

Complaint

IN THE MATTER OF

CREATIVE ACCENTS, ET AL.

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

Docket C-2382. Complaint, April 17, 1973—Decision, April 17, 1973.

Consent order requiring a South El Monte, California, manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Creative Accents, a corporation, and Kenneth Hensler, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Creative Accents is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Respondent Kenneth Hensler is an officer of the said corporate respondent. He formulates, directs and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs with their office and principal place of business located at 10840 Central Avenue, S. El Monte, California.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in com-

merce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were "Pom Pom" style wool rugs subject to Department of Commerce Standard for the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning 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 Division of Textiles and Furs 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 Flammable Fabrics Act, as amended; 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 Acts, 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 thirty (30) 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 Creative Accents, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

Respondent Kenneth Hensler is an officer of the said corporation. He formulates, directs and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs with the office and principal place of business of respondents located at 10840 Central Avenue, S. El Monte, California.

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 Creative Accents, a corporation, its successors and assigns, and its officers, and respondent Kenneth Hensler, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related materials fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flamma-

bility under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since January 31, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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

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 individual respondent's current 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.

OrderIN THE MATTER OF
PEPSICO, INC.*Docket 8903. Order, April 18, 1973.*

Order rescinding order of April 12, 1973; establishing a new schedule for the conduct of the administrative proceeding; and directing that copies of pertinent papers be filed by the General Counsel with the United States Court of Appeals for the Second Circuit.

ORDER RESCINDING ORDER OF APRIL 12, 1973, AND DIRECTING
NEW SCHEDULE

On April 12, 1973, the Commission issued an order in this matter directing that all proceedings before the administrative law judge be concluded by July 23, 1973, and, in the event of an appeal to the Commission, that the parties follow a briefing schedule that would permit final action by the Commission by September 10, 1973. Issuance of the aforesaid order was made in accordance with assurances made to the United States Court of Appeals for the Second Circuit by the Commission's legal counsel that if certain requested preliminary relief was granted by the Court under the All Writs Act the Commission would endeavor to enter its final order in this matter by the September 10 date. Cf. *Dean Foods*, 70 F.T.C. 1761 (1966) and *OKC Corp.*, 3 CCH Trade Reg. Rep. ¶ 19,293 (1970) at p. 21,460 [8 S. & D. 1220].

By motion of April 16, 1973, PepsiCo requests the Commission to rescind its order of April 12, 1973, stating there is no need for such a compressed schedule in view of the fact that the Court declined to prevent PepsiCo from assuming control of the company but only subjected it to the provisions of a hold-separate agreement. Such a hold-separate agreement was entered into by the parties on April 16, 1973, and will be filed with the Court. PepsiCo contends that the schedule as set forth in the April 12 order would not permit it sufficient time to prepare for the hearings on the complaint. It states that it can complete its trial preparation no sooner than three months of receipt of complaint counsel's documentary evidence and witness list. Complaint counsel in their response do not oppose the motion and advise that in their view a three-month period is not unreasonable if adhered to.

The Commission's statement to the Court of Appeals that the administrative proceeding would be scheduled for completion by September 10, 1973, was made to assure the court that the

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injunctive relief sought would not impose undue injury upon PepsiCo. PepsiCo has now entered into a hold-separate agreement that is unrestricted in duration and in its motion it clearly waives any insistence that these proceedings be completed by September 10 of this year. In these circumstances, there appears to be no reason to require completion of hearings and the filing of an initial decision by July 23, 1973, and we do not read the court's opinion as mandating a completion date of a final order by September 10, 1973. However, the matter should be heard as expeditiously as is possible consistent with fairness to the parties. Accordingly,

It is ordered, That the Commission's order herein of April 12, 1973, be, and it hereby is, rescinded and in its place the following schedule directed:

- (1) complaint counsel are to have designated their witnesses and exhibits by May 1, 1973;
- (2) respondent's counsel are to have completed discovery, designated their witnesses and exhibits by August 1, 1973;
- (3) hearing will commence on August 15, 1973.

The General Counsel is directed to file a copy of this order, together with respondent's motion and complaint counsel's response, with the United States Court of Appeals for the Second Circuit.

IN THE MATTER OF

ARLEN REALTY & DEVELOPMENT CORP., TRADING AS
KORVETTES, ET AL.

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

Docket C-2383. Complaint, April 18, 1973—Decision, April 18, 1973.

Consent order requiring a New York City operator of 51 department stores in numerous states and its subsidiary located in Baltimore, Maryland, whose charge plate is honored by approximately 4,000 merchants in the D.C. - Baltimore area, among other things to cease issuing credit cards without a prior request or application for them.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act, as amended, 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 Arlen Realty & Development Corp., a corporation, also doing business as Korvettes, a division, and NAC Credit Corporation, a corporation, 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 Arlen Realty & Development Corp. 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 888 Seventh Avenue, New York, New York. Respondent Arlen Realty & Development Corp. formulates, controls, and directs the policies, acts and practices, including those hereinafter set forth, of its division, Korvettes, and of its wholly-owned subsidiary, NAC Credit Corporation.

PAR. 2. Korvettes is an operating division of respondent Arlen Realty & Development Corp. with its main office and principal place of business located at 450 West 33rd Street, New York, New York. Through this division, said respondent is now, and for some time in the past has been, engaged in the advertising, offering for sale, sale and distribution of general merchandise through over fifty (50) Korvettes retail stores located in numerous states.

PAR. 3. Respondent NAC Credit Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 200 West Baltimore Street, Baltimore, Maryland. Respondent NAC Credit Corporation, hereinafter sometimes referred to as NAC, is a wholly-owned subsidiary of respondent Arlen Realty & Development Corp.

PAR. 4. In the ordinary course and conduct of its business, as aforesaid, respondent Arlen Realty & Development Corp., doing business as Korvettes, subsequent to October 26, 1970, regularly issued credit cards, as "credit card" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 5. In the ordinary course and conduct of its business, as aforesaid, respondent Arlen Realty & Development Corp., doing business as Korvettes, in connection with its credit sales, as "credit sale" is defined in Regulation Z, has caused and is causing a substantial number of its customers to execute retail

installment sales contracts. Within the text of these retail installment sales contracts is a sentence to the effect that one or more credit cards are requested by the consumer. Typical of such language, but not all inclusive thereof, are the following:

1. I hereby request a Korvettes Charge Plate.
2. I request a Charge Plate from Korvettes or any of its parent or subsidiary companies.
3. I hereby request a charge plate from Korvettes, Arlen Realty & Development Corp. or any of its affiliated or subsidiary companies.

Pursuant to the above-quoted language and the consumer's signature on the retail installment sales contract, said respondent issued a substantial number of credit cards to customers who were unaware of the existence of such language and who had not intended to request or apply for such credit cards.

PAR. 6. By and through the use of said practice described in Paragraph Five hereof, said respondent issued Korvettes' credit cards without responding to a "request or application" for such credit cards, as required by the Truth in Lending Act. Further, such cards were not issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Regulation Z, in violation of Section 132 of the Truth in Lending Act and Section 226.13(b) of Regulation Z.

PAR. 7. In the ordinary course and conduct of their business, respondents Arlen Realty & Development Corp. and NAC Credit Corporation are now, and for some time in the past have been, engaged in the advertising for, solicitation and acceptance of open end credit accounts with consumers, doing business as "NAC Charge Plan."

PAR. 8. In the ordinary course and conduct of their business, as aforesaid, subsequent to October 26, 1970, respondents Arlen Realty & Development Corp. and NAC Credit Corporation regularly issued credit cards, as "credit card" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 9. In the ordinary course and conduct of their business, said respondents contract with retailers of goods and services to accept their "NAC Charge Plate" credit card in lieu of cash. Respondents supply special forms, sometimes referred to as "sales drafts," to be used when a cardholder charges a purchase against his NAC charge account.

On the sales draft, in addition to the information applicable to the particular sale, is language of which the following is typi-

cal and illustrative, but not all inclusive: "I hereby request an NAC Charge Card."

When a consumer makes a purchase, the sales draft is completed by the retailer, identifying the merchandise purchased, and the consumer's credit card imprint is embossed thereon. The consumer then signs the sales draft for the purpose of authorizing the credit sale.

PAR. 10. In a substantial number of instances, a consumer uses a major credit card other than an NAC Charge Plate to purchase goods or services from various retail outlets, and the sales draft supplied by NAC is used by the retailer in the same manner as described in Paragraph Nine hereof.

Pursuant to the language appearing on the sales draft and such consumer's signature thereon, said respondents issued a substantial number of NAC credit cards to consumers who were unaware of the existence of such language and who had not intended to request or apply for such NAC Charge Plate.

PAR. 11. By and through the use of said practice described in Paragraphs Nine and Ten hereof, respondents issued NAC credit cards without responding to a "request or application" for such credit cards, as required by the Truth in Lending Act. Further, such cards were not issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Regulation Z, in violation of Section 132 of the Truth in Lending Act and Section 226.13(b) of Regulation Z.

PAR. 12. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with that Act and Section 226.13 of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have violated the Federal Trade Commission Act.

DISSENTING STATEMENT OF COMMISSIONER MARY GARDINER
JONES

I dissent to the Commission's preliminary acceptance of this consent order because in my judgment it fails to adequately protect the public interest.

The notice order required respondent to issue credit cards only on the basis of a written request. The consent order permits respondent to issue credit cards on the basis of oral solicitation primarily on the rationale that the statute is silent as to whether the required request should be oral or in writing and that to require written requests would constitute an unreasonable or unnecessary burden on the respondent. Since this order seeks to rectify a violation of this law, the statute clearly does not

control the type of relief which may be required in order to prevent future violations. With respect to the argument based on burdensomeness, it is clear that relief should not unduly burden a respondent. But it is also clear that claimed burdensomeness should not stand in the way of necessary relief. In the instant case, requiring written requests would clearly be the most effective relief for a respondent which was charged with so burying the request within its retail installment contracts that consumers signing these contracts could hardly be said to have made a conscious deliberate request for a credit card. In respondent's future conduct, the objective is to make sure they do not try to secure the same result by different means. Oral solicitations are highly vulnerable to similar concealment in part because they will be difficult to supervise and partly because consumers will not have very specific recalls of oral conversations and the Commission will inevitably be confronted with disputes as to what was said. Accordingly, if oral solicitations are to be permitted the order should surround them with essential safeguards.

I believe the order should have required that where oral solicitations are made in person, the request for the credit card must be in writing since it will be a simple matter for the respondent to present a form request for signature. When the request is made by telephone, where written confirmation might be difficult, respondent should be required to confine his telephone solicitation to the single point of seeking a request for a credit card. If respondent is permitted to include a credit card solicitation among other solicitations or as part of a survey or what other matters which respondent may chance to talk about during the course of a telephone solicitation, the Commission staff will be unable to verify whether in fact the customer so solicited freely and consciously gave his consent to receiving a credit card. Respondent will claim the customer was fully informed, the customer may not believe so, yet the respondent will still be able to claim compliance with the order.

With the safeguard of being limited in a telephone solicitation to inquiring about the consumer's interest in receiving a credit card, disparities of recollection can be minimized and the Commission can be assured that a fast talking salesman will not again bury the request in the midst of other points being talked about and the consumer's consent, if given, will be equally clearly directed to the receipt of the credit card and not to some other questions which may have been put to him or her.

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 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 thirty (30) days, and having duly considered the comments filed 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 Arlen Realty & Development Corp. 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 888 Seventh Avenue, New York, New York.

Korvettes is an operating division of respondent Arlen Realty & Development Corp. with its main office and principal place of business located at 450 West 33rd Street, New York, New York.

Respondent NAC Credit Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 200 West Baltimore Street, Baltimore, Maryland.

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 Arlen Realty & Development Corp., a corporation, also doing business as Korvettes, a division, or under any other name or trade style, and respondent NAC Credit Corporation, a corporation, their successors and assigns, and respondents' officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the issuance of credit cards, as "credit card" is defined in Regulation Z (12 C.F.R. § 226) of the Truth in Lending Act, as amended, (Pub. L. 90-321, 15 U.S.C. 1601, *et seq.*), shall forthwith cease and desist from:

Issuing any credit card, other than a credit card issued in renewal of or in substitution for an accepted credit card, as "accepted credit card" is defined in Section 226.13(a) of Regulation Z, unless:

1. In response to the recipient's separate, signed, affirmative and specific written request or written application therefor. Or

2. In response to the recipient's specific oral request obtained pursuant to oral solicitation, provided that the following procedures are employed:

A. The person making the oral solicitation must state the following, or words of similar meaning and import, at the very outset of the conversation with the person being solicited:

The purpose of this telephone call [or conversation] is to find out if you would like to have a Korvettes [or NAC or other specific name, as applicable] credit card. and

B. A detailed log of all oral solicitations is maintained for a period of at least two years, such log to include:

- (1) The name of the individual who made the oral solicitation;
- (2) The name of the person with whom the solicitor spoke;
- (3) The time and date of the solicitation; and
- (4) Whether or not a credit card was requested.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all persons engaged in the issuance of respondents' credit cards, whether or not employed by respondents, 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 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 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.

Commissioner Jones dissenting

IN THE MATTER OF

MARK HOME FURNITURE COMPANY, TRADING AS
CENTRAL HOME FURNISHERS, ET AL.

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

Docket C-2384. Complaint, April 20, 1973-Decision, April 20, 1973.

Consent order requiring a Baltimore, Maryland, furniture retailer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

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 Mark Home Furniture Company, a corporation, trading and doing business as Central Home Furnishers, and Morton Miller and Ervin Miller, individually and as officers of said corporation, 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 Mark Home Furniture Company, is a corporation, trading and doing business as Central Home Furnishers, organized, existing and doing business under and

by virtue of the laws of the State of Maryland, with its principal office and place of business located at 878 West Baltimore Street, Baltimore, Maryland.

Respondents Morton Miller and Ervin Miller 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.

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 offering for sale and retail sale of furniture and appliances to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend consumer credit, as "consumer credit" is defined in 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 purchasing furniture and appliances to execute conditional sales contracts. Respondents do not provide these customers with any other credit cost disclosures.

By and through the use of this conditional sales contract, respondents:

1. Fail in some instances to disclose the annual percentage rate with an accuracy of one-fourth of one percent computed in accordance with Section 226.5(b) of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.
2. Fail in some instances to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
3. Fail in some instances to disclose the due dates of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
4. Fail in some instances to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
5. Fail in some instances to accurately disclose the total of payments, as required by Section 226.8(b)(3) of Regulation Z.

6. Fail to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8(b)(5) of Regulation Z.

7. Fail in some instances to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

8. Fail in some instances to use the term "cash price" as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the goods, as required by Section 226.8(c)(1) of Regulation Z.

9. Fail in some instances to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.

10. Fail in some instances to accurately disclose the amount of the downpayment, as required by Section 226.8(c)(2) of Regulation Z.

11. Fail in some instances to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

12. Fail in some instances to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.

13. Fail in some instances to accurately disclose the amount financed, as required by Section 226.8(c)(7) of Regulation Z.

14. Fail in some instances to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents thereby violated 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

Washington, D.C. 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 Truth in Lending Act and the regulations promulgated thereunder and 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 Acts, 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 thirty (30) 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 Mark Home Furniture Company, trading and doing business as Central Home Furnishers, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 878 West Baltimore Street, Baltimore, Maryland.

Respondents Morton Miller and Ervin Miller 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 Mark Home Furniture Company, a corporation, trading and doing business as Central Home Furnishers, or under any other name or names, its successors and assigns, and its officers, and Morton Miller, and Ervin Miller, individually and as officers of said corporation, and respondents'

agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as “consumer credit” and “advertisement” are 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 to disclose the annual percentage rate with an accuracy of one-fourth of one percent computed in accordance with Section 226.5(b) of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.
2. Failing to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
3. Failing to disclose the due dates of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
4. Failing to use the term “total of payments” to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
5. Failing to accurately disclose the total of payments, as required by Section 226.8(b)(3) of Regulation Z.
6. Failing to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8(b)(5) of Regulation Z.
7. Failing to identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.
8. Failing to use the term “cash price,” as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the goods, as required by Section 226.8(c)(1) of Regulation Z.
9. Failing to use the term “cash downpayment” to describe the downpayment in money made in connection with the credit sale, as required by Section 226.8(c)(2) of Regulation Z.
10. Failing to accurately disclose the amount of the downpayment, as required by Section 226.8(c)(2) of Regulation Z.
11. Failing to use the term “unpaid balance of cash price” to describe the difference between the cash price and the

total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

12. Failing to use the term "amount financed" to describe the amount of credit extended, as required by Section 226.8(c)(7) of Regulation Z.

13. Failing to accurately disclose the amount financed, as required by Section 226.8(c)(7) of Regulation Z.

14. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

15. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with Section 226.4 and 226.5 of Regulation Z, at the time and in the manner, form, and amount required by Sections 226.6, 226.7, 226.8 and 226.10 of Regulation Z.

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 extension of consumer credit or in any aspect of the 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 respondents named herein promptly notify the Commission of the 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 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.

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

Complaint

IN THE MATTER OF

SWEETWATER CARPET CORPORATION

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

Docket C-2385. Complaint, April 23, 1973—Decision, April 23, 1973.

Consent order requiring a New York City manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Sweetwater Carpet Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Sweetwater Carpet Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent is engaged in the manufacture and sale of carpets and rugs, with its principal place of business located at 919 Third Avenue, New York, New York.

PAR. 2. Respondent for some time last past has been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were carpets and rugs Style No. 106 (foam back only) manufactured between

Complaint

82 F.T.C.

April 16, 1971 and August 29, 1971, subject to Department of Commerce Standard For the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondent were in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act, and the Flammable Fabrics Act, as amended; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, 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 thirty (30) 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 Sweetwater Carpet Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent is engaged in the manufacture and sale of carpets and rugs, with the office and principal place of business of

respondent located at 919 Third Avenue, New York, New York.

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.

ORDER

It is ordered, That respondent Sweetwater Carpet Corporation, 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, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any carpet or rug; or manufacturing for sale, selling, or offering for sale, any carpet or rug made of fabric or related material which has been shipped or received in commerce, as "carpet," "rug," "commerce," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, or any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act, which carpet or rug fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent notify all of its customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondent herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed

to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since March 21, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products and the results of such action. Respondent will submit with its report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondent will forward to the Commission for testing a sample of any such carpet or rug.

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 respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, 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.

IN THE MATTER OF

CONCORD CARPET CORPORATION, TRADING AS
CONCORD CARPET MILLS, INC. ET AL.

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

Docket C-2386. Complaint, April 23, 1973—Decision, April 23, 1973.

Consent order requiring a Chicamauga, Georgia manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade

Commission, having reason to believe that Concord Carpet Corporation, a corporation, trading as Concord Carpet Mills, Inc., and William E. Hale, Jr., individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Concord Carpet Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent William E. Hale, Jr., is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at P. O. Box 38, Lee Avenue, Chicamauga, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were carpets and rugs Style "Sensation" (pre-October, 1971 production, roll numbers up to 2960) subject to Department of Commerce Standard For The Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning 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 Division of Textiles and Furs 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 Flammable Fabrics Act, as amended; 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 Acts, 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 thirty (30) 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 Concord Carpet Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent William E. Hale, Jr., is an officer of the said corporation. He formulates, directs, and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with the office and principal place of business of respondents located at P.O. Box 38, Lee Avenue, Chicamauga, Georgia.

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 Concord Carpet Corporation, a corporation, trading as Concord Carpet Mills, Inc., or under any other name or names, its successors and assigns, and its

officers, and respondent William E. Hale, Jr., individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since April 5, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a

complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents 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 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 or employment in which he is engaged as well as a description of his duties and responsibilities.

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 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

SOUTHLAND CHEMICAL & CARPET FINISHING, INC.,
ET AL.

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

Docket C-2387. Complaint, April 24, 1973—Decision, April 24, 1973.

Consent order requiring a Dalton, Georgia manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade

Commission, having reason to believe that Southland Chemical & Carpet Finishing, Inc., a corporation, trading under its own name and as Evergreen Carpets, and Franklin D. Rosenbaum, individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Southland Chemical & Carpet Finishing, Inc., trading under its own name and as Evergreen Carpets, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Franklin D. Rosenbaum is an officer of the said corporate respondent. He formulates, directs, and controls the acts, practices, and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at Richard Street, P.O. Box 1263, Dalton, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were carpets and rugs in style "Drury Lane," (foam back only), subject to Department of Commerce Standard For the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investiga-

tion 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 Division of Textiles and Furs 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 Flammable Fabrics Act, as amended; 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 Acts, 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 thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, make the following jurisdictional findings, and enters the following order:

1. Respondent Southland Chemical & Carpet Finishing, Inc., doing business under its own name and as Evergreen Carpets, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent Franklin D. Rosenbaum is an officer of the said corporation. He formulates, directs and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with the office and principal place of business of respondents located at Richard Street, P.O. Box 1263, Dalton, Georgia.

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 Southland Chemical & Carpet

Finishing, Inc., a corporation, trading under its own name and as Evergreen Carpets, or under any other name or names, its successors and assigns, and its officers, and respondent Franklin D. Rosenbaum, individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce, any carpet or rug; or manufacturing for sale, selling, or offering for sale, any carpet or rug made of fabric or related material which has been shipped or received in commerce, as "carpet," "rug," "commerce," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, or any applicable standard or regulation continued in effect issued or amended under the provisions of the aforesaid Act, which carpet or rug fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since March 14, 1972, and (6) any action taken or proposed

to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents 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 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 or employment in which he is engaged as well as a description of his duties and responsibilities.

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 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

OUTSIDE CARPETS, INC., ET AL.

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

Docket C-2388. Complaint, April 24, 1973—Decision, April 24, 1973.

Consent order requiring a Rome, Georgia manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Outside Carpets, Inc., a corporation, and James E. Jordan and James Honea, individually and as officers of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Outside Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondents James E. Jordan and James Honea are officers of the said corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs with their office and principal place of business located at Rt. 2, Hermitage Road, Rome, Georgia.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were "Hillcrest" style carpets with high density foam backing subject to Department of Commerce Standard For the Surface Flammability of Carpets and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning 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 Division of Textiles and Furs 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 Flammable Fabrics Act, as amended; 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 Acts, 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 thirty (30) 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 Outside Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware.

Respondents James E. Jordan and James Honea are officers of the said corporation. They formulate, direct and control the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs with the office and principal place of business of respondents located at Rt. 2, Hermitage Road, Rome, Georgia.

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 Outside Carpets, Inc., a cor-

poration, its successors and assigns and its officers, and respondents James E. Jordan and James Honea, individually and as officers of the said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall and processing or destruction shall be applicable to "Hillcrest" style carpets with high density foam backing as designated in subparagraph one of Paragraph Two of the complaint giving rise to this order, and any other styles determined to be in violation of the Flammable Fabrics Act, as amended, prior to the date of acceptance, by the Commission, of the final compliance report.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the chan-

nels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since April 13, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

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

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 or employment. Such notice shall include individual respondents' current 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.

Order

IN THE MATTER OF

GREAT WESTERN UNITED CORPORATION, ET AL.

ORDER OF MODIFICATION IN REGARD TO THE ALLEGED
VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE
TRUTH IN LENDING ACTS

Docket C-2306. Complaint, October 20, 1972-Order modifying final order,
April 25, 1973.*

Order modifying Sections IA3, IB1 and IB3 of the final order* relative to the required disclosure of certain statements in printed advertisements concerning respondents' training courses which are associated with real estate projects.

ORDER MODIFYING FINAL ORDER

Pursuant to Section 3.72 of the Commission's Rules of Practice, the Commission issued an Order to Show Cause why Sections IA3, IB1 and IB3 of the Final Order to Cease and Desist, dated October 20, 1972, should not be modified. Upon consideration of the answer of the respondents received March 19, 1973 and that of counsel supporting the complaint received March 26, 1973 and the Commission being satisfied that such modification would be in the public interest, it is, hereby, ordered that Sections IA3, IB1 and IB3 be altered and modified to read as follows:

IA3.

Failing to clearly and conspicuously disclose the following statement, where appropriate, in all printed advertisements concerning respondents' training courses which are associated with real estate projects:

The company recommends that trainees in this course buy property in [insert common name of project]. Trainees will be asked (or "required" if such requirement exists) to furnish leads. The company will provide you with a copy of a current Government HUD Report (or "State of California, Department of Real Estate's Public Report" or "[name of state] Public Report," where appropriate) issued for a tract in [insert common name of project] and it is recommended that you read this report before enrolling.

IB1.

Failing to clearly and conspicuously disclose the following

*See 81 F.T.C. 661

Order

82 F.T.C.

statement in all printed advertisements concerning California City:

It is recommended that you obtain from the company and read a current State of California Department of Real Estate Public Report issued for a tract in California City.

IB3.

Failing to clearly and conspicuously disclose the following statement in all printed advertisements concerning real estate projects other than California City, however limited to projects in existence at the time this order becomes effective and to any future projects (1) covered by the Interstate Land Sales Full Disclosure Act, and (2) where the property interest being offered is held in any form by respondents or any of their affiliates:

It is recommended that you obtain from the company and read a current Government HUD Report (or "[Name of State] Public Report") for a tract in [insert common name of project].

Upon consideration of respondents' request that such order not be effectuated until after April 30, 1973, and in consideration of the technical nature of the modification and respondents' good faith efforts to modify its procedure in compliance thereto, it is, therefore, ordered that such alteration and modification to the final order shall be effective as of May 1, 1973.

IN THE MATTER OF

ACTIVITOYS, LTD., ET AL.

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

Docket C-2389. Complaint, April 26, 1973—Decision, April 26, 1973.

Consent order requiring a Jersey City, N. J., manufacturer of toy, gift and hobby products, among other things, to cease deceptively packaging them, and providing others with means of deceiving the purchasing public.

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 Activitoys, Ltd., a corporation, and Victor Zimmerman,

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 Activitoys, Ltd. 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 930 Newark Avenue, Jersey City, New Jersey.

PAR. 2. Respondent Victor Zimmerman is an individual and is president of the corporate respondent, and formulates, directs and controls its acts and practices, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 3. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of toy, gift and hobby products to jobbers and retailers for resale to the public.

PAR. 4. In the course and conduct of their business, respondents now cause, and for some time last past have caused, said products, when sold, to be shipped from their place of business in the State of New Jersey 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 products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among the products which are offered for sale and sold by the respondents are a number of toy, gift and hobby products. Through the use of certain methods of packaging, respondents have represented, and have placed in the hands of others the means and instrumentalities through which they might represent, directly or indirectly, that certain of the above products, as depicted or otherwise described on the exteriors of packages, corresponded, in their lengths and widths, or their lengths, widths and thicknesses, with the boxes in which they were contained, and that others of such products were offered in quantities reasonably related to the size of the containers in which they were presented for sale.

PAR. 6. In truth and in fact, such products often have not corresponded with their container or package dimensions and are often not offered in quantities reasonably related to the size of the containers or packages in which they are presented for sale. Purchasers of such a product are thereby given the

mistaken impression that they are receiving a larger product or a product of greater volume than is actually the fact.

Therefore, the methods of packaging referred to in Paragraphs Five hereof were and are unfair and false, misleading and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporation, firms and individuals in the sale of products of the same general kind and nature as the products sold by the respondents.

PAR. 8. The use by respondents of the aforesaid unfair, false, misleading and deceptive methods of packaging has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that the quantum or amount of the product being sold was and is greater than the true such quantum or amount, and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of the 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 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 or 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 thirty (30) 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 Activitoys, Ltd. 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 930 Newark Avenue, in the city of Jersey City, State of New Jersey.

Respondent Victor Zimmerman 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 Activitoys, Ltd., a corporation and its officers, and Victor Zimmerman, individually and as an officer of said corporation, and respondents' agents, representatives, employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of toy, gift and hobby merchandise or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Packaging said products in oversized boxes or other containers so as to create the appearance or impression that the width or thickness or other dimensions or quantity of products contained in a box or container is appreciably greater than is the fact; but nothing in this order shall be construed as forbidding respondents to use oversized containers if respondents justify the use of such containers as necessary for the efficient packaging of the products contained therein and establish that respondents have made all reasonable efforts to prevent any misleading appearance or impression from being created by such containers;

2. Providing wholesalers, retailers, or other distributors of said products with any means or instrumentality with which to deceive the purchasing public in the manner described in Paragraph (1) above.

It is further ordered, That respondents or their successors or assigns notify the Commission at least 30 days prior to any proposed change in any of 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 respondent 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 distribute a copy of this order to all firms and individuals involved in the formulation or implementation of respondents' business policies, and all firms and individuals engaged in the advertising, marketing, or sale of respondents' products.

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

WILSON P. ABRAHAM CONSTRUCTION CORP., ET AL.

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

Docket C-2390. Complaint, April 26, 1973—Decision, April 26, 1973.

Consent order requiring a New Orleans, Louisiana, real estate developer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

COMPLAINT

Pursuant to the provisions of the Truth In Lending Act and the implementing regulation 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 Wilson P. Abraham Construction Corp., a cor-

poration, and Wilson P. Abraham, individually and as an officer of said corporation, hereinafter 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 Wilson P. Abraham Construction Corp. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Louisiana with its principal office and place of business located at 2100 St. Charles Avenue, Penthouse C, in the city of New Orleans, State of Louisiana.

Respondent Wilson P. Abraham is an individual and 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 sometime last past have been, engaged in the advertising, offering for sale, and sale of real estate to the public.

PAR. 3. Subsequent to July 1, 1969, respondents in the ordinary course and conduct of their business have caused advertisements to be published, as "advertisement" is defined in Regulation Z, the implementing regulation of the Truth In Lending Act. These advertisements aided, promoted, or assisted directly or indirectly the extension of consumer credit in connection with the sale of respondents' real estate. By and through the advertisements, respondents:

(1) Stated the amount of an installment payment, or that no downpayment or a specific downpayment is required, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d) of Regulation Z:

- (i) The cash price.
- (ii) The amount of the downpayment required or that no downpayment is required, as applicable.
- (iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.
- (iv) The amount of the finance charge expressed as an annual percentage rate.
- (v) Except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.

PAR. 4. Subsequent to April 5, 1971, respondents in the ordi-

nary course and conduct of their business have caused advertisements to be published, as "advertisement" is defined in Regulation Z, the implementing regulation of the Truth In Lending Act. These advertisements, which aided, promoted, or assisted directly or indirectly the sale of respondents' residential real estate under Title II, Section 235, of the National Housing Act (12 U.S.C. 1715Z) failed to comply with the provisions of Section 226.10(e) of Regulation Z. By and through the use of the advertisements, respondents:

1. Failed to clearly identify those credit terms which applied to said assistance program.
2. States the amount of payments scheduled to repay the indebtedness, without stating the family size and income level applicable to that amount.
3. Stated the amount of an installment payment, or that no downpayment or a specific downpayment is required, without stating all of the following items in terminology prescribed under Section 226.8 of Regulation Z.
 - a. The cash price or the amount of the loan, as applicable.
 - b. The amount of the downpayment required or that no downpayment is required as applicable.
 - c. The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

PAR. 5. Subsequent to April 5, 1971, respondents in the ordinary course and conduct of their business have caused advertisements to be published, as "advertisement" is defined in Regulation Z, the implementing Regulation of the Truth In Lending Act. These advertisements failed to comply with the provision of Section 226.10(a)(2) of Regulation Z. These advertisements aided, promoted, or assisted, directly or indirectly, extensions of consumer credit in connection with the sale of respondents' real estate. By and through the advertisements, respondents: Stated that a specific downpayment would be accepted in connection with an extension of credit, when the creditor did not usually and customarily accept a downpayment in that amount.

PAR. 6. Pursuant to Section 103(q) of the Truth In Lending Act, respondents' aforesaid failures to comply with Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondent has thereby violated 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 Dallas 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 Truth in Lending Act and the regulations promulgated thereunder and 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 Acts, 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 thirty (30) 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 Wilson P. Abraham Construction Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 2100 St. Charles Avenue, Penthouse C, New Orleans, Louisiana. Respondent Wilson P. Abraham is the president of the corporate respondent. He formulates, directs and controls the acts and practices of said corporation, including the acts and practices hereinafter set forth. 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 Wilson P. Abraham Construction Corp., a corporation, and Wilson P. Abraham, individually and as an officer of said corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, divi-

sion or other device, in connection with any extension or arrangement for the extension of consumer credit, or any advertisement to aid, promote or assist, directly or indirectly, any extension of consumer credit, as "consumer credit" and "advertisement" are 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. Stating in an advertisement, other than an advertisement to aid, promote, or assist directly or indirectly the sale of residential real estate under Title II, Section 235 of the National Housing Act (12 U.S.C. 1715 Z), the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, without also stating all of the following items, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

(i) The cash price.

(ii) The amount of the downpayment required or that no downpayment is required, as applicable.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

(iv) The amount of the finance charge expressed as an annual percentage rate.

(v) Except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.

2. Advertising to aid, promote, or assist directly or indirectly the sale of residential real estate under Title II, Section 235, of the National Housing Act (12 U.S.C. 1715Z) without clearly identifying those credit terms which apply to said assistance program, as required by Section 226.10(e) of Regulation Z.

3. Stating in an advertisement to aid, promote, or assist directly or indirectly the sale of residential real estate under Title II, Section 235, of the National Housing Act (12 U.S.C. 1715Z):

(a) The amount of any payment scheduled to repay the indebtedness without stating the family size and income level applicable to that amount, as required by Section 226.10(e) of Regulation Z.

(b) The amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit without stating all of the following items in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 22.610(d) & (e) of Regulation Z:

(i) The cash price or the amount of the loan, as applicable.

(ii) The amount of the downpayment required or that no downpayment is required, as applicable.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended.

(c) Any rate of a finance charge, or the amount of the finance charge, expressed as an annual percentage rate based on the assistance, prohibited by Section 226.10(e) of Regulation Z.

4. Stating, in contravention to Section 226.10(a)(2) of Regulation Z, in any advertisement, that no downpayment or that a specified downpayment will be accepted in connection with any extension of credit, unless the creditor usually and customarily accepts or will accept downpayments in that amount.

5. Failing, in any consumer credit transaction or advertising, to make all disclosures, determined in accordance with Sections 226.4 and 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

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 extension of consumer credit 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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale, resultant 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 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 respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth, in detail, the manner and form in which they have complied with the order to cease and desist contained herein.

IN THE MATTER OF

LANE CARPET MILLS, INC., ET AL.

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

Docket C-2391. Complaint, April 26, 1973—Decision, April 26, 1973.

Consent order requiring a Fairmount, Georgia manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Lane Carpet Mills, Inc., a corporation, and Clifford M. Booker individually and as an officer of the said corporation, hereinafter referred to as respondents, have violated the provisions of the said Acts and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Lane Carpet Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia. Respondent Clifford M.

Booker, is an officer of the said corporate respondent. He formulates, directs and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their principal place of business located at P.O. Box 156, Fairmount, Georgia.

PARA. 2. Respondents are now and for some time last past have been engaged in the manufacturing for sale, sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which products fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were carpets and rugs Style "8700 Spiral" subject to Department of Commerce Standard For the Surface Flammability of Carpet and Rugs (DOC FF 1-70).

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted, and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning 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 Bureau of Consumer Protection 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 Flammable Fabrics Act, as amended; 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 Acts, 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 thirty (30) 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 Lane Carpet Mills, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia.

Respondent Clifford M. Booker, is an officer of the said corporation. He formulates, directs, and controls the acts, practices and policies of the said corporation.

Respondents are engaged in the manufacture and sale of carpets and rugs, with their office and principal place of business located at P. O. Box 156, Gordon Street, Fairmount, Georgia.

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 Lane Carpet Mills, Inc., a corporation, its successors and assigns, and its officers, and respondent Clifford M. Booker individually and as an officer of said corporation and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall, and processing or destruction shall, in addition to the products set forth in subparagraph one of Paragraph Two of the complaint, be applicable to any other styles of carpeting found not to meet an applicable standard under the Flammable Fabrics Act, as amended, since the issuance of the complaint and until the order becomes final within the meaning of the Federal Trade Commission Act.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order file with the Commission a special report in writing setting forth respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof. (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action and (6) any disposition of said products since April 27, 1972. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug. Respondents will also advise the Commission fully and specifically concerning items (1) through (5) above with regard to any products coming within the purview of Paragraph Four of this order.

It is further ordered, That respondents 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 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 or employment in which he is engaged as well as a description of his duties and responsibilities.

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 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

FALCHICK DRESS CO., INC., ET AL.

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

Docket C-2392. Complaint, April 26, 1973—Decision, April 26, 1973.

Consent order requiring a New York City manufacturer and seller of women's bridal and formal wearing apparel, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Falchick Dress Co., Inc., a corporation, and Irving Falchick, individually and as officer of said corporation hereinafter referred to as respondents, have violated the provisions of said Acts, and the rules and regulations promulgated under the Flammable Fabrics Act, as amended, 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 Falchick Dress Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Irving Falchick is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporation.

The respondents are engaged in the business of the manufacture, sale and distribution of wearing apparel, including but not limited to bridal and formal gowns, with their office and principal place of business located at 1385 Broadway, New York, New York.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture for sale, the sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, products as the terms "commerce" and "product," are defined in the Flammable Fabrics Act, as amended, which fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were women's formal gowns designated as model number 11608.

PAR. 3. The aforesaid acts and practices of respondents, were and are in violation of the Flammable Fabrics Act, as amended, and the rules and regulations promulgated thereunder, and as such constituted and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning 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 Flammable Fabrics Act and the Federal Trade Commission Act; and

Respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the 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 Acts, 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 thirty (30) 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 Falchick Dress Co., 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 1385 Broadway, New York, New York.

Respondent Irving Falchick is president of said corporation. He formulates, directs and controls the acts, practices and policies 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 the respondents Falchick Dress Co., Inc., a corporation, its successors and assigns, and its officers, and Irving Falchick, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce" "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or

regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products, and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the product which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further action proposed to be taken to notify customers of the flammability of said products and effect the recall of said products and of the results thereof, (4) any disposition of said products since March 23, 1971, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action.

Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric or related material with this report.

It is further ordered, That respondents 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 effect 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 respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

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

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

IN THE MATTER OF

EXCEL FINANCE BARONNE, INC., ET AL.

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

Docket C-2393. Complaint, April 27, 1973—Decision April 27, 1973.

Consent order requiring a New Orleans, Louisiana, finance company engaged in the business of lending money to the public and purchasing consumer credit sales contracts arranged by others, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulations 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 Excel Finance Baronne, Inc., a corporation; Excel Baronne Discount, Inc., a corporation; Excel Finance Mid-City, Inc., a corporation; Ideal Mortgage Corporation, a corporation; X-L Finance Company, Inc., a corporation; and A. J. Gumina, individually and as an officer of said corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and implementing regulations, 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, Excel Finance Baronne, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Baronne Discount, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Finance Mid-City, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, Ideal Mortgage Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, X-L Finance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 101 West Main Street, Houma, Louisiana.

Respondent, A. J. Gumina, is an individual and an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations, including the acts and practices hereinafter set forth. His address is Room 200, 838 Gravier Street, New Orleans, Louisiana.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the business of lending money to the public and purchasing consumer credit sales contracts arranged by others.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend consumer credit, as "consumer credit" is 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 connection with their extensions of consumer credit, have provided customers with consumer credit cost disclosure statements which:

1. Fail to describe the type of any security interest held or

to be retained or acquired by the creditor in connection with the extension of credit as required by Section 226.8(b)(5) of Regulation Z.

2. Fail to use the term "cash price" as defined in Section 226.2(i), in a credit sale transaction to describe the purchase price of the item, as required by Section 226.8(c)(1) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, respondents in connection with their extension of consumer credit in transactions in which a security interest is acquired in real property which is used as the principal residence of the customer, and where the customer thereby has the right to rescind the transaction as provided by Section 226.9 of Regulation Z:

1. Failed, in some instances, to provide each customer as defined in Section 226.2(o) and 226.9(f) of Regulation Z with two copies of notice of right to rescind in the form required by Section 226.9(b).

2. Failed, in some instances, to provide each customer as defined in Section 226.2(o) and Section 226.9(b) of Regulation Z with the disclosures required under Section 226.8 of Regulation Z.

PAR. 6. By and through the acts and practices set forth above, respondents 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 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 Orleans 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 thirty (30) 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, Excel Finance Baronne, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Baronne Discount, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 312 Baronne Street, New Orleans, Louisiana.

Respondent, Excel Finance Mid-City, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, Ideal Mortgage Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 4123 Bienville Street, New Orleans, Louisiana.

Respondent, X-L Finance Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business located at 101 West Main Street, Houma, Louisiana.

Respondent, A. J. Gumina, is an individual and an officer of said corporations. He formulates, directs and controls the policies, acts and practices of said corporations, including the acts and practices hereinafter set forth. His address is Room 200, 838 Gravier Street, New Orleans, Louisiana.

2. The Federal Trade Commission has jurisdiction of the sub-

ject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Excel Finance Baronne, Inc., a corporation; Excel Baronne Discount, Inc., a corporation; Excel Finance Mid-City, Inc., a corporation; Ideal Mortgage Corporation, a corporation; X-L Finance Company, Inc., a corporation, and respondent A. J. Gumina, individually and as an officer of respondent corporations, and their successors and assigns and respondents' officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with 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 to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, as required by Section 226.8(b)(5) of Regulation Z.

2. Failing to use the term "cash price," as defined in Section 226.2(i), to describe the purchase price of the merchandise in a credit sale transaction, as required by Section 226.8(c)(1) of Regulation Z.

3. Failing in any transaction 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, including any transaction required by Section 226.8(j) of Regulation Z to be treated as a new transaction, to

- (a) provide each customer, as defined in Section 226.2(o) and 226.9(f) of Regulation Z who has the right provided by Section 226.9 of Regulation Z to rescind the transaction with two copies of notice of right to rescind in the form required by Section 226.9(b) of Regulation Z, which notice shall identify the transaction to which the right to rescind relates as required by Section 226.9(b) of Regulation Z prior to the consummation of the transactions.

- (b) provide each customer, who has the right provided by Section 226.9(a) of Regulation Z to rescind the transaction with a copy of all disclosures required by Section 226.8 thereof, as required by Section 226.6(e) of Regulation Z prior to the consummation of the transaction.

4. Failing in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with Section 226.4 and Section 226.5 of Regulation Z, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents shall prominently display no less than two signs on each premise or place at which they do business, which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, in any transaction which is financed, before the transaction is consummated.

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 extension of consumer credit 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 respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents' business such as dissolution, assignment or sale resulting in the emergence of a successor business, corporation, or otherwise, the creation of subsidiaries, or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the nature and form of their compliance with this order.

Opinion

IN THE MATTER OF

NATIONAL DYNAMICS CORPORATION, ET AL.

Docket 8803. Opinion and Order, May 1, 1973.

Opinion and order denying respondents' motion for reconsideration of Paragraph 4 (prohibition pertaining to claim of laboratory testing and results thereof) of the Commission's order issued February 16, 1973, or for reopening of the proceeding and modification of Paragraph 4 of the order, and for a stay of the effective date of the said order.

OPINION OF THE COMMISSION

By motion filed April 6, 1973, respondents request reconsideration or, in the alternative, reopening of this proceeding for the purpose of modifying Paragraph 4 of the Commission's order issued February 16, 1973.* Respondents further petition for a stay of the effective date of the order pending the disposition of this motion.

Specifically, the challenged order provision prohibits respondents from representing directly or by implication that:

any independent laboratory has tested any product or that any laboratory test substantiates or supports performance claims in said advertisement unless each performance claim in said advertisement has been substantiated by a competent scientific test conducted by said laboratory or laboratories and unless such laboratory or laboratories have supplied Respondents with a written report which describes in detail the entire test performed including, but not limited to, the product tested, instruments used, test procedures, data, and results of such tests.

In its complaint, the Commission charged respondents with falsely claiming that battery additive VX-6 had been fully

*See p. 488 herein.

tested by independent laboratories. In respondents' view, both the initial decision of the administrative law judge and the Commission's opinion agreed that the product had been fully tested by independent laboratories and that the Commission had failed to sustain its burden of proof on this point.

In this proceeding, essentially two kinds of representations were challenged. Respondents' performance claims were challenged as impliedly representing that respondents had competent scientific tests which supported each of the performance claims made for their product. Rather than hold respondents to the precise standard set forth in the complaint, the Commission determined to evaluate the substantiating material against the reasonable basis standard as adopted by the Commission in *Pfizer, Inc.*, Docket No. 8819, July 11, 1972 [81 F.T.C. 23]. Applying that standard to the test reports which respondents relied upon in support of their claims, the Commission found respondents had a reasonable basis for believing their performance claims were true.

Although experts who testified in this proceeding concluded that the test reports relied upon by respondents were not descriptive of competent scientific tests, the Commission was satisfied that respondents had sought the advice and assistance of numerous independent commercial laboratories in determining the validity of these reports; and the test reports issued by several different laboratories in the aggregate tended to corroborate and support the conclusions reached by any single laboratory. On the issue of substantiation, then, the Commission considered the deficiencies in respondents' test reports but was of the view that respondents had a reasonable basis for believing the effectiveness claims for the product were true.

The challenged order provision, however, is unrelated to findings respecting the implied representation of substantiation or the reasonable basis supporting the challenged performance claims. The evidence on this record clearly indicated that certain of respondents' advertisements represented the product as fully tested by laboratories and then listed in the same advertisement the performance attributes claimed for the product. The Commission found an implied representation in these advertisements which conveyed an impression to the public of laboratories having fully tested the product with respect to the performance claims made in the advertisements. Specifically, the Commission

stated that it is "of the view that advertisements which expressly or impliedly represent the product as laboratory tested, without qualification, [footnote omitted] and then proceed to describe the performance characteristics of the product, have a tendency and capacity to lead the public to believe that the laboratories have fully tested the product for each of the performance attributes claimed in the advertisement." Thus, it was the representation of full testing which was challenged as false and deceptive. Whether a reasonable basis existed for this representation was not in issue and was not relevant to a determination of truth or falsity of the "fully tested" claim.

When a Commission complaint places in issue the truth or falsity of a claim, the existence of a reasonable basis to support the claim is irrelevant and provides no defense where substantial evidence proves the claim to be false. In considering the test reports respondents submitted both in response to the substantiation charge and the allegation of deception arising out of the "fully tested" claim, the Commission recognized the deficiencies in respondents' test reports but concluded that respondents, on the particular facts of this case, nevertheless had a reasonable basis upon which to believe the effectiveness claims they were making were true. Thus, complaint allegations relating to respondents' failure to substantiate their performance claims were dismissed.

Contrary to respondents' assertion, however, these same test reports do not evidence full laboratory testing of each performance claim made in respondents' advertisements. Respondents concede in their motion that duration claims were not fully tested by independent laboratories, and substantial evidence on this record of the deficiencies in these test reports led the Commission to conclude that the laboratories relied upon by respondents had not fully tested the performance attributes claimed for the product. The Commission, therefore, determined upon the record evidence that the laboratories had not fully tested the product with respect to performance claims listed in respondents' advertisements and that respondents' representations to the contrary were false and deceptive. Thus, the challenged order provision is reasonably related to the violation found in this proceeding.

Accordingly, the Commission has determined that respondents' Motion for Reconsideration or in the Alternative

for Reopening of this Proceeding and for a Stay of the Effective Date of the Commission's Order should be denied. An appropriate order will be entered.

Chairman Engman not participating.

ORDER DENYING RESPONDENTS' MOTION

This matter having come before the Commission upon respondents' motion, filed April 6, 1973, requesting reconsideration of Paragraph 4 of the Commission's order, issued February 16, 1973,* or, in the alternative, for reopening of the proceedings and modifying Paragraph 4 of the order, and for a staying of the effective date of said order pending the determination of respondents' motion, upon the answer of counsel supporting the complaint in opposition to said motion, and upon respondents' reply to the answer of counsel supporting the complaint; and

The Commission having determined, for the reasons stated in the accompanying opinion, that said motion should be denied:

It is ordered, That respondents' motion, filed on April 6, 1973, be, and it hereby is, denied.

Chairman Engman not participating.

IN THE MATTER OF

CROWELL COLLIER AND MACMILLAN, INC., ET AL.

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

Docket C-2394. Complaint, May 1, 1973—Decision, May 1, 1973.

Consent order requiring a New York City publishing house and three of its wholly-owned subsidiaries, among other things to cease making various misrepresentations in selling its products; failing to make certain disclosures in connection with the advertising of its programs or products; and, in recruitment of door-to-door salesmen, misrepresenting offers of employment and remuneration.

COMPLAINT

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

*See page 488 herein.

Federal Trade Commission, having reason to believe that Crowell Collier and Macmillan, Inc., a corporation, and Crowell Collier Book Services, Inc.,* a corporation, and P. F. Collier, Inc., a corporation, and Merit Students Encyclopedia, Inc., a 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 Crowell Collier and Macmillan, 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 866 Third Avenue, New York, New York.

Through its various organizational divisions and wholly-owned subsidiary corporations, respondent Crowell Collier and Macmillan, Inc., publishes, sells and distributes throughout the world textbooks, encyclopedias, reference and educational materials, training courses and other literary works and services. It has established, acquired, and operated a number of wholly-owned corporate subsidiaries for the purpose of promoting, selling and distributing said products and services to the trade and to the purchasing public. Its volume of business has been, and is substantial.

PAR. 2. Respondent Crowell Collier Book Services, 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 866 Third Avenue, New York, New York. It is one of the aforesaid wholly-owned subsidiary corporations of respondent Crowell Collier and Macmillan, Inc., and sells and distributes textbooks and other products and services to the trade and to the general public, and collects and induces payment of accounts, by various methods, as hereinafter set forth. Its volume of business has been, and is substantial.

PAR. 3. Respondent P. F. Collier, 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 866 Third Avenue, New York, New York. It is one of the aforesaid wholly-owned subsidiary corporations of respondent Crowell Collier and Macmillan, Inc.,

*Crowell Collier Book Services, Inc. changed its name to Professional & Technical Programs, Inc. on November 1, 1972.

and sells and distributes encyclopedias and yearbooks, and other products and services to the general public, through various methods including door-to-door solicitations and it collects and induces payment of accounts by various methods, as hereinafter set forth. Its volume of business has been, and is substantial.

PAR. 4. Respondent Merit Students Encyclopedia, 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 866 Third Avenue, New York, New York. It is one of the aforesaid wholly-owned subsidiary corporations of respondent Crowell Collier and Macmillan, Inc. Respondent Merit Students Encyclopedia, Inc., sells and distributes encyclopedias, yearbooks and other products and services to the general public, through various methods including door-to-door solicitation, as hereinafter set forth. Its volume of business has been, and is, substantial.

PAR. 5. Respondent Crowell Collier and Macmillan, Inc., dominates, controls, furnishes the means, instrumentalities, services and facilities for, and condones and approves the acts and practices of its wholly-owned subsidiaries, respondents Crowell Collier Book Services, Inc., P. F. Collier, Inc., and Merit Students Encyclopedia, Inc., including the acts and practices hereinafter set forth. Moreover, respondent Crowell Collier and Macmillan, Inc., directly or indirectly profits and benefits by and through the acts and practices hereinafter set forth.

PAR. 6. In the course and conduct of their business, as aforesaid, respondents now cause, and for some time last past have caused, said products to be shipped and distributed from their places of business or from their sources of supply to purchasers and prospective purchasers thereof located in various States of the United States other than the state of origination, distribution or storage of said products. Respondents disseminate, transmit and receive, or cause to be disseminated, transmitted and received sales promotional materials, invoices, checks, collection notices and various other commercial papers or documents in the course of advertising, selling, distributing, and collecting payment for said products among and between the several States of the United States. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in such books and

other products or services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, Five and Six hereof are incorporated by reference in Count I with respect to respondents Crowell Collier and Macmillan, Inc., and its wholly-owned subsidiary, Crowell Collier Book Services, Inc., as if fully set forth verbatim:

PAR. 7. In the course and conduct of their business, respondents sell and distribute various volumes and sets of books, including "Harvard Classics," a set consisting of some twenty-two volumes, by direct mail to members of the public. Under a continuity program utilized by respondents in selling and distributing said products, one or several volumes are furnished free or at a reduced price as premiums and one or several additional volumes may be shipped and billed for singly over intervals. The remaining volumes of the set are thereafter sent in a bulk shipment and bills and collection notices therefore rendered to those members of the public whom respondents elect to treat as subscribers to said continuity program.

Respondents disseminated numerous advertisements consisting of initial premium offers and subsequent form letters and brochures, through various publications of general circulation and by direct mail, for the purpose and with the effect of inducing responses to said initial premium offers and the subsequent acceptance of and payment for the additional volumes shipped at intervals or in bulk. Certain of said advertisements contain statements purporting to describe respondents' method of distribution or to disclose the rights or obligations assumed thereunder by, or which may be thereafter asserted against persons who respond to such offers.

PAR. 8. Among and including, but not all inclusive, of the statements in respondents' aforesaid advertisements are the following:

(Advertisements Concerning Initial Offer)

*** Take these 3 beautiful volumes for \$1 each (no obligation to accept further volumes) to introduce America's greatest cultural library to your home
THE HARVARD CLASSICS *** After receiving your 3 introductory volumes,

you may wish to go on and acquire the remaining volumes of the 22-volume Harvard Classics. But you are not obligated to do so. You may take as few or as many additional volumes as you may wish — or none at all * * * you may cancel any time * * *.

* * * Take this De Luxe Volume * * * FREE (no obligation to accept further volumes) as your introduction to the reading riches in THE HARVARD CLASSICS * * * Through the economies of direct-by-mail distribution, Crowell Collier and Macmillan, one of the world's great publishers, offers you this opportunity to collect this magnificent set * * * send card for FREE volume now * * * no obligation to buy anything! * * * You may take as few or as many additional volumes as you wish — or none at all. You may cancel any time * * *.

A return coupon form included in the above-quoted advertisement states:

* * * Please send me — as a Free Gift — Volume One * * * As a Charter Subscriber, I will be entitled to receive each month additional volumes of this magnificent set for 7 days FREE examination. If not delighted with each volume, I may return it at YOUR expense and owe nothing * * * I may cancel AT ANY TIME after taking as many or as few volumes as I wish — or none at all * * *.

Name _____

Address _____

* * * After you and your family have had an opportunity to sample the rich contents of your FREE VOLUME, you may, if you wish, receive additional volumes * * * for free examination. And — as a Subscriber — for any volumes that you decide to keep — you may pay only \$3.98 each * * * (WE PAY ALL SHIPPING AND POSTAGE CHARGES) * * * if not completely delighted with any volume after FREE examination in your home, you may return it at OUR expense and owe nothing * * *.

* * * If you decide that you do not want any more volumes simply tell us. You will never receive a bill * * * you will never receive another volume * * * Perhaps you say to yourself: "I know all about buying books by mail. They will send books that I have not ordered and then send me bills for these unordered books." This cannot happen because this is not a Book Club. There are no monthly cards to return. Once you tell us to CANCEL, we CANCEL. You never receive another book * * *.

(Subsequent Advertisements)

* * * Here, with our compliments, is your first volume * * * Under the terms of the Reservation Certificate you sent us, you are privileged to acquire an additional volume each month * * * of the HARVARD CLASSICS for free examination * * * Right now there is nothing for you to decide * * *.

* * * We are happy to be able to report that you may have on approval, the remaining 19 volumes of the HARVARD CLASSICS, Volumes IV through

XXII, in one exciting shipment! * * * Yes, next month's shipment will bring you an incomparable family library * * * And remember * * * although you receive all the remaining volumes in one shipment, you may continue to pay for them at the convenient rate of only *one book a month* * * * The enclosed form shows your name and address as it appears on our records. Please check it carefully and if it is incorrect in any way, please let us know by return mail so that we may correct our records before the books are shipped. We will wait a full 30 days before shipping the remaining volumes * *

PAR. 9. Through the use of said statements or others of similar import and meaning but not specifically set forth herein, respondents have represented, and now represent, directly or by implication:

(a) That participants in their continuity program are accorded the option of receiving a single volume at a time, and thereby are afforded the opportunity to receive and review on approval each volume separately, and to reject or accept same, until they have received and inspected each volume of the set.

(b) That participants in respondents' continuity program will receive no further volumes after they notify respondents to cancel their participation in said program.

(c) That persons who respond to respondents' initial premium offers or who participate in their continuity program do so without risk or obligation.

PAR. 10. In truth and in fact:

(a) Participants in respondents' continuity program are not accorded the option of receiving a single volume at a time, nor are they afforded the opportunity to receive and review on approval each volume separately, and to reject or accept same, until they have received and inspected each volume of the set. To the contrary, all but the first several volumes are sent to participants in a single bulk shipment, a material fact not set out in respondents' initial premium offers and not clearly or conspicuously disclosed in respondents' subsequent advertisements. Furthermore, respondents, in some instances, have refused to continue shipping a single volume at a time when so requested by participants.

(b) Participants in respondents' continuity program, in many instances, continued to receive volumes after notifying respondents to cancel their participation in the program.

(c) Persons who respond to respondents' initial premium offers or who participate in respondents' continuity program do not do so without risk or obligation. To the contrary, respondents impose or attempt to impose upon said persons the following duties and obligations: must notify respondents

to prevent the shipment of additional books; must return to respondents all unwanted books; must pay for all books not returned to respondents. Said persons also incur the risk that due to delays in mail delivery, computer error or other failure of respondents, participants may receive unordered merchandise or incorrect billings in the manner set forth in Paragraph Eleven hereinafter.

Therefore, respondents' statements, representations, acts and practices, and their failure to disclose material facts, as set forth in Paragraphs Seven through Ten hereof, were and are unfair, and false, misleading and deceptive.

PAR. 11. Respondents' material alteration of the conditions and terms of their continuity program from the shipment of single volumes over intervals, as initially represented, to the shipment of many volumes in a single bulk shipment, places an unfair and undue burden on persons who respond to respondents' initial premium offers or who, whether willingly or unwillingly, become participants in respondents' continuity program, by imposing or attempting to impose on said persons, undisclosed affirmative duties or obligations in order to prevent shipments of unordered or unwanted books. Furthermore, in many instances, respondents have sent bulk shipments to participants after said participants have notified respondents within a reasonable time that the altered method of distribution was unacceptable to them. As a result of the unauthorized shipment of unordered books, said participants have expended time, energy and sums of money in returning said books to respondents or in paying for them.

In addition, participants have been subjected to repeated mailings of bills, dunning letters and the like for such unwanted, unordered merchandise which, in many instances, had been previously returned to respondents. As a consequence, respondents' aforesaid method of distribution attempts to or has the effect of causing the purchase of respondents' books in a manner and quantity not contemplated by persons who responded to said initial premium offers or who, whether willingly or unwillingly, participated in respondents' said continuity program.

Therefore, respondents' acts and practices as aforesaid, were and are, unfair and false, misleading and deceptive.

COUNT II

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Three, Five and Six hereof are incorporated by reference in Count II with respect to respondents Crowell Collier and Macmillan, Inc., and its wholly-owned subsidiary, P. F. Collier, Inc., as if fully set forth verbatim.

PAR. 12. In the course and conduct of their business, respondents sell sets of encyclopedias in combination with other products or services including a ten-year subscription for the addition of annual yearbooks as supplements to said encyclopedia. Respondents have induced many members of the public to contract for the purchase of said combination of products and services by means of deferred payments. Said contracts commonly provide for remittance of monthly installments to cover the purchase price of the combination within a three-year period, and state a price for each volume of the annual yearbooks. Customers are thereafter billed for the annual volumes shipped to them until the encyclopedia is supplemented by the ten yearbooks required to complete the set, as provided for by the purchase contract.

PAR. 13. In the further course and conduct of their business, and in connection with their obligation to continue sending the yearbooks required to supplement and complete the encyclopedia sold as aforesaid, respondents have sent yearbooks to said purchasers and have billed a substantial number of said purchasers at a price higher than as provided for such yearbooks in the purchase contracts, and have thereby misrepresented the amount of money which was due respondents for such yearbooks.

PAR. 14. By and through their use of the foregoing methods, including the misrepresentation of the amount of money owed to respondents for said yearbooks, as aforesaid, respondents have attempted to induce, and have induced, a substantial number of said purchasers, who were unaware that the billing price constituted an increase, or were confused or uncertain as to whether respondents are obligated to send the remaining yearbooks at the lower price provided for by the purchase contract, to pay the increased bill price for such yearbooks.

Therefore, respondents' statements, representations, acts and practices, as set forth in Paragraphs Twelve through Fourteen hereof, were and are unfair, false, misleading and deceptive.

COUNT III

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Three Four, Five and Six hereof are incorporated by reference in Count III with respect to respondent Crowell Collier and Macmillan, Inc., and its wholly-owned subsidiaries, P. F. Collier, Inc., and Merit Students Encyclopedia, Inc., as if fully set forth verbatim.

PAR. 15. In the course and conduct of their business, and for the purpose of recruiting persons to solicit and induce sales of encyclopedias and other products and services by means of door-to-door solicitation of prospective purchasers, respondents cause advertisements to be published in various publications of general circulation, which advertisements contain statements purporting to describe the nature and requirements of the advertised positions and the manner and amount of compensation therefor.

PAR. 16. Typical and illustrative of such advertisements, but not all inclusive thereof, are the following:

Advertisement published in the April 12, 1970, issue of the "Newark News:"

ADMIN. ASST. WANTED! ! !

Several men to work hard to replace several who wouldn't — must be able to work 5½ days per week and report to downtown Newark Office by 2 P.M. weekdays and work ½ day on weekend. Must be 18 or over. \$420 per month to start * * *

* * * * *

Advertisement published in the May 11, 1970, issue of the "Newark News;"

COLLEGE STUDENTS - GET A JUMP ON THE SUMMER! ! \$130 PER WK.

Join forces with the most successful summer operation in New Jersey. Multi-Million dollar International Corp. offering promotional minded students SCHOLARSHIPS, a profitable and cool summer previewing new brand identification concepts * * * * *

* * * * *

Advertisement published in "The Philadelphia Inquirer:"

ADMINISTRATIVE ASSISTANT TRAINEES - \$140+ PER WK

International Publishing Concern has several openings for aggressive man over 18. This position is in the field of

MARKETING - PUBLIC RELATIONS

Those individuals who are selected will be paid full salary during our 2 months formal training program. Automatic advancement to \$190 per wk. Must be avail. for immed. employment * * *.

* * * * *

1292 Complaint

Advertisement published in "The Washington Post" during the spring of 1970:

MEN WOMEN
STUDENTS
SUMMER JOBS

Full time work this summer - between May and September.

Earn Sal. \$186 Per. Wk. * * * Those students who qualify, will assist manager in related fields of marketing and merchandising this summer * * *.

* * * * *

Advertisement published in the October 20, 1970, issue of "The Philadelphia Inquirer:"

Boys - Men 18 & over
MANAGEMENT TRAINEES
\$3.75 Per Hour
Career Opportunity
\$125 - \$175 per Wk. * * *

PAR. 17. Through the use of the advertisements set forth in Paragraph Sixteen hereof, and others of similar import and meaning but not expressly set out herein, whether separately or in conjunction with the oral statements and representations of their agents, representatives, or employees during preliminary interviews with persons who respond to said advertisements, respondents have represented, and are now representing, directly or by implication that:

1. Respondents are attempting to recruit employees for positions in such fields as marketing, administration, brand identification, public relations or other non-selling fields.

2. Respondents are making bona fide offers to pay salaries of \$130 per week, \$620 per month or other stated amounts as compensation for the advertised positions referred to in subparagraph 1 of Paragraph Seventeen hereof.

PAR. 18. In truth and in fact:

1. Respondents are not attempting to recruit employees for positions in the fields of marketing, administration, brand identification, public relations, or other non-selling fields. To the contrary, respondents are, in the main, attempting to recruit persons to engage in the door-to-door solicitation and sale of encyclopedias or other products or services on a commission basis; which material facts respondents fail to disclose in their aforesaid advertising and preliminary interviews.

2. Respondents are not making bona fide offers to pay salaries of \$130 per week, \$620 per month or other stated

amounts as compensation for the positions referred to in subparagraph 1 of Paragraph Seventeen hereof. To the contrary, such offers are made for the purpose of inducing prospective applicants to visit one of respondents' offices and to apply for such advertised positions. Thereafter, respondents' agents, representatives or employees, while purporting to afford to many of said applicants an opportunity for salaried employment, disparage a salary of \$130 per week, \$620 per month or other stated amounts, refuse or fail to discuss opportunities for salaried employment, and by these and other means, discourage said applicants from electing to be compensated by salary rather than by commission. As a result of such disparagement, refusal, failure or discouragement, few, if any, of the said applicants elect to be or are compensated by a salary and substantial numbers of them are recruited as door-to-door solicitors and salesmen who are compensated by commissions on sales.

Therefore, respondents' statements, representations, acts and practices, and their failure to disclose material facts, as set forth in Paragraphs Fifteen through Eighteen were and are unfair, and false, misleading and deceptive.

COUNT IV

Alleging violation of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One through Eighteen hereof are incorporated by reference in Count IV with respect to respondents Crowell Collier and Macmillan, Inc., and its wholly-owned subsidiaries Crowell Collier Book Services, Inc., P. F. Collier, Inc., and Merit Students Encyclopedia, Inc., as if fully set forth verbatim.

PAR. 19. In the course and conduct of their business, and at all times mentioned herein respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of books or other products and services of the same general kind and nature as those sold by respondents.

PAR. 20. The use by respondents of the unfair, and false, misleading and deceptive statements, representations, acts and practices, and their failure to disclose material facts in connection with their sale and distribution of books or other products, 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, retention of, and payment for substantial quantities of said products and into assumption of debts and obligations which they might not otherwise have done by reason of said erroneous and mistaken belief.

The use by respondents of the unfair, and false, misleading and deceptive statements, representations, acts and practices, and their failure to disclose material facts, in connection with the recruitment of solicitors and salesmen to solicit and sell books or other products and services for respondents, as aforesaid, has had and now has the capacity and tendency to mislead prospective employees, solicitors or salesmen into the erroneous and mistaken belief that said statements and representations were and are true and complete and to induce them to respond to such advertisements and to solicit and sell such books and other products and services for respondents.

PAR. 21. 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' salesmen, solicitors and 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 thirty (30) 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. Respondents, Crowell Collier and Macmillan, Inc., Professionals & Technical Programs, Inc. (formerly Crowell Collier Book Services, Inc.), P. F. Collier, Inc., and Merit Students Encyclopedia, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of Delaware; each of the said respondents has its office and principal place of business located at 866 Third Avenue, in the city of New York, State of New York.

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 Crowell Collier and Macmillan, Inc., a corporation, Professional & Technical Programs, Inc., a corporation (formerly Crowell Collier Book Services, Inc.), and their successors or assigns, and respondents' officers, employees, agents, or other representatives, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of books or other products or services by means of any program or method of sale or of distribution which provides or purports to provide for delivery of books or other products or services serially at intervals on an approval basis to purchasers or prospective purchasers other than libraries, schools, institutions, or business or professional establishments, subject to the purchaser's right to return such materials after examination (hereinafter "program"), and any billing and collection procedures in respect of such program, 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 person

who responds to any advertisement or offer under, or who participates in, any such program:

(a) Has, or will be accorded the option to receive each book or other product or service separately and individually at prescribed intervals, and to accept or reject same, unless each such person is in fact accorded such option.

(b) Will not receive any further book or other product or service in connection with such program after he notifies respondents of his cancellation of any such program, unless such are the facts, or misrepresenting, by any means, the consequences resulting from any person's cancellation of his participation in any such program.

(c) Will not incur any risk or obligation by joining or participating in any such program; or misrepresenting, in any manner, any term, condition, right, duty, or obligation which may be imposed on said person.

2. Disseminating, or causing to be disseminated, by means of the United States mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement in connection with any such program which fails to disclose in a clear and conspicuous manner:

(a) A description of the conditions and terms of any such program and the duties and obligations of any subscriber thereto.

(b) A description of each book or product or service, the billing charge to be made therefor, the anticipated total number of books or other products or services included in any such program, the number of books or other products or services included in each shipment, and the number of and the intervals between each such shipment.

(c) A description of the procedures to be followed by the subscriber, including any time limitations, (1) for refusing to accept delivery of any book or product or service, (2) for rejecting any book or product or service after examination, (3) for returning any book or product or service, and (4) for the application of allowances or credits against billing charges for any unwanted book or product or service that has been refused, rejected, or returned; and

(d) That in order for any communication, including any rejections or cancellations, to be processed by respondents prior to the next shipment of any book or other product or service, such communication must be received by respondents no later than a date stated on the invoice or, if there is no invoice, on another document accompanying the current shipment.

3. Failing to disclose, clearly and conspicuously, on any return coupon, order form or any other document to be used by the prospective purchasers to signify election to participate in any such program, the following information:

(a) The anticipated total number of books or other products or services in any such program;

(b) The number of books or other products or services included in each shipment of such items; and

(c) The number of and the intervals between each such shipment.

4. Failing to disclose, clearly and conspicuously, in immediate conjunction with any shipment to any subscriber in connection with any such program, the date on which respondents must receive a notice of rejection of a particular book or product or service or cancellation of the remaining books or other products or services in the program from the subscriber in order to cancel the next shipment, which date shall be at least 21 days after the shipping date of the current shipment.

5. Sending any book or other product or service in connection with any such program, except at the express written election of the recipient, for which the recipient may incur a monetary obligation, until at least 28 days have elapsed since the prior shipment was mailed; *Provided*, That the terms of such election have been stated clearly, conspicuously, and without misrepresentation, in writing.

6. Failing to credit, for the full invoiced amount thereof, the return of any book or other product or service sent to a subscriber to any such program and to guarantee to the postal service or the said subscriber postage adequate to return such book or other product or service to the respondents, when:

(a) The book or other product or service is sent to the said subscriber after the respondents have

received a notice of rejection or cancellation prior to the date disclosed in conjunction with the immediately preceding shipment as required by Paragraph 4, *supra*;
or

(b) The notice of rejection or cancellation is received by the respondents after the date disclosed pursuant to Paragraph 4, *supra*, but has been mailed by the said subscriber and postmarked at least three days prior to the date disclosed as aforesaid.

7. (a) Sending any book or other product or service to any subscriber in such program, or mailing any bill or invoice therefor, if the respondents have received notification of rejection for said book or product or service from said subscriber prior to or by the date which respondents have disclosed pursuant to Paragraph 4, *supra*.

(b) Sending any book or other product or service to any subscriber in such program, or mailing any bill or invoice therefor, if respondents have received notification of cancellation from said subscriber prior to or by the date which respondents have disclosed pursuant to Paragraph 4, *supra*.

8. Failing to do the following, after receipt of a claim for adjustment in connection with any bill or invoice or any defense to any payment raised by any subscriber to such program:

(a) Acknowledge the receipt of the claim or defense within 14 days of receipt by respondent and suspend all collection procedures with respect to such bill or invoice or such payment until 20 days after complying with the procedure set forth in (b) below.

(b) Make the requested adjustment and acknowledge the validity of the claim or defense raised within 60 days, or within said period, inform the subscriber in writing of respondents' version of the facts alleged in the claim or defense.

II

It is further ordered, That respondents Crowell Collier and Macmillan, Inc., a corporation, P. F. Collier, Inc., a corporation, and Merit Students Encyclopedia, Inc., a corporation, and their successors or assigns, and their officers, employees,

agents, or other representatives, directly or through any corporation, subsidiary, division, or other device, in connection with the offering for sale, sale, or distribution, in commerce (as "commerce" is defined in the Federal Trade Commission Act) of any yearbook or other product or service which is furnished to purchasers under a contract or agreement to purchase at a stated price, do forthwith cease and desist from sending, or causing others to send, any bill or collection or dunning letter or other demand for payment which calls for payment of any amount which is in excess of that which is or which is expected to become due and owing under such contract or agreement.

III

It is further ordered, That respondents Crowell Collier and Macmillan, Inc., a corporation, P. F. Collier, Inc., a corporation, and Merit Students Encyclopedia, Inc., a corporation, and their successors or assigns, and their officers, employees, agents, or other representatives, directly or through any corporation, subsidiary, division or other device, in commerce (as "commerce" is defined in the Federal Trade Commission Act), do forthwith cease and desist from:

1. Recruiting, or attempting to recruit, persons to engage wholly or partly in soliciting orders for or selling encyclopedias or home reference books, or services related to such products, to purchasers or prospective purchasers other than libraries, schools, institutions, or business or professional establishments, by means of any advertisement or other statement:

(a) Which represents, directly or indirectly, that employment is offered or may be available in non-selling fields, such as marketing, administration, brand identification, public relations, or any other non-selling position; or which otherwise misrepresents the nature or duties of any position which respondents are seeking to fill; or

(b) Which represents, directly or indirectly, that remuneration for any such position is made on the basis of a salary, or other than by commission, where the remuneration is based, in whole or in part, upon sales commissions; or which otherwise misrepresents the basis for remuneration.

2. Recruiting or attempting to recruit persons to engage wholly or partly in soliciting orders for or selling encyclopedias or home reference books or services related

to such products, to purchasers or prospective purchasers other than libraries, schools, institutions, or business or professional establishments, by means of any advertisement which fails to set forth, clearly and conspicuously:

(a) The basis of remuneration, where such is based in whole or in part upon sales commissions, if remuneration is mentioned directly or indirectly in the ad; and

(b) That respondents are recruiting persons to solicit or sell, the method or manner by which such soliciting or selling will be accomplished, and the products or services being sold, if the position to be filled is described directly or indirectly in the said ad.

Provided, however, That if the disclosures set forth in (a) or (b) above are not made because the ad does not directly or indirectly mention remuneration, or because the ad does not directly or indirectly describe the position to be filled, then the disclosures set forth in (a) and (b) above shall be made clearly and conspicuously either before a prospective applicant comes to respondents' offices by sending that person a written notice containing such disclosures in answer to his inquiry, or at the initial face-to-face interview by furnishing said person a written notice containing such disclosures and by making said disclosures orally at said interview.

IV

For the purposes of the following provisions of this order, the term "respondents" shall include each of the respondents named heretofore in this order.

1. *It is further ordered,* That:

(a) Respondents herein deliver by registered mail or by hand a copy of this order to each of their present and future agents, representatives, employees, solicitors, and every other person engaged by or for any respondent in:

(i) the promotion, sale, or distribution of any book or other product or service under any program as defined in Part I of this order;

(ii) recruiting or training solicitors or salesmen to engage wholly or partly in soliciting orders for or selling encyclopedias or home reference books or services related to such products, to purchasers or prospective purchasers, other than libraries, schools,