of any course of training or instruction, at the time such person so contracts, a notice, in a form approved by the Commission, which shall disclose the following information and none other:

(a) The title "IMPORTANT INFORMATION" printed in bold face type across the top of the form.

(b) A paragraph reciting the following affirmative disclosures which shall be based upon information compiled not more than one year prior to the delivery of such notice;

(1) The placement data for graduates determined in the following manner:

Respondent shall, following the graduation of each student graduating during each six month period, commencing with the six month period ending on the last day of the month in which this order is finally accepted by the Commission, undertake to determine the following information with respect to each such graduate: (a) his employment status; (b) the name of his employer and position, if any; and (c) his salary. The disclosure shall indicate the total number of graduates of the course; the number of those who have indicated to respondent a desire for employment; the number of those desiring employment known by respondent to be employed; the number of those desiring employment known to be unemployed; and the number of those desiring employment whose employment status is not known.

Separate placement data shall be calculated for each course of instruction offered in each school location or facility during such six month period.

(2) a list of types of employers as indicated in responses to questionnaires sent pursuant to Subparagraph (1) above or otherwise within the actual knowledge of respondent which have hired the graduates referred to in Subparagraph (1) above in the positions for which such graduates were trained, and the percentage of employed graduates working for each type of employer.

(3) the salary range of the graduates referred to in Subparagraph (1) above. The "salary range" shall be the highest and lowest salary for full time employment indicated in responses to questionnaires sent pursuant to Subparagraph (1) above or otherwise within the actual knowledge of respondent with respect to such graduates.

Provided however, That this Subparagraph (b) shall be inapplicable until the first day of the seventh month following the month in which this order is finally accepted by the Commission.

(c) An explanation of the cancellation procedure provided in this order, namely, that any contract or other agreement may be cancelled for any reason within three business days after receipt by the customer, of this notice or any other cancellation

procedure provided by applicable state or local law more favorable to the customer.

(d) A detachable form or a form separate from the notice, which the person may use as a notice of cancellation, which indicates the proper address for accomplishing any such cancellation; or such other separate form as may be applicable under state or local law.

Provided, however, That Subparagraph (b) above shall be inapplicable for the first two years following respondent's sale or distribution of any course of training or instruction, or until two years following its operation of any school or facility in any city or county where it did not previously operate a school, and, in lieu of Subparagraph (b), the following statement shall be made:

All representations of potential employment or salaries are merely estimates. This course has not been sold (or this school has not been in operation) long enough to indicate what, if any, actual employment or salary may result upon graduation from this course (or school).

7. Contracting for any sale of any course of training or instruction in the form of a sales contract or other agreement which shall become binding prior to the end of the third business day after the date of receipt by the customer of the form of notice provided for in Paragraph 6 of this order. Upon cancellation of any said sales contract or other agreement within the period provided for herein, the respondent is obligated to refund, promptly to any person exercising the cancellation right, all monies paid or remitted up until the notice of cancellation, and to cancel and return to the obligor any note, or other instrument of indebtedness in connection with the contract.

II

It is further ordered, That:

1. Respondent herein deliver in person or by certified mail, a copy of this decision and order to each of its present and future franchisees, licensees, employees, salesmen, agents, independent contractors or to any other person who promotes, offers for sale, sells or distributes any course of instruction or training or any other product or service included in this order;

2. Respondent herein provides each person so described in Paragraph (1) above with a form returnable to the respondent clearly

stating his intention to be bound by and to conform his business practices to the requirements of this order; retains said statement during the period said person is so engaged; and makes said statement available to the Commission's staff for inspection and copying upon request;

3. Respondent herein informs each person so described in Paragraph (1) above that the respondent will not use or engage or will terminate the use or engagement of any such party, unless such party agrees to and does file notice with the respondent that he will be bound by the provisions contained in this order;

4. If such party as described in Paragraph (1) above will not agree to so file the notice set forth in Paragraph (2) above with the respondent and be bound by the provisions of the order, the respondent shall not use or engage or continue the use or engagement of, such party to promote, offer for sale, sell or distribute any course of instruction or training or any other product or service included in this order;

5. Respondent herein informs the persons described in Paragraph (1) above that the respondent is obligated by this order to discontinue dealing with or to terminate the use or engagement of persons who continue on their own the deceptive acts or practices prohibited by this order;

6. Respondent herein institutes a program of continuing surveillance adequate to reveal whether the business practices of each said person described in Paragraph (1) above conform to the requirements of this order;

7. Respondent herein discontinues dealing with or terminates the use or engagement of any person described in Paragraph (1) above, as revealed by the aforesaid program of surveillance, who continues on his own any act or practice prohibited by this order.

It is further ordered, That in the event the Federal Trade Commission shall successfully maintain a civil penalty action against respondent for violation of Sections 3(a), 3(b), 6(b) (1), or 6(b) (2), of this order, respondent shall provide restitution to its students in the following manner:

Respondent shall notify in writing, at their last known address, within thirty days after the date of the Order of the U.S. District Court awarding the Commission civil penalties, all students who enrolled in any of respondent's courses during the six (6) year period preceding the date of the U.S. District Court's Order, or such later period of time during which respondent has been shown to have violated Sections 3(a) or 3(b) of this order, or failed to make

the affirmative disclosures required by Paragraphs 6(b) (1), or 6(b) (2), of their right to present claims for restitution according to the following terms and conditions:

Students shall be informed that in order to be entitled to restitution and a cancellation of future monetary obligations to respondent, they must submit to respondent and the Federal Trade Commission an affidavit containing details of the following affirmations.

(a) That a misrepresentation was made to the student by respondent or any of its agents or representatives concerning the availability of jobs after completion of the course of instruction they took or placement assistance to be given in obtaining employment after completion of the course, and that the student relied on such misrepresentation or misrepresentations in enrolling in one of respondent's courses; or that respondent or any of its agents failed to disclose placement data or a list of types of employers to the student, as required by Paragraphs 6(b) (1) and 6(b) (2) of this order.

(b) That the student satisfactorily completed the course of instruction in which he or she enrolled.

(c) That in the case of a student who relied on the misrepresentation regarding the availability of jobs, or that in the case of a student who was not provided with the affirmative disclosures required by Paragraphs 6(b) (1) or 6(b) (2), said student attempted to procure employment in the field for which he took training from respondent and was unsuccessful in obtaining employment within six months after completion of his course.

That in the case of a student who relied on a misrepresentation regarding the offer of placement assistance by respondent said student sought placement from respondent's placement department and did not receive placement assistance as represented by respondent and did not secure a job within six months after completing the course.

Respondent shall make restitution to any student submitting a sworn affidavit complying with the provisions of Sections (a)-(c) of this paragraph within sixty (60) days of receipt of said affidavit, unless respondent, within sixty (60) days of receipt of said affidavit:

(1) Obtains a sworn affidavit, from a person with first-hand knowledge or based upon documentary or other legally admis-

sible evidence, which asserts facts controverting the material facts set forth in said student's affidavit, thereby placing in issue the student's right to restitution; and

(2) Informs the student: (a) that it denies the student's claim for restitution based upon such affidavit; (b) forwards a copy of such affidavit to the student; and (c) informs the student that he or she may, at his or her option, elect to have the matter referred to arbitration under the supervision of the American Arbitration Association pursuant to the rules set forth in Exhibit A attached hereto and forwards a copy of such rules to the student.

Respondent in all demands referred to arbitration shall carry the burden of proof to establish that the student seeking restitution is not entitled thereto.

It shall be a violation of this order for respondent to fail to provide timely restitution (1) to any student who submits to respondent a sworn affidavit which complies with Provisions (a)-(c) of this paragraph, which claim respondent does not deny pursuant to the procedures set forth in this paragraph within sixty (60) days after receipt thereof; or (2) to any student whose claim for restitution has been referred to arbitration and has been upheld by the arbitrator.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further 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 this order.

EXHIBIT A

SPECIAL ARBITRATION RULES

For Career Academy, Inc.—Federal Trade Commission—American Arbitration Association

1. INITIATION

1.1 By Claimant, after receipt of denial of claim by Career Academy.

(a) Career Academy will send a copy of these special rules with notice of denial.

1.2 By *Career Academy*, at any time after denial of a claim; provided however, that this provision shall not be construed so as to prevent recourse to the courts for the

determination of any claim against Career Academy which, without reference to the foregoing order, was or is actionable under applicable state or federal law.

1.3 Initiating party will send notices to American Arbitration Association, hereinafter referred to as "AAA", 230 West Monroe Street, Room 1030, Chicago, Illinois 60606, Attention: Regional Director, with a copy to other party.

1.4 If initiated by Claimant, notice will include a copy of Proof of Eligibility and Entitlement previously sent to Career Academy.

1.5 If initiated by Career Academy, notice will include copies of Claimant's Proof of Eligibility and Entitlement and Career Academy's notice of denial.

2. SELECTION OF ARBITRATOR:

2.1 One Arbitrator will be selected by AAA.

2.2 AAA will send name and biographical materials on proposed Arbitrator to both parties. If neither party objects (in writing to AAA with copy to other party) within five (5) days after receipt of nomination, the appointment shall be deemed final.

2.3 If either party objects to proposed Arbitrator, AAA will propose another Arbitrator, with the parties having an opportunity to object to his appointment, pursuant to the procedures set forth in paragraph 2.2, above.

2.4 Neither party need specify any grounds for objection to a proposed Arbitrator until that party shall have objected to three proposed Arbitrators, after which the objecting party must object for cause.

2.5 AAA will mail a copy of these special rules and the applicable provisions of the Federal Trade Commission's Decision and Order to the Arbitrator and notice of the Arbitrator's appointment to the parties.

3. MAIL SUBMISSION OF EVIDENCE:

3.1 Initial submission of evidence with copy to the opposing party shall be mailed to AAA, 230 West Monroe Street, Room 1030, Chicago, Illinois 60606, Attention: Regional Director, within 20 days after appointment of the Arbitrator. AAA will transmit all evidence received to the Arbitrator immediately upon expiration of the 20 day period.

(a) Claimant may submit such documents or affidavits, in addition to Proof of Eligibility and Entitlement, as he deems relevant.

(b) Career Academy will submit such documents or affidavits as it deems relevant.

(c) If Career Academy disputes the amount of tuition claimed to have been paid by the Claimant, it shall submit copies of its student ledger showing tuition payments received from the Claimant.

3.2 Reply or rebuttal evidence (documents or affidavits) may be submitted to AAA by either party (with copy to opposing party) within twenty (20) days after receipt of the opposing party's initial submission.

3.3 Photostatic copies of any documents be submitted in lieu of the original.

4. ORAL TESTIMONY:

4.1 In the event that the Arbitrator is unable to resolve a controverted claim for restitution submitted by mail pursuant to Paragraph 3, above, and he deems a personal appearance by the parties is essential to a determination of the matter, the Arbitrator may direct that the parties personally appear before him for oral examination at a place of his designation, at a time acceptable to both parties, within thirty (30) days after notice to both parties. The expenses of appearance, such as transportation, room and board, shall be borne by each party.

5. COSTS:

5.1 The administrative Fees of the AAA for each matter submitted hereunder,

Decision and Order

84 F.T.C.

inclusive of the Arbitrator's fees, if any, shall be \$50.00. Such Fees shall be paid in advance and shared equally by both parties and the successful party's fees shall be assessed in the Arbitrator's Award against the unsuccessful party.

5.2 The Arbitrator's Award shall also assess the successful party's transcript costs pursuant to paragraph 4.1, above, if any, and other direct expenses incurred by the successful party in connection with any deposition taken pursuant thereto, against the unsuccessful party.

6. *AWARD:*

6.1 The Arbitrator's Award, including assessment of costs pursuant to paragraph 5, above, but not including any detailed findings of fact, or opinion, shall be mailed to both parties by AAA.

6.2 If the Arbitrator's Award has not been satisfied within thirty (30) days after mailing by the AAA, judgment on the Award may be entered by the successful party in any court of competent jurisdiction.

7. *GENERAL:*

7.1 Either party may, but need not, appear by counsel in proceedings hereunder. Counsel shall enter his appearance by written notice to the AAA and the opposing party (or counsel for the opposing party).

7.2 To the extent not inconsistent with these special rules, the Commercial Arbitration Rules of the AAA then in effect shall apply to any proceeding hereunder.

IN THE MATTER OF

FOREVER YOUNG, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2548. Complaint, Sept. 17, 1974—Decision, Sept. 17, 1974

Consent order requiring a Denver, Colo., seller and licensor of a medical process involving the chemical peeling of the skin, among other things to cease misrepresenting the safety and results of its medical treatment to remove facial wrinkles and blemishes. Further, respondent must devote 15 percent of its advertising or oral presentations to disclosure of the inherent dangers involved in the treatment. In addition, the order requires the firm to recall all material not in conformity with the order and to require each patient to get approval from a physician before signing a contract. The firm must also allow purchasers a 48-hour cooling-off period after consultation with Forever Young's physician and inspection of the treatment and recuperation facilities, and allow full refunds to all purchasers exercising this right.

Appearances

For the Commission: *Gregory L. Colvin.*

For the respondents: *Steven R. Frank, Tooze, Kerr & Peterson, Portland, Ore., and Bernard E. Newby, Newby & Newby, Vancouver, Wash.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Forever Young, Inc., a corporation, and Ralph J. Phillipps, individually and as an officer, and Ethel R. Jones, individually, hereinafter sometimes referred to as respondents, have violated the provisions of Sections 5 and 12 of said Act, and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issued its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Forever Young, Inc. (hereinafter referred to as "Forever Young") is a corporation organized, 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 1111 South Colorado Boulevard #205, Denver, Colo.

Ralph J. Phillipps is an individual and officer of Forever Young. He formulates, directs, and controls the policies, acts and practices of Forever Young, including the acts and practices hereinafter set forth. His address is the same as that of Forever Young.

Respondent Ethel R. Jones holds the Forever Young sales license in the Portland, Ore., metropolitan area. Her address is 414 Lexington Way, Vancouver, Wash.

PAR. 2. Respondents advertise, offer for sale and sell to the general public a medical process called the Forever Young treatment, which is a chemical peeling of the skin on the face and neck for cosmetic purposes. The treatment involves the application of a chemical solution which peels off the outer layers of the skin, producing an alteration in skin appearance as the skin heals. The purported purpose of this treatment is to remove manifestations of aging such as wrinkles, lines, folds, and spots, and undesirable features such as blemishes, large pores, and acne marks, in order to make a person appear younger or more attractive. Forever Young, Inc., grants licenses for the purpose of selling the treatment. According to available information there are presently licenses in Hawaii, Calif., Wash., Colo., Va. and Ore.

PAR. 3. Respondents' medical treatment constitutes either a drug or a cosmetic, or both, as defined in Sections 15(c) and (e) of the Federal Trade Commission Act, 15 U.S.C. Sections 55(c) and (e).

PAR. 4. In the course and conduct of their business, respondents transport patients from patients' homes in numerous States of the United States to Colorado for application of the Forever Young treat-

ment and Forever Young, Inc. maintains licensees as agents in several States of the United States for the purpose of soliciting such patients. In addition, advertising materials, contracts, business correspondence, monies and other documents travel between respondents' headquarters in Colorado and licensees and patients in other States of the United States. In the further course and conduct of their business, respondents, directly and through licensees, promote the Forever Young treatment by advertising in newspapers of interstate circulation, in interstate radio broadcasts, and in promotional literature mailed to prospective customers. By virtue of these activities, respondents have maintained a substantial business in commerce, as "commerce" is used in Section 5 of the Federal Trade Commission Act. Also, respondents have disseminated and caused to be disseminated advertisements by United States mails, and in commerce by other means, within the meaning of Section 12(a)(1), 15 U.S.C. Section 52(a)(1), of the Federal Trade Commission Act. Further, respondents' advertisements have the purpose of inducing or are likely to induce, directly or indirectly, the purchase, in commerce, of the Forever Young treatment, within the meaning of Section 12(a)(2), 15 U.S.C., Section 52 (a)(2), of said Act.

PAR. 5. In the aforesaid advertisements, during oral sales presentations, and at other times and places, respondents have made and are now making numerous representations and have engaged and are now engaging in other acts and practices as described in Paragraphs Six to Eighteen following.

PAR. 6. *The Nature of the Treatment.* Respondents represent the treatment, without any further description, as a technique of facial regeneration which does not involve surgery or abrasions, implying by this and other representations that the treatment is merely a cosmetic process. *In fact*, the treatment involves application of an abrasive chemical solution (containing phenol, also known as carbolic acid) to the skin, causing a second-degree burn which peels off the outer layers of the skin and produces a change in skin appearance solely by the body's own wound-healing processes. This treatment is known as chemosurgery and is a serious medical procedure.

PAR. 7. *Pain.* Respondents advertise the treatment without mentioning the subject of pain or discomfort. One of their brochures represents that the client should not have any pain during the recuperation period and another represents that clients can read, sew, or write letters during that time. In fact, the pain associated with the process can be so severe that respondents' patients are always sedated or anesthetized during the application of acid and may require medication for days, weeks, or months afterward to reduce pain and other discomforts, such

as itching and burning. During the treatment, many patients experience such discomforts as the eyes swelling shut and difficulties breathing, and swallowing.

PAR. 8. *Safety: Systemic Dangers.* Respondents represent that the treatment is safe. *In fact*, the process has, in addition to the pain described above, a number of inherent dangers to the entire body, which respondents do not disclose, including but not limited to:

1. *Systemic toxic reaction (poisoning).* The chemical used in the Forever Young treatment, phenol, is toxic to kidneys, liver, and other organs of the body when present in sufficient quantities. Phenol can be absorbed through the skin during the treatment in quantities sufficient to cause serious and even fatal illness in some people. One patient died during the Forever Young treatment from this cause. Persons with kidney infections are particularly susceptible to adverse phenol reaction. Yet, Forever Young does perform the treatment on persons with kidney infections. Furthermore, Forever Young does not provide the personnel, facilities, equipment or techniques adequate to prevent or minimize the effects of a systemic toxic reaction.

2. *Infection.* Like any other serious burn covering a large surface of the body, the danger of infection through the burned area is everpresent during the process and for some time afterward. The "powder mask," worn for over a week after the initial treatment, which respondents represent to be a cosmetic technique, is in reality a medical step to attempt to prevent infection.

3. *The eyes.* If the acid gets in a patient's eyes, serious permanent damage can result, including blindness; therefore, a great deal of medical skill is required and adequate precautions must be taken to prevent such an occurrence and minimize the harm if this does happen.

4. *Other systemic complications.* Since phenol skin-peeling is a serious, traumatic medical procedure and involves use of sedatives and other medications, clients are exposed to numerous other dangers, including heart disease and allergic reactions, which accompany procedures of this type. If patients are not properly prepared, physically, mentally and emotionally, with special emphasis on full disclosure of all that the process entails, these dangers are heightened and the prospects for improvement diminished.

PAR. 9. *Safety: Adverse Effects on Skin.* In addition to representing the treatment as safe, respondents represent that the result will be new, fresh and clear. *In fact*, there are a number of undesirable changes in the skin which may occur, none of which respondents adequately disclose, necessitating the continual use of cosmetic or medical techniques to protect, treat, or camouflage the skin, including but not limited to:

1. *Scarring.* Various types of visible scars may appear after the treatment and remain indefinitely.

2. *Pigmentation changes.* The treatment almost always produces changes in the color of the treated area, which may persist indefinitely, such as a lighter overall color, mottling (dark areas alternating with light areas), and lines of demarcation between treated and untreated areas.

3. *Redness.* The extreme redness of the skin, which occurs mainly during the healing process, may persist for a long time. Also, there may be a tendency, persisting indefinitely, for the treated skin to flush (suddenly appear red) during times of overheating, overexertion or emotional stress.

4. *Sensitivity to sunlight.* During the healing process and for an indefinite period afterward, the treated skin may react abnormally to exposure to sunlight, including severe sunburn, mottling, and other pigmentation changes.

5. *Other skin reactions.* The treated skin may be affected by other problems associated with the traumatic impact of chemical skin-peeling, such as increased or coarsened hair growth requiring further medical attention.

PAR. 10. *Treatment of the Neck.* Respondents represent that their treatment is performed on the neck as well as the face, implying that the neck will look younger or more attractive as a result, and in some advertisements they directly represent that the process is clinically recommended for the neck. *In fact*, almost unanimously plastic surgeons refuse to perform chemical skin-peeling on the neck, for several reasons:

1. Because the skin is thin on the neck, and because movements of breathing, swallowing and turning cannot be stopped, the acid may burn deeply or unevenly, creating a danger, to an even higher degree, of the same adverse effects as may occur when facial skin is treated, including systemic toxic reaction, infection, other systemic complications, severe pain, scarring, uneven pigmentation, red flushing, sensitivity to sunlight, and various traumatic skin reactions.

2. Chemical skin-peeling can induce other adverse effects specific to the neck area, such as interference with breathing, suffocation and claustrophobia.

3. In almost all cases, the neck does not appear younger nor does it benefit in any other way by chemical skin-peeling. The most common sign of aging in the neck area, which is a stringy or "turkey-neck" condition of the skin, and underlying tissues, is not improved by the

process. Given the high risk of adverse effects, the neck is more likely to be worsened by the treatment than improved.

PAR. 11. *Positive Results Obtained.* Respondents represent that the treatment is recommended for many undesirable skin conditions, including acne marks, big pores, lines on face and neck, and lines and folds around the eyes. In addition, they imply that the treatment is as effective as or superior to surgical cutting or abrasive techniques of plastic surgery. *In fact*, only certain limited conditions and minor aspects of aging, such as fine wrinkles and some skin blemishes, can be affected by the process, and only in carefully selected persons. Acne scars, big pores, deep lines, deep wrinkles, and sagging or redundant folds of skin are not removed or significantly reduced by the process, yet some of these conditions may be improved by other techniques of plastic surgery, such as dermabrasion or surgical face-lift.

PAR. 12. *Patient Selection.* Respondents represent that the treatment is clinically recommended for men and women, young and old, implying by this and other representations that all kinds of people can benefit from the treatment. *In fact*, favorable results cannot be achieved unless rigorous criteria for patient selection are followed, including but not limited to:

1. *Sex.* Men should not undergo the treatment because of difficulties associated with beard growth and the necessity for wearing cosmetics to protect the skin and camouflage its condition. Yet respondents do perform the treatment on men.

2. *Age.* A young person whose skin has not matured should not go through the treatment nor should an elderly person who cannot stand the physical strain. Yet respondents have treated clients from 28 to 76 years of age.

3. *Type of skin.* The treatment should only be performed on certain limited types of skin, and definitely not on dark-skinned persons because of the probability of drastic pigmentation changes. Yet respondents have treated Black persons, Orientals and native Hawaiians.

4. *Other factors.* People who are not in the proper physical, mental, and emotional health should not undergo this treatment.

PAR. 13. *Standard of Medical Care.*

1. *Exercise of patient selection.* Respondents represent that patients are selected on the basis of a personal interview, or consultation, by a professional counselor at respondents' local office. *In fact*, the Forever Young representatives who examine and advise prospective patients are merely local sales license holders who are not professionally trained or professionally accountable.

2. *Competence of personnel.* Respondents represent that the entire process is done by a highly qualified doctor and techniques, and by medical specialists. *In fact*, the only licensed medical practitioner involved in the process is the osteopath who applies the acid to the skin. All the other personnel are either attendants employed by the nursing homes or laypeople, not licensed or trained professionally, hired by Forever Young to assist during the treatment or recuperation. In addition, the local Forever Young representative, who is not licensed or trained professionally, is often consulted by patients for further medical advice and care when problems develop after they return home. Given the serious medical nature of this treatment and the complex physical, mental, and emotional factors involved, a licensed medical practitioner familiar with such techniques of plastic surgery must, and only such a person is qualified to: (1) examine, diagnose, advise, and mentally prepare each patient to undergo chemical skin-peeling, (2) determine whether a patient is a proper subject for the treatment, and (3) provide post-operative advice and care for patients.

PAR. 14. *Medical Facilities.* Respondents represent that the treatment is given at the Forever Young clinic. *In fact*, Forever Young does not own or operate a clinic, but only rents space on a temporary basis in a Denver nursing home for each patient's treatment and recuperation. A treatment of this serious nature is usually performed in a hospital, yet respondents use a facility which is inadequately equipped and staffed to handle the treatment and possible complications.

PAR. 15. *The Healing Process.* Respondents represent that the process is complete in eleven or twelve days. *In fact*, a period lasting weeks or months, the duration of which cannot be accurately predicted, is required before the skin is healed. During this time, a treated person has an extremely red face, may suffer various discomforts, and must restrict public activities, avoid direct or reflected sunlight and use heavy cosmetics to shield and camouflage the skin.

PAR. 16. *Youthful Appearance Achieved.* Respondents represent that patients will appear younger by 15, 20 or 25 years after the treatment. *In fact*, the process can treat only certain aspects of aging skin; many people's appearances are not improved, but worsened by the treatment, and, even taken as a subjective estimate of how much younger a person could look, these claims are highly exaggerated.

PAR. 17. *Duration of Benefit.* Respondents' representations, including the name of the company itself, state and imply that the more youthful appearance achieved through the treatment is of permanent duration. *In fact*, a significant portion of any benefit received is due to swelling of underlying tissues during the healing process, and this

swelling recedes after six to eighteen months. In any case, natural aging processes begin all over again after the treatment.

PAR. 18. *Availability of Treatment.* Respondents imply in their advertising and directly represent orally that the treatment is unique in several ways, creating the impression, for instance, that the process is new or special, that it involves a secret formula, that it is only available in Denver, and that these factors justify the price of \$2,500 for the treatment. *In fact*, there is nothing unique about the Forever Young treatment except its low standard of care in selecting and treating patients. The process is not new or secret, but is performed by qualified plastic surgeons under more closely controlled hospital conditions in metropolitan areas across the country, including local communities where most Forever Young clients reside, for a fraction of the Forever Young price.

PAR. 19. Therefore the advertisements, representations, acts and practices referred to hereinabove are false, misleading, unfair and deceptive.

PAR. 20. The use by respondents of the aforesaid false, misleading, unfair and deceptive representations, acts and practices has the capacity and tendency to mislead consumers into the mistaken belief that said representations are true and to unfairly influence consumers, with the result that consumers are induced to undergo the Forever Young treatment and be subjected to severe pain, discomfort, inconvenience of traveling, exorbitant charges, and risks of disease or disfigurement, without being afforded reasonable opportunity to comprehend and consider the seriousness of the treatment or to compare facial improvement treatments available from other sources under more closely controlled medical conditions, in their own communities and at lower prices.

PAR. 21. The respondents' acts and practices alleged herein, including the dissemination of false advertisements, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Forever Young, Inc. is a corporation organized, 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 1111 South Colorado Boulevard #205, Denver, Colo.

Respondent Ralph J. Phillipps is an individual and officer of Forever Young. He formulates, directs, and controls the policies, acts and practices of Forever Young, including the acts and practices hereinafter set forth. His address is the same as that of Forever Young.

Respondent Ethel R. Jones holds the Forever Young sales license in the Portland, Oregon, metropolitan area. Her address is 414 Lexington Way, Vancouver, Wash.

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 Forever Young, Inc., a corporation, its successors and assigns, and its officers, and Ralph J. Phillipps, individually and as an officer of said corporation, and Ethel R. Jones, individually, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, or through any franchisees or licensees, in connection with the offering for sale, sale, or dispensing of any chemical skin-peeling treatment or any similar process, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing in writing, orally, visually, or in any other manner, directly or by implication, that:

1. Said process is solely a cosmetic process.
2. Said process is not a medical process.
3. Said process does not involve surgery.
4. Said process involves no abrasive chemicals.
5. Said process is painless or involves only minor discomfort.
6. Said process is safe.
7. The result of said process is a new, fresh or clear appearance.
8. Said process can be safely or successfully performed on the neck.
9. Said process is comparable or superior to other techniques of plastic surgery.
10. Said process can remove or significantly reduce acne scars, big pores, deep lines, deep wrinkles, or sagging, redundant folds of skin.
11. Said process can be safely or successfully performed on many different kinds of people.
12. Said process can be safely or successfully performed on men, young people, elderly people, or dark-skinned people.
13. Patients for said process are carefully selected.
14. Patients for said process are interviewed, examined, diagnosed, advised, or selected by a professional counselor or like person.
15. Said treatment is given at a clinic.
16. Said process is performed entirely by qualified medical personnel.
17. Said process is complete within any specified period of time.
18. Said process will cause patients to appear any number of years younger than their actual age.
19. Any more youthful appearance achieved through said process is of permanent duration.
20. Said process is unique in any one or more of several ways, including:
 - a. that it is new or special,
 - b. that it involves a secret formula or secret solution,
 - c. that said process is only available in Denver or only through respondents,
 - d. that said process is not available in a prospective patient's own state or local community.

B. Advertising, offering for sale, selling, or in any manner dispensing chemical skin-peeling or any other like process, unless respondents make clear and conspicuous disclosures in all advertising, including oral sales presentations, that:

1. Said process is chemical skin-peeling, a serious medical procedure known as chemosurgery.

2. Chemical skin-peeling involves application of an acid called phenol to the skin, causing a second-degree burn which peels off the outer layers of the skin and produces a change in skin appearance solely by the body's own wound-healing reactions.

3. The pain associated with the process can be very severe; thus patients are sedated or anesthetized during the application of acid. This pain, as well as other discomforts, such as burning, itching, and swollen shut eyes, may persist for days or weeks afterward, requiring medication to control.

4. Chemical skin-peeling has a number of known possible inherent dangers, including: (a) poisoning of a person's entire system by the acid absorbed through the skin, which can be serious, even fatal, illness; (b) infection; (c) blindness, if the acid gets in a patient's eyes; (d) other complications resulting from the traumatic nature of the procedure or the medications used.

5. Respondents do not provide the personnel, facilities, equipment, or techniques on the premises adequate to prevent or minimize the above-described side effects.

6. A number of undesirable changes in the skin often result from chemical skin-peeling, necessitating the continual use of cosmetics or medical techniques to protect, treat, or camouflage the skin. These may include: (a) permanent scarring; (b) changes in overall color of the treated area; (c) mottling; (d) a line of demarcation at the edge of the treated area; (e) extreme redness; (f) abnormal sensitivity to sunlight; (g) other traumatic skin reactions.

7. The most common sign of aging in the neck area, which is a stringy or "turkey-neck" condition of the skin and underlying tissues, is not improved by chemical skin-peeling.

8. Almost all plastic surgeons refuse to perform chemical skin-peeling on the neck because the neck is not likely to be improved by the process and may be worsened.

9. Only minor aspects of skin appearance, such as fine wrinkles and some skin blemishes, can be treated by the process.

10. Acne scars, big pores, deep lines, deep wrinkles, and sagging or redundant folds of skin are not removed or significantly reduced by the process, yet some of these conditions may be improved by other techniques of plastic surgery, such as dermabrasion or surgical face-lift.

11. Men are not advised to undergo the process because of difficulties associated with beard growth and the necessity for continual use of cosmetics.

12. A young person whose skin has not matured should not undergo the process, because of the risk of permanent skin damage.

13. Dark-skinned persons should not undergo the process because of the probability of drastic pigmentation changes.

14. Only certain kinds of people with certain types of skin have a reasonable chance of receiving favorable results and avoiding adverse effects from chemical skin-peeling, and only a licensed medical practitioner familiar with such techniques of plastic surgery and able to evaluate complex physical, mental and emotional factors is qualified to examine, diagnose, advise, select, or mentally prepare patients for chemical skin-peeling, and only such a professional person can provide post-operative advice and care for patients.

15. Respondents' sales representatives, franchisees, or licensees are not qualified as indicated above to examine, diagnose, advise, select, or mentally prepare patients for chemical skin-peeling or provide patients with the proper medical advice or care if complications develop after treatment.

16. Although a treatment of this serious nature is usually performed in a hospital, respondents only rent space on a temporary basis in a nursing home for each patient's treatment and recuperation.

17. It may be weeks or months after the treatment before the skin is healed, during which time a treated person has an extremely red face, may suffer various discomforts, and may have to restrict public activities, avoid direct or reflected sunlight and use heavy cosmetics and sun screens.

18. If a more youthful appearance is achieved through the treatment, the result may not last more than a year or two, since part of the benefit is due to temporary swelling and since natural aging processes begin all over again after the treatment.

19. Chemical skin-peeling is available from qualified plastic surgeons under closely controlled hospital conditions in metropolitan areas across the country, and they may charge substantially less.

Respondents shall set forth the above disclosures separately and conspicuously from the balance of each advertisement or presentation used in connection with the advertising, offering for sale, sale, or dispensing of said process, and shall devote no less than fifteen percent of each advertisement or presentation to such disclosures. *Provided however*, That in advertisements which consist of less than forty-eight column inches in newspapers or periodicals, and in radio or television advertisements with a running time of two minutes or less, respondents may substitute the following statement, in lieu of the above requirements:

WARNING: This is a medical procedure—basically a chemical burn which peels skin away. It is extremely painful, takes a long time to heal, and exposes a person to risks of poisoning, infection, permanent scarring, and other medical complications. If performed on the neck, the process may make it look worse. Many signs of aging are not improved by this process, and the benefit, if any, is mainly temporary. Only certain kinds of people can benefit from this process, and they should be diagnosed, selected, treated, and continually cared for by a qualified doctor. Closely controlled medical conditions are not presently provided on the premises. (Statement required by order of the Federal Trade Commission.)

Respondents shall set forth the above disclosure separately and conspicuously from the balance of each advertisement, stating nothing to the contrary thereto, and shall devote no less than fifteen percent of each advertisement to such disclosure, and if such disclosure is made in print, it shall be in at least eleven-point type.

C. Disseminating or causing to be disseminated by United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph A above, or which fails to make the disclosures required by Paragraph B above.

D. Disseminating or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such process, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph A above, or which fails to make the disclosures required by Paragraph B above.

II. *It is further ordered*, That respondents Forever Young, Inc. and Ralph J. Phillipps:

A. Recall and retrieve, from each and every franchisee, licensee, and sales representative, all advertisements and materials upon which advertisements or oral sales presentations are based, which contain any of the representations prohibited by Paragraph I-A of this order or which fail to make the disclosures required by Paragraph I-B.

B. Deliver a copy of this order to each present and every future franchisee, licensee, and sales representative, and upon each licensed medical practitioner associated with respondents or their licensees, and obtain written acknowledgement of the receipt thereof.

C. Obtain from each present and future franchisee, licensee, or sales representative an agreement in writing (a) to abide by the terms of this order, and (b) to cancellation of their license or franchise for failure to do so.

D. Cancel the license or franchise of any licensee or franchisee that fails to abide by the terms of this order.

III. *It is further ordered*, That respondents:

A. Provide prospective and present patients, as soon as possible after initial sales contact is made with such person and before such person signs any document relating to said process, an information sheet which shall be furnished to the patient and which contains nothing but the disclosures, numbered 1 to 19, set forth in Paragraph I-B above. Respondents shall allow these persons ample, uninterrupted opportunity to read and consider the contents of this information sheet. Respondents shall retain a copy of this information sheet, after it is signed and dated by the person, for a period of three years.

B. Require that each such prospective patient, after receipt of the information sheet described above and before he or she signs any contract for said process, consult with a licensed physician, who is not in any way associated with or recommended by the respondents, regarding the nature of chemical skin-peeling, its dangers, discomforts, limitations, and alternatives. Respondents shall obtain from each prospective patient a certificate, signed by the physician who was thus consulted, specifying that the physician:

1. Understands what said process is;
2. Has explained to the prospective patient the nature of the treatment, its dangers, discomforts, limitations, and alternatives;

3. Has conducted or has examined the results of tests appropriate to determine the prospective patient's physical fitness to undergo said process and has discussed these results with the prospective patient; and

4. Has reviewed appropriate aspects of the prospective patient's medical history and has discussed these aspects with the prospective patient.

This certificate shall specify the date of the consultation, and respondents shall retain all such certificates for three years.

IV. *It is further ordered*, That no contract for said process shall become binding on the patient prior to forty-eight hours after the patient has consulted with the physician who will perform the treatment and has inspected the treatment and recuperation facilities, and that:

A. Respondents shall clearly and conspicuously disclose, orally prior to the time of sale, and in writing on any contract, promissory note or other instrument signed by the patient, that the purchaser may rescind or cancel any obligation incurred, with return of all monies paid, by placing in the mail or delivering a notice of cancellation to respondents' headquarters office prior to the end of this period.

B. Respondents shall provide a separate and clearly understandable form which the purchaser may use as a notice of cancellation.

C. Respondents shall return to such patient, within forty-eight hours after receipt of notice of cancellation, all monies paid.

D. Respondents shall not negotiate any contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to the time the patient is treated.

E. A patient may waive the forty-eight hour waiting period and be treated earlier, but only after sixteen hours have passed since the patient's consultation with the physician who will perform the treatment and since the patient's inspection of the aforementioned facilities.

V. *It is further ordered*, That respondents cease and desist from using any person other than a licensed medical practitioner, who is familiar with such techniques of plastic surgery, who is operating within the limits of his or her profession, and who is qualified to evaluate complex physical, mental and emotional factors: (1) to examine, diagnose, advise, select, or mentally prepare prospective patients for chemical skin-peeling, (2) to treat such patients, or (3) to provide post-operative advice or care for them.

VI. *It is further ordered*, That respondents maintain at all times in the future, complete business records relative to the manner and form

of their continuing compliance with the above terms and provisions of this order. Each record shall be retained by respondents for three years after such record is made.

VII. *It is further ordered*, That the corporate respondent notify the Commission at least thirty (30) days prior to any proposed change in said respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, licensees, or franchisees, or any other change in the corporation which may affect compliance obligations arising out of this order.

VIII. *It is further ordered*, That the individual respondents named herein promptly notify the Commission of the discontinuance of his or her present business or employment, and of his or her affiliation with a new business or employment, in the event of such discontinuance or affiliation. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he or she is engaged as well as a description of his or her duties and responsibilities.

IX. *It is further 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, signed by such respondents, setting forth in detail the manner and form of their compliance with this order.

IN THE MATTER OF

SUNSET POOLS EAST, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

Docket C-2549. Complaint, Sept. 17, 1974—Decision, Sept. 17, 1974

Consent order requiring an Upland, Calif., seller of swimming pools, among other things to cease neglecting to inform credit customers of their right to a three-day cooling-off period during which they may cancel their contract; and making any physical changes to or performing any work or services on customers' property prior to the end of the three-day cooling-off period.

Appearances

For the Commission: *Paul R. Roark.*
For the respondents: *Paul M. Weil, Whittier, Calif.*

Complaint

84 F.T.C.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Sunset Pools East, Inc., a corporation, and Jack Feinberg, individually and as an officer of said corporation, and Leo Feinberg and Gerald Brand, individually, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and implementing regulation, 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. Respondent Sunset Pools East, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 929 Foothill Boulevard, Upland, Calif.

Respondent Jack Feinberg is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondent Leo Feinberg is an employee of the corporate respondent. He cooperates and acts together with the other respondents to bring about the acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

Respondent Gerald Brand is an employee of the corporate respondent. He cooperates and acts together with the other respondents to bring about the acts and practices of the corporation, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale and sale of swimming pools to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly arrange for the extension of consumer credit, as "arrange for the extension of credit" and "consumer credit" are defined in Section 226.2 of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course of business as aforesaid, and in connection with their credit sales,

as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute a binding "Lien Contract and Deed of Trust," hereinafter referred to as "Lien Contract."

By and through the use of the lien contracts, a security interest, as "security interest" is defined in Section 226.2(z) of Regulation Z, is or will be retained or acquired in real property which is used or expected to be used as the principal residence of the respondents' customers. Respondents' retention or acquisition of such security interest in said real property thereby entitles their credit customers to be given the right to rescind that transaction *by* midnight of the third business day following the consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later.

Respondents have in some instances failed to give their credit customers the right to rescind *by* midnight of the third business day following consummation of the transaction or the date of delivery of all disclosures, whichever is later, and have failed to give notice of the right to rescind to their customers, as required by Sections 226.9(a) and (b).

Further, respondents have made physical changes in a customer's property and have performed work or services on such property before expiration of the three-day rescission period. Respondents' failure to refrain from commencing work pursuant to rescindable contracts before the rescission period has expired is in violation of Section 226.9(c) of Regulation Z.

PAR. 5. By and through the acts and practices set forth above, respondents have failed to comply with the requirements of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System. Pursuant to Section 103(q) of the Act, such failure to comply constitutes a violation of the Truth in Lending Act and, pursuant to Section 108 thereof, respondents have violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Sunset Pools East, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 929 Foothill Boulevard, in the city of Upland, State of California.

Respondent Jack Feinberg is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above stated address.

Respondents Leo Feinberg and Gerald Brand are employees of the corporate respondent. They cooperate and act together with the other respondents to bring about the acts and practices of said corporation. Their address is the same as that of the corporate respondent.

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

It is ordered, That respondents Sunset Pools East, Inc., a corporation, its successors, assigns, and its officers, and Jack Feinberg, individually and as an officer of said corporation, and Leo Feinberg and Gerald Brand, individually, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of, or arrangement for the extension of, consumer credit, as "consumer credit" is defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Failing in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer, to give such customer the right to rescind by midnight of the third business

day following the consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later, or to give notice of the right to rescind to such customers, as required by Sections 226.9(a) and (b) of Regulation Z.

2. Making any physical changes in the customer's property or performing any work or services on such property before expiration of the three-day rescission period provided for in Section 226.9(a) of Regulation Z, in any transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer as provided in Section 226.9(c) of Regulation Z.

3. Failing in any transaction in which respondents retain or acquire a security interest in real property which is used or expected to be used as the principal residence of the customer to comply with all requirements regarding the right of rescission set forth in Section 226.9 of Regulation Z.

It is further ordered, That respondents do the following:

(a) Deliver a copy of the following Notice to all present and future personnel of respondents engaged in the consummation of any extension or arrangement for the extension of consumer credit:

NOTICE

TO: ALL SALESMEN AND ALL OPERATING DIVISION PERSONNEL SUNSET POOLS EAST, INC.

We are required by the Federal Trade Commission to advise you of the following legal requirements.

Regulation Z (Truth in Lending Act) requires the following (among other things):

1. In any transaction in which a security interest in real property, which is used or expected to be used as the principal residence of the customer, is retained or acquired, such customer must be given the right to rescind by midnight of the third business day following the consummation of the transaction or the date of delivery of all disclosures required by Regulation Z, whichever is later. Notice of the right to rescind must be given to such customers, as required by Section 226.9(a) and (b) of Regulation Z.

2. No physical changes may be made in the customer's property and no work or services performed on such property before expiration of the three-day rescission period provided for in Section 226.9(a) of Regulation Z, in any transaction in which the company retains or acquires a security interest in real property which is used or is expected to be used as the principal residence of the customer.

3. In any transaction in which a security interest in real property which is used or expected to be used as the principal residence of the customer is retained or acquired, you must comply with all requirements regarding the right of rescission set forth in Section 226.9 of Regulation Z.

(b) Advise such personnel described in (a) above that delivery of such Notice and the requirements set out therein are required by

the terms of a Federal Trade Commission Order naming Sunset Pools East, Inc., Jack Feinberg, Leo Feinberg, and Gerald Brand as respondents.

(c) Immediately obtain from such personnel described in (a) above a signed and dated duplicate of the Notice described in (a) above. Such signed and dated duplicate Notice shall also have the following language on its face above the signature line:

I acknowledge receipt of a copy of the above Notice. I also acknowledge that I have been advised that delivery of such NOTICE and the requirements set out therein are required by the terms of a Federal Trade Commission Order naming Sunset Pools East, Inc., Jack Feinberg, Leo Feinberg, and Gerald Brand as respondents. This Order was entered pursuant to a Consent Agreement. Noncompliance with the terms of such Order may result in a substantial civil penalty to said respondents.

(d) Retain a copy of the signed and dated Notice for a period of two years.

It is further ordered, That the individual respondents named herein promptly notify the Commission of their discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further 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 this order.

Complaint

IN THE MATTER OF

NEVADA MEATS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECTIONS 5 & 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2547. Complaint, Sept. 20, 1974—Decision, Sept. 20, 1974

Consent order requiring a Las Vegas, Nev., seller of bulk freezer meats, among other things to cease using bait advertisements. Further, when making pricing or savings claims, the firm must clearly disclose the reasonably anticipated net price per pound and net weight after trimming and cutting losses of each retail cut of meat and of all waste produced in obtaining retail cuts from the carcass or uncut meats.

Appearances

For the Commission: *Alfred Lindeman.*

For the respondents: *George Foley, Las Vegas, Nev.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Nevada Meats, Inc., a corporation, and Edgar S. Stacy, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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. Respondent Nevada Meats, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its principal office and place of business located at 3551 West Spring Mountain Road, Las Vegas, Nev.

Respondent Edgar S. Stacy is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is 3551 West Spring Mountain Road, Las Vegas, Nev.

PAR. 2. Respondents are now and for some time have been engaged in the advertising, offering for sale, sale and distribution of beef and other meat products which come within the classification of food, as the term "food" is defined in the Federal Trade Commission Act, to members of the purchasing public.

PAR. 3. In the course and conduct of their aforesaid business, respondents have disseminated and now disseminate, and have caused and now cause the dissemination of certain advertisements concerning the said products by the United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including advertisements in daily newspapers of general circulation, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act and have disseminated and caused the dissemination of advertisements as aforesaid, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of food in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of beef and other meat of the same general kind and nature.

PAR. 5. In purchasing meat from such establishments as supermarkets, grocery stores and butchers, consumers are customarily apprised in advertising and/or at the point of sale of the prices per pound for each retail cut of meat offered for sale. Such information provides consumers the means of comparing the costs of meats of similar grade and quality available from competing sources.

PAR. 6. Typical of respondents' statements and representations appearing in the newspaper advertisements disseminated in the manner described in Paragraph Three are the following: [See p. 495 herein.]

PAR. 7. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set forth herein, respondents have represented, and now represent, directly and by implication, that respondents' prices for retail cuts and types of meat obtained from carcass or uncut meats are substantially less than the prices advertised by other retailers in the trade area for meat of similar grade and quality. Said representation is misleading in at least the following two material respects: (1) respondents' meats are advertised and sold by the average price per pound at their carcass or uncut weights before cutting and trimming losses. In truth and in fact the cutting, dressing and trimming of fat, bone and waste materials greatly reduce the total weight of usable meat and such weight losses result in actual average prices per pound substantially higher than those represented; (2) respondents fail to disclose the net prices per pound after cutting and trimming losses for each retail cut and type of meat so

NEVADA MEATS

BALANCE YOUR BUDGET WITH MEAT FROM NEVADA MEATS

SAME AS CASH O.A.C.

Buy Now

STOCK UP FOR THE WHOLE YEAR

USDA CHOICE RIB & CHUCK

CONSISTS OF:

- CLUB STEAKS
- SPENCER STEAKS
- DELMONICO STEAKS
- PORTERHOUSE STEAKS
- SIRLOIN TIP ROAST
- T-BONE
- NEW YORK STEAK
- FLANK STEAK
- GROUND BEEF

103.80 TOTAL PRICE

EXAMPLE: 100 LBS. @ 89¢ LB. TOTAL PRICE \$89.00

USDA CHOICE LOIN & ROUND

- T-BONE STEAKS
- SIRLOIN STEAKS
- PORTERHOUSE STEAKS
- FILET MIGNON
- ROUND STEAKS
- BOTTOM ROUND
- EYE-OF-ROAST STEAKS
- EYE ROAST
- RUMP ROAST
- SIRLOIN TIP
- SIRLOIN TIP
- BEEF STEAK
- MINUTE STEAKS
- WHEEL STEAKS
- GROUND ROUND

102.70 TOTAL PRICE

EXAMPLE: 100 LBS. @ 89¢ LB. TOTAL PRICE \$89.00

USDA CHOICE LOIN & RIB

- CLUB STEAK
- RIB STEAK
- SPENCER STEAK
- DELMONICO STEAKS
- PORTERHOUSE STEAK
- SIRLOIN TIP ROAST
- T-BONE
- BRISKET ROAST
- BAR-B-QUE STEAKS
- NEW YORK STEAK
- FLANK STEAK
- GROUND ROUND

106.80 TOTAL PRICE

EXAMPLE: 100 LBS. @ 89¢ LB. TOTAL PRICE \$89.00

TO THE FIRST 25 PERSONS SETTING AN APPOINTMENT WITH PURCHASE:

10 FILET MIGNON STEAKS

FREE STORAGE

PREFERRED CARDHOLDER SAVING FOR APRIL 10 - 15 (W.F. STEAKS) CHARLES F. NELSON - 80 SLOPE CITY

COOK OUT SPECIAL VARIETY PACK EARLY SUMMER SPECIAL

20 LBS CHICKEN	\$37.00
4 LBS BACON	\$7.00
5 LBS SASSAGE	\$33.00
5 LBS HOT DOGS	\$9.00
5 LBS PORK CHOPS	\$49.00

40% \$1340

BONUS BUY 70 HOG CUTS

50% \$1980

NEVADA MEATS PREFERRED CUSTOMER CARD

USDA PRIME NEVADA MEAT SPECIAL

STEAK ORDERS

- SIRLOIN + T-BONE + CLUB
- FILET MIGNON + SPENCER
- PRIME RIB + NEW YORK
- PORTERHOUSE

45.00 PER MO.

USDA PRIME RIB & LOIN

EXAMPLE: 100 LBS. @ \$1.35 LB. TOTAL PRICE \$135.00

Come IN NOW

USDA PRIME NEVADA MEATS GOURMET FAMILY SECTION

- SPENCER STEAKS + PRIME RIB
- PORTERHOUSE STEAKS
- DELMONICO STEAKS
- BEEF STEAKS
- BEEF RIBS + CLUB STEAKS
- 10 1/2" FILET MIGNON
- 10 1/2" FILET MIGNON

41.65 PER MO.

EXAMPLE: 100 LBS. @ \$1.19 TOTAL PRICE \$119.00

99 TO 219 LB

• GUARANTEE •

Guaranteed to be the best, or we'll give you a refund. No time limit.

RAINCHECK GUARANTEE

Get a raincheck when you can't get your meat. No charge. No time limit.

THIS WEEK CARDHOLDERS SPECIALS

TENDER JUICY BONELESS TOP SIRLOIN	TENDER AGED DELICIOUS NEW YORK STRIP	GOUPYETS DELIGHT FILET MIGNON
149	159	179

ALL MEAT CUT BY APPOINTMENT

PHONE 876-2360

ALL BEEF Sold Hanging Weight Not Precut

5551 WEST SPRING MOUNTAIN ROAD OPEN DAILY 9:10 A.M. SUNDAY 12:00 P.M. CLOSED WEDNESDAY

advertised, and thereby prevent prospective purchasers from comparing respondents' prices with such prices customarily advertised by other retailers in the trade area.

PAR. 8. By and through the use of the aforesaid statements, and others of similar import and meaning not specifically set forth herein, respondents have represented, and now represent, directly and by implication, that offers set forth in the aforesaid advertisements are bona fide offers to sell products of the kind therein described at the prices and weights stated therein.

PAR. 9. In truth and in fact, the offers set forth in said advertisements and other offers not set forth in detail herein are not bona fide offers to sell said meat products but to the contrary are made to induce prospective purchasers to visit respondents' place of business for the purpose of purchasing said advertised meat. When prospective purchasers in response to said advertisements attempt to purchase the advertised products, respondents inform them that the advertised prices apply only to very low quality meat and respondents make no effort to sell such low quality advertised meat but in fact disparage it in a manner calculated to discourage the purchase thereof, and attempt to and frequently do sell much higher priced and/or higher weight meats.

Therefore, the advertisements referred to in Paragraphs Six, Seven and Nine were, and are, misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act, and the representations, acts and practices referred to in Paragraphs Seven through Nine were, and are, false, unfair, misleading and deceptive.

PAR. 10. Use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the purchase of substantial quantities of the aforesaid products, including higher priced products than those advertised by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents having been served with the 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 the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered that agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34 (b) of its rules, now in further conformity with the procedure prescribed in Section 2.34 (b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Nevada Meats, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 3551 West Spring Mountain Road, Las Vegas, Nev.

Respondent Edgar S. Stacy is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

It is ordered, That respondent Nevada Meats, Inc., a corporation, its successors and assigns, and its officers, and Edgar S. Stacy, individually and as an officer, respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of meat and

other food products do forthwith cease and desist from disseminating, or causing the dissemination, by means of United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any advertisement which directly or by implication:

1. Misrepresents that respondents' prices for retail cuts and types of meat obtained from carcass or uncut meats are substantially less than the prices advertised by other retailers in the trade area for meat of similar grade and quality.

2. Represents the price of any meat product offered to the public or represents in any manner that a savings will be realized, without contemporaneously, clearly and conspicuously disclosing: the reasonably anticipated net price per pound and net weight after cutting and trimming losses of each retail cut and type of meat and of all waste produced in obtaining said retail cuts and types from their carcass or uncut state. Each of said disclosures shall be in equally prominent type, size, style and location.

Provided, however, That the aforesaid disclosures shall not be required as to "waste" where the price of respondents' meats is not based upon carcass, uncut or hanging weights.

3. Represents that any product is offered for sale, when the purpose of such representation is not to sell the offered product, but to obtain prospects for the sale of other products at higher prices.

4. Represents that any product is offered for sale when such an offer is not a bona fide offer to sell such product.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all persons now engaged, or who become engaged, in the sale of meat or other food products as respondents' agents, salesmen, representatives or employees, and to secure from each of said persons a signed statement acknowledging receipt of a copy thereof.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment

in which he is engaged as well as a description of his duties and responsibilities.

It is further 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 this order.

IN THE MATTER OF

TED BRITT FORD SALES, INC., ET AL.

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

Docket C-2550. Complaint, Sept. 23, 1974—Decision, Sept. 23, 1974

Consent order requiring a Fairfax, Va., new and used car dealer, among other things to cease misrepresenting that any vehicle is new when it has been used in any manner other than the limited use necessary in moving or road testing prior to delivery to the customer.

Appearances

For the Commission: *Jerry W. Boykin, Michael E. K. Mpras and Michael Dershowitz.*

For the respondents: *Alan Frey, Bierbower & Rockefeller, Wash., D. C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Ted Britt Ford Sales, Inc., a corporation, and Myron G. Britt, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said 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. Respondent Ted Britt Ford Sales, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal office and place of business located at 10570 Lee Highway, in Fairfax, Commonwealth of Virginia.

Complaint

84 F.T.C.

Respondent Myron G. Britt is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including those hereinafter set forth. His address is the same as that of the corporate respondent.

The respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, and sale to the public of new and used motor vehicles and in the servicing and repair thereof.

PAR. 3. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused, their said motor vehicles to be sold to purchasers thereof located in various States of the United States and the District of Columbia, including the Commonwealth of Virginia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said motor vehicles in commerce, as "commerce" is defined in the Federal Trade Commission Act. Also in the course and conduct of their business, respondents have caused, and now cause, customers' notes, contracts, payments, checks, credit reports, title registrations, correspondence, and other documents relating to payment of the purchase price for respondents' motor vehicles, to be transmitted by various means, including but not limited to, the United States mails, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of their motor vehicles, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, and by means of radio and television broadcasts, and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical and illustrative of the statements and representations in said advertisements, published in August and October of 1970, disseminated as aforesaid, but not all inclusive thereof, are the following:

FORD OFFICIAL CLEARANCE OF 1970 FORDS
AT AUTHORIZED DEALER MENTIONED BELOW

Stock No.	Model	Color	Retail Cost	Dealer Cost
1333	Torino 4 dr. Sed.	Blue	\$3696	\$3029
2452	Torino 2 dr. HT.	Blue	\$3869	\$3169
1331	Torino 4 dr. HT.	White	\$3996	\$3269
1486	Torino 4 dr. HT.	White	\$4041	\$3279
1611	Mach 1	Chestnut	\$4451	\$3699

Complaint

Stock No.	Model	Color	Retail Cost	Dealer Cost
2123	Must. Conv.	Dk. Green	\$4256	\$3499
1110	Must. Spts' roof	Green	\$3511	\$2989
1681	Must. 2 dr.	Blue	\$3680	\$2999
2649	Mav'rk Grabber	Yellow	\$3097	\$2699
2281	T-Bird 4 dr.	Yellow	\$6857	\$5499
2374	XL Conv.	Red	\$5100	\$3999
2776	XL Conv.	Blue	\$5235	\$4179
2341	Galx. 4 dr. Sed.	Green	\$4274	\$3389
2274	Galx. 4 dr. HT.	Blue	\$4225	\$3324
1235	Galx. 2 dr. HT.	Brown	\$4567	\$3595
1964	Galx. 2 dr. HT.	White	\$4086	\$3216
2181	Galx. 2 dr. HT.	Gold	\$4641	\$3686
1781	Squire	Green	\$5204	\$4105
*	*	*	*	*

FORD—SALE

\$800—\$1,000 GIANT STOCK REDUCTION

SPECIFICALLY PRICED TO SELL———\$1400 OFF.

YOUR CAR IN TRADE FOR HIGHEST TRADE-IN VALUE IN TOWN

TED BRITT FORD

* * * * *

PAR. 5. By and through the use of the above-quoted statements and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication:

That the motor vehicles described or referred to in said advertisements are new.

PAR. 6. In truth and in fact:

The motor vehicles described or referred to in said advertisements, in many instances, are not new. To the contrary, they have been driven substantially in excess of the limited use necessary in moving or road testing a new vehicle prior to its delivery to the ultimate purchaser.

Therefore, the statements and representations as set forth in Paragraphs Four and Five, hereof, and respondents' failure to disclose in their advertisements the material facts as to the prior use of motor vehicles, were, and are, unfair, false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business and at all times mentioned herein, respondents have been, and are now, in substantial competition, in commerce, with corporations, firms and individuals in the sale, service and repair of new and used motor vehicles of the same general kind and nature as that sold, serviced and repaired by respondents.

Decision and Order

84 F.T.C.

PAR. 8. The use by the respondents of the aforesaid unfair, false, misleading and deceptive statements, representations, acts and practices and their failure to disclose material facts, as aforesaid, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete and into the purchase of substantial quantities of respondents' motor vehicles and services by reason of said erroneous and mistaken belief. Respondents' aforesaid acts and practices unfairly cause the purchasing public to assume debts and obligations and to make payments of money which they might otherwise not have incurred.

PAR. 9. The acts and practices of the respondents as set forth above, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair or deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the 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 alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Ted Britt Ford Sales, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business located at 10570 Lee Highway, in the city of Fairfax, Commonwealth of Virginia.

Respondent Myron G. Britt is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

It is ordered, That respondents Ted Britt Ford Sales, Inc., a corporation, its successors and assigns and its officers, and Myron G. Britt, individually and as an officer of said corporation, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution, service and repair of new and used motor vehicles, or any other products or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally or in writing, directly or by implication, that any vehicle is new when it has been used in any manner, other than the limited use necessary in moving, road testing or customer trial of a new vehicle prior to delivery or transfer of title of such vehicle to a customer, but in no event shall the accrued mileage from road testing or customer trial of said vehicle exceed One Hundred Fifty (150) miles.

2. Offering for sale or selling any vehicle of the current or previous model year, which has been used, in any manner, other than the limited use referred to in Paragraph 1., above, without orally disclosing, prior to any sales presentation the nature and extent of such previous use of said vehicle.

3. Advertising any vehicle of the current or the previous model year which has been used in any manner, other than the limited use referred to in Paragraph 1., above, without clearly and conspicuously disclosing in any and all advertising thereof the nature of such previous use of said vehicle.

4. Displaying, offering for sale or selling any vehicle of the current or the previous model year which has been used in any

manner, other than the limited use referred to in Paragraph 1., above, without clearly and conspicuously disclosing by decal or sticker affixed to the inside of the side window containing the manufacturer's suggested retail price or "Monroney sticker," or if space is not available thereon, in close proximity thereto, so as to be clearly visible, the nature of such previous use of said vehicle. Said decal or sticker shall also contain the following statement: "FOR EXACT MILEAGE, SEE ODOMETER."

5. Misrepresenting, orally or in writing, directly or by implication, the nature or extent of previous use or condition of any vehicle displayed, offered for sale or sold.

It is further ordered:

(a) That respondents shall forthwith distribute a copy of this order to each of their operating divisions.

(b) That respondents deliver a copy of this order to cease and desist to all present and future personnel engaged in the offering for sale, or sale, of any motor vehicle, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

(c) That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

(d) That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

(e) 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 this order.

505

Complaint

IN THE MATTER OF

LOGAN FORD CO.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2551. Complaint, Sept. 23, 1974—Decision, Sept. 23, 1974*

Consent order requiring a Springfield, Va., new and used car dealer, among other things to cease misrepresenting that any vehicle is new when it has been used in any manner other than the limited use necessary in moving or road testing prior to delivery to customer.

Appearances

For the Commission: *Jerry W. Boykin, Michael E. K. Mpras and Michael Dershowitz.*

For the respondent: *William E. Constable, Wash., D. C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Logan Ford Co., a corporation, has violated the provisions of said 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. Respondent Logan Ford Co. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal office and place of business located at 6801 Commerce Street, in Springfield, Commonwealth of Virginia.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, and sale to the public of new and used motor vehicles and in the servicing and repair thereof.

PAR. 3. In the course and conduct of its aforesaid business, respondent now causes, and for some time last past has caused, its said motor vehicles to be sold to purchasers thereof located in various States of the United States and the District of Columbia, including the Commonwealth of Virginia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said motor vehicles in commerce, as "commerce" is defined in the Federal Trade Commission Act. Also in the course and conduct of its business, respondent has caused, and now causes, customers' notes, contracts, payments, checks,

Complaint

84 F.T.C.

credit reports, title registrations, correspondence, and other documents relating to payment of the purchase price for respondent's motor vehicles, to be transmitted by various means, including but not limited to, the United States mails, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

In the course and conduct of its business, as aforesaid, and for the purpose of inducing the purchase of its motor vehicles, the respondent has made, and is now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, and by means in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Typical and illustrative of the statements and representations in said advertisements, published in September 1970, disseminated as aforesaid, but not all inclusive thereof, are the following:

LUCKY LOGAN WILL BETTER ANY ADVERTISED PRICE ON A NEW FORD!
BRING US THE BEST ADVERTISED DEAL YOU CAN FIND AND WATCH US
BEAT IT!!!

'71 INTRODUCTORY SALE

* * * * *

FINAL REDUCTIONS ON '70 MODELS!

New '70 FALCON 4 dr. Sedan, V-8, auto. trans., white wall tires, body side molding, p. s & b, tinted glass, #1157, list price \$3562.70 SAVE \$635

'70 MUSTANG hdtp., V-8, auto. trans., white wall tires, p. s., radio, #563, list price \$3310-SAVE \$535

'70 LTD 2 dr. hdtp., 390 V-8, vinyl roof, auto. trans., body side molding, p. s. & b., AM/FM stereo radio, tinted glass, mag wheel covers, air cond., #1307, list price \$4855-SAVE \$975

'70 LTD 4 dr. hdtp., 390 V-8, green vinyl roof, white wall tires, body side molding, p. s. & b., tinted glass, radio, wheel covers, air cond., #975, list price \$4677-SAVE \$938

'70 THUNDERBIRD Landau, 4 dr., fully equipped, all power, air cond., #493, list price \$6213-Save \$1348

New '70 FAIRLANE 500 2 dr. hdtp., auto. trans., p. s., radio, tinted glass, air cond., #1449, list price \$3667.70-SAVE \$651

* * * * *

PAR. 5. By and through the use of the above-quoted statements and others of similar import and meaning but not expressly set out herein, the respondent has represented, and is now representing, directly or by implication:

That the motor vehicles described or referred to in said advertisements are new.

PAR. 6. In truth and in fact:

The motor vehicles described or referred to in said advertisements, in

many instances, are not new. To the contrary, they have been driven substantially in excess of the limited use necessary in moving or road testing a new vehicle prior to its delivery to the ultimate purchaser.

Therefore, the statements and representations as set forth in Paragraphs Four and Five, hereof, and respondent's failure to disclose in its advertisements the material facts as to the nature and extent of the prior use of said motor vehicles, were, and are, unfair, false, misleading and deceptive.

PAR. 7. In the course and conduct of its aforesaid business and at all times mentioned herein, respondent has been, and is now, in substantial competition, in commerce, with corporations, firms and individuals in the sale, service and repair of new and used motor vehicles of the same general kind and nature as that sold, serviced and repaired by respondent.

PAR. 8. The use by the respondent of the aforesaid unfair, false, misleading and deceptive statements, representations, acts and practices and its failure to disclose material facts, as aforesaid, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete and into the purchase of substantial quantities of respondent's motor vehicles and services by reason of said erroneous and mistaken belief. Respondent's aforesaid acts and practices unfairly cause the purchasing public to assume debts and obligations and to make payments of money which they might otherwise not have incurred.

PAR. 9. The acts and practices of the respondent as herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair or deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent 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 respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the

respondent 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Logan Ford Co. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its office and principal place of business located at 6801 Commerce Street, in Springfield, Commonwealth of Virginia.

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

It is ordered, That respondent Logan Ford Co., a corporation, its successors and assigns and its officers, and respondent's agents, representatives and employees directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution, service and repair of new and used motor vehicles, or any other products or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally or in writing, directly or by implication, that any vehicle is new when it has been used in any manner other than the limited use necessary in moving or road testing a new vehicle prior to delivery of such vehicle to the customer.

2. Offering for sale or selling any vehicle of the current or previous model year, which has been used, in any manner, other than the limited use referred to in Paragraph 1., above, without orally disclosing, prior to any sales presentation the nature and extent of such previous use of said vehicle.

3. Advertising any vehicle of the current or the previous model year which has been used in any manner, other than the limited use referred to in Paragraph 1., above, without clearly and conspicuously disclosing in any and all advertising thereof the nature of such previous use of said vehicle.

4. Displaying, offering for sale or selling any vehicle of the current or the previous model year which has been used in any manner, other than the limited use referred to in Paragraph 1., above, without clearly and conspicuously disclosing by decal or sticker affixed to the inside of the side window containing the manufacturer's suggested retail price or "Monroney sticker," or if space is not available thereon, in close proximity thereto, so as to be clearly visible, the nature of such previous use of said vehicle. Said decal or sticker shall also contain the following statement: "FOR EXACT MILEAGE, SEE ODOMETER."

5. Misrepresenting, orally or in writing, directly or by implication, the nature or extent of previous use or condition of any vehicle displayed, offered for sale or sold.

It is further ordered:

(a) That the respondent shall forthwith distribute a copy of this order to each of its operating divisions;

(b) That respondent deliver a copy of this order to cease and desist to all present and future personnel engaged in the offering for sale, or sale, of any motor vehicle, or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person;

(c) That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order; and

(d) That the respondent herein shall within sixty (60) days after service upon it 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 this order.