

or placing of advertising, and secure a signed statement acknowledging receipt of said order from each such person.

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

*It is further ordered,* That respondents shall, within sixty (60) days after the effective date of the order served upon it, file with the Commission a report, in writing, signed by respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

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IN THE MATTER OF

BRIDGESTONE TIRE COMPANY OF AMERICA, INC.

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

*Docket C-2734. Complaint, Sept. 30, 1975-Decision, Sept. 30, 1975*

Consent order requiring a Torrance, Calif., distributor and seller of tires, among other things to cease misrepresenting the safety or performance characteristics of any automobile tires, and misrepresenting any generalized safety claims. Further, the respondent is required to have a "reasonable basis" in substantiation of claims regarding the safety performance characteristics of "any product."

*Appearances*

For the Commission: *Bruce J. Parker.*

For the respondents: *Anthony Liebig, Lillick, McHose & Charles,*  
Los Angeles, Calif.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that Bridgestone Tire Company of America, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in

the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Bridgestone Tire Company of America, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its principal offices and place of business located at 2160 W. 190th St., Torrance, Calif.

PAR. 2. Respondent Bridgestone Tire Company of America, Inc., is now, and for some time last past has been, engaged in the distribution, sale, and advertising of various rubber products including automobile tires.

PAR. 3. Respondent Bridgestone Tire Company of America, Inc., causes the said products, when sold, to be transported from its place of business in various States of the United States to purchasers located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in or affecting commerce. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business respondent has disseminated and caused the dissemination of advertisements concerning the aforementioned products including automobile tires in or affecting commerce by means of advertisements printed in magazines and newspapers distributed by the mail and across State lines and transmitted by television and radio stations located in various States of the United States and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products including automobile tires.

PAR. 5. Among the advertisements so disseminated or caused to be disseminated by respondent is a print advertisement attached as Exhibit A.

PAR. 6. Through the use of the aforesaid statements and representations made in Exhibit A, respondent represented and is now representing, directly or by implication, that the RD-170V steel-belted radial tire is the best radial tire in America.

PAR. 7. At the time respondent made the representation as alleged in Paragraph Six, respondent did not possess and rely on a reasonable basis consisting of competent scientific tests which demonstrate that the RD-170V steel-belted radial tire is superior in terms of overall performance to all other radial tires in America. Therefore, the making of said representation as alleged in Paragraph Six constituted, and now constitutes, an unfair and deceptive act or practice in and affecting commerce.

PAR. 8. Further, through the use of the aforesaid statements and

representations made in Exhibit A, respondent represented and is now representing, directly or by implication, that the RD-170V steel-belted radial tire is superior to all other radial tires in America with respect to the following characteristics:

1. Puncture protection;
2. Cornering and stopping; and
3. Gas mileage.

PAR. 9. Further, through the use of the aforesaid statements and representations made in Exhibit A respondent represented and is now representing, directly or by implication, that the RD-170V steel-belted radial tire provides a degree of long-run security and comfort that is rare in all other radial tires in America.

PAR. 10. At the time respondent made the statements and representations as alleged in Paragraphs Eight and Nine, respondent did not possess and rely on a reasonable basis consisting of competent scientific tests for making said statements and representations. Therefore, the making of said statements and representations as herein alleged constituted, and now constitute, unfair and deceptive acts or practices in or affecting commerce.

PAR. 11. In the course and conduct of the aforesaid business, and at all times mentioned herein, respondent Bridgestone U.S.A. has been and now is in substantial competition in or affecting commerce with corporations, firms, and individuals engaged in the sale and distribution of automobile tires of the same general kind and nature as that sold by respondent.

PAR. 12. The use by respondent of the aforesaid false, misleading, deceptive or unfair statements and representations as alleged herein has had, and now has the capacity and tendency to mislead members of the consuming public into the purchase of substantial quantities of the RD-170V steel-belted radial tire sold and distributed by respondent Bridgestone Tire Company of America, Inc. Further, as a result thereof, substantial trade is being unfairly diverted to respondent Bridgestone Tire Company of America, Inc., from its competitors.

PAR. 13. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent Bridgestone Tire Company of America Inc.'s competitors, and constituted and now constitute, unfair and deceptive acts or practices and unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

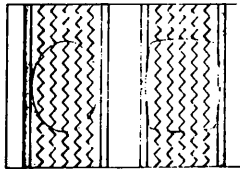
# The best radial tire in America?

EXHIBIT A

Now that radial rather than ordinary bias ply tires are becoming the safer-driving standard for thoughtful motorists, just what does it take to be tops in this radial revolution?

Among other things, superior wear—up to 40,000 miles or better. First rate puncture protection. Superior cornering and stopping. A quiet, comfortable ride and noticeably better gas mileage. And a price that keeps the cost of a tire mile down in the mini-digits.

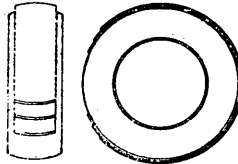
**Bridgestone designed its RD-170V steel belted radial to meet all these requirements.**



In our research laboratories, we found the right rubber compounds and tread to guarantee 40,000 easy-riding miles with a good

grip on all kinds of pavement. Then Bridgestone built a special radial tire factory.

**For puncture protection we incorporated three steel belts** (from our own steel cord



plant) instead of the usual two. They girdle the tire, hold the tread traction-firm and reduce tread-wearing squirm.



Additional fabric plies running straight across the



The time-honored quality tire.

bead at a 90 degree angle work in parallel to permit maximum flexing without sawing or grinding.

Bridgestone's special combination of resilient fabric plies with girdling steel belts provides a rare degree of long-run security and comfort.

**Among 3,200 types of Bridgestone tires do we build the best radial in America? You be the judge. Visit your Bridgestone dealer today.**



Check the Yellow Pages for your local Bridgestone Tire Dealer.

## 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 bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act; 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 such 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 Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Bridgestone Tire Company of America, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its principal offices and place of business located at 2160 W. 190th St., Torrance, Calif.

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

## I

*It is ordered,* That respondent Bridgestone Tire Company of America, Inc., a corporation, its successors and assigns, officers, representatives, agents, employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of any product in or affecting commerce as

"commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any automobile tire has any safety or performance characteristic or is superior in quality or performance to other tires, either overall or with respect to any such characteristic, unless at the time such representation is first disseminated, the representation is fully and completely substantiated by competent scientific tests and respondent has relied upon such tests. *Provided, furthermore,* That with respect to any representation concerning the safety of automobile tires which representation is not expressly limited to a specific safety characteristic(s) the basis for such a representation shall include, at the minimum, tests for the following characteristics: (a) stopping; (b) cornering; (c) puncture protection; and (d) high speed performance.

2. Failing to provide for the maintenance of, in conjunction with Paragraph One of this order, the results of each test, the original test data collected in the course of each test, and a detailed description of how the test was performed, all of which shall be available in written form for inspection, upon reasonable notice, for at least three years following the final use of the representation.

3. Making any representation, directly or by implication, regarding the safety or performance characteristics of any product, unless at the time such representation is first disseminated there exists a reasonable basis for such representation and respondent relies upon such basis. *Provided, however,* That with respect to automobile tires, the only reasonable basis for such a representation shall be competent scientific tests as specified in Paragraph One of this order.

4. Failing to provide for the maintenance of, in conjunction with Paragraph Three of this order, all documentation in substantiation of any representation in advertising disseminated, by respondent, all of which shall be available in written form for inspection upon reasonable notice, for at least three years following the final use of the representation.

## II

*It is further ordered,* That for the purpose of Paragraph One of Part I of this order:

1. A claim of "security" shall be construed as a safety claim.
2. A representation as to the quality or performance characteristics of any automobile tire implies that it is superior in quality or performance to any other automobile tire or all other automobile tires if it is phrased in the comparative or superlative degree, or if any

advertising containing such representation conveys a net impression of comparative superiority.

## III

*It is further ordered,* That respondent Bridgestone Tire Company of America, Inc., shall forthwith deliver a copy of this order to each of its operating departments, divisions, and subsidiaries engaged in the advertising, offering for sale, sale, or distribution to the public at retail of automobile tires and to the manager of each present and every future retail outlet owned and operated by said respondent.

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change 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 that may affect the compliance obligations arising out of the order.

*It is further ordered,* That respondent 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 the order to cease and desist.

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IN THE MATTER OF

## GENERAL FOODS CORPORATION

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

*Docket C-2733. Complaint, Oct. 1, 1975-Decision, Oct. 1, 1975*

Consent order requiring a White Plains, N.Y., producer, distributor, and seller of food products, among other things to cease using depictions and descriptions, which have the capacity to influence children to engage in harmful activities—specifically, representing that a plant is edible in its raw state (1) where the visual impression is conveyed that the plant was not grown for human consumption; or (2) where a raw plant is shown being consumed and it is specifically described as a “wild” plant.

*Appearances*

For the Commission: *Stewart A. Block.*

For the respondent: *Bruce L. Bozeman, White Plains, N.Y. and John Kovin, Clifford, Warnke, Glass, McIlwain & Finney, Wash., D.C.*

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the General Foods Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. For the purposes of this complaint, the following definitions apply:

1. The term "commerce" means commerce as defined by the Federal Trade Commission Act, as amended.

2. The term "false advertisement" means false advertisement as defined by the Federal Trade Commission Act, as amended.

PAR. 2. Respondent General Foods Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 250 North St., White Plains, N.Y.

PAR. 3. Respondent General Foods is now, and for all times relevant to this complaint has been, engaged in the production, distribution, and sale of a variety of food products, including but not limited to "Post Grape Nuts," a ready-to-eat breakfast cereal (hereinafter referred to as Post Grape Nuts). Said product is a "food" as defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its aforesaid business, respondent General Foods Corporation causes Post Grape Nuts in its product package to be transported from its place of business to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent General Foods Corporation maintains and at all times mentioned herein has maintained, a substantial course of trade in said product in or affecting commerce. The volume of business in or affecting commerce has been and is substantial.

PAR. 5. In the course and conduct of its aforesaid business, respondent General Foods Corporation has disseminated, and caused the dissemination of, certain advertisements concerning the said product by the United States mails and by various means in or affecting commerce, including but not limited to, by means of television broadcasts transmitted by television stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of



inducing and which were likely to induce, directly or indirectly, the purchase of said product, and have disseminated, and caused the dissemination of, advertisements concerning said product by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in or affecting commerce.

PAR. 6. Among the advertisements disseminated by means of television, but not all inclusive thereof, are the following:

Complaint

**B&B**

BENTON & BOWLES  
909 THIRD AVENUE  
NEW YORK N.Y.  
(212) 758-6200

Client GENERAL FOODS CORP.  
Product GRAPE-NUTS  
Length 30 SECONDS - (GFGN-1502)  
Title "EUELL GIBBONS"



1. (SFX)



2. EUELL GIBBONS: I'm Euell Gibbons.



3. Many consider me an expert on natural foods...



4. I like cat-tails. Yes, they're edible!



5. I look for natural ingredients in my food.



6. That's why Grape-Nuts is part of my breakfast.



7. This is a wholesome cereal... made from wheat and barley.



8. These natural ingredients are baked into crunchy nuggets.



9. ...and fortified with eight essential vitamins.



10. It's naturally sweet and reminds me of wild nuts.



11. EUELL GIBBONS: (VO) I call Grape-Nuts my back-to-nature cereal.

POST GRAPENUTS  
 Benton & Bowles, Inc. 509 Third Avenue, New York, NY 10022 / TEL 8200

Client:	GENERAL FOODS	Date:	AS FILMED OCTOBER 1972
Product:	POST GRAPE-NUTS	Station:	
Program:		Draft:	1-11-1-72      gs/

:30 COMMERCIAL #GFGN-3252  
 ("EUELL GIBBONS PINE TREE")

PICTURE

OPEN ON EUELL GIBBONS IN FOREST  
 OF TALL PINES. SUPER:  
 EUELL GIBBONS AUTHOR OF  
 "STALKING THE GOOD LIFE."

GIBBONS PULLS A BRANCH  
 FROM PINE TREE.

AND HOLDS UP BRANCH.

GIBBONS SITS AT TABLE  
 IN THE FOREST WITH BREAKFAST  
 ITEMS.

GIBBONS POURS GRAPE NUTS  
 INTO BOWL.

CONTINUE ACTION AS HE ADDS  
 MILK TO CEREAL.

CONTINUE ACTION.

GIBBONS MIXES CEREAL AND  
 THEN BEGINS TO EAT IT.

GO TO PRODUCT SHOT.  
 SUPER: "BACK-TO-NATURE  
 CEREAL."

SOUND

EUELL GIBBONS:

I'm Euell Gibbons.

I've spent years learning  
 about natural foods.

Ever eat a pine tree?  
 Many parts are edible.

Natural ingredients are  
 important to me.

That's why Post Grape Nuts  
 is part of my breakfast.

This wholesome cereal is  
 made from wheat and barley.

These natural ingredients are  
 baked into crunchy nuggets  
 fortified with vitamins.

Its! naturally sweet taste  
 reminds me of wild hickory

I call Grape-Nuts my back-t  
 nature cereal.

Complaint

86 F.T.C.

# WORLD TELEVISION

Denton & Bowles, Inc. 509 Third Avenue, New York, NY 10022 / 750-8200

C.B.C. Tuesday 10/9/73

Client: GENERAL FOODS CORP.

Date: AS FILMED  
SEPTEMBER 1973

Product: GRAPE-NUTS

Station:

Program:

Draft: 1-9-20-73 vs/nz

1:30 COMMERCIAL #AGNY-3563  
("WILD CRANBERRIES - COLD MILK")

## PICTURE

OPEN ON EUELL GIBBONS IN SNOW-COVERED, WOODED SETTING.

SUPER: "EUELL GIBBONS - AUTHOR OF STALKING THE GOOD LIFE".

HE PICKS CRANBERRIES OFF OF A CRANBERRY BUSH.

TO TO CU OF EUELL'S HANDS HOLDING CRANBERRIES AND GRAPE-NUTS BOX.

REVEAL EUELL IN CABIN.

CU OF GRAPE-NUTS BEING POURED INTO BOWL.

SHOT OF HOT MILK BEING POURED OVER GRAPE-NUTS.

EUELL STIRS CEREAL AND THEN EATS IT.

GO TO COMPLETE GRAPE-NUTS BREAK-FAST.

SUPER: "BACK-TO-NATURE CEREAL".

## SOUND

EUELL GIBBONS:

I'm Euell Gibbons. I'm gathering part of my breakfast.

These are high bush cranberries.

Delicious with Grape-Nuts.

As an author of five books on natural foods, I can recommend Post Grape-Nuts.

This crunchy cereal is made from natural ingredients - wholesome wheat and barley.

And it's fortified with Vitamins.

Its naturally sweet taste reminds me of wild hickory nuts.

I call Grape-Nuts my back-to-nature cereal.

# POST TELEVISION

MAY 20 1974

Benton & Bowles, Inc. 609 Third Avenue, New York, N.Y. 10022 / 733-6200

Client: GENERAL FOODS CORP.

Date: AS FILMED  
APRIL 1974

Product: GRAPE-NUTS

Station:

Program:

Draft: 1-4-24-74 of/112

30 COMMERCIAL #GFCN-4022  
(GIBBONS CACTUS REV. 1105)

PICTURE

OPEN WITH WIDE SHOT OF  
EUELL GIBBONS IN THE DESERT.

SUPER:  
"EUELL GIBBONS, AUTHOR OF  
STALKING THE GOOD LIFE."

CONTINUE ACTION.

GIBBONS PICKS FRUIT OFF  
OF A CACTUS. HE HOLDS  
UP FRUIT.

TIGHT SHOT OF GIBBONS  
HOLDING GRAPE-NUTS BOX.

FOURING SHOT.

GIBBONS EATING GRAPE-NUTS  
FROM BOWL.

PRODUCT SHOT.  
SUPER:  
"BACK-TO-NATURE CEREAL."

SOUNDEUELL GIBBONS:

I'm Euell Gibbons.

I'm gathering part of my breakfast  
The fruit of this prickly pear  
cactus will go well with Grape-Nuts.  
Having spent years studying natural  
foods, I can recommend Post Grape-  
nuts.

It's a natural wheat and barley  
cereal fortified with vitamins.  
No artificial flavoring or pre-  
servatives added.

Its naturally sweet taste reminds  
me of wild hickory nuts.

I call Grape-Nuts my back-to-  
nature cereal.

1st BROADCAST  
ON CBS

SHOW: BACK TO NATURE  
AIR DATE: 5/1/74  
TIME: 10-10:20 AM

PAR. 7. The aforesaid advertisements have the tendency or capacity to influence children to eat plants or parts thereof which they find growing or in natural surroundings. Some plants or parts thereof are harmful if eaten. A substantial number of children do not have sufficient knowledge or experience to distinguish between those plants or parts thereof which are and those which are not harmful if eaten. Therefore the aforesaid advertisements have the tendency or capacity to influence children to engage in behavior which is harmful or involves the risk of harm, and were and are unfair or deceptive acts or practices.

PAR. 8. It is a commonly recognized safety principle that children should not eat any plants or parts thereof which they find growing or in natural surroundings except under adult supervision. The aforesaid advertisements have the tendency or capacity to influence children, when not under adult supervision, to eat plants or parts thereof which they find growing or in natural surroundings, which behavior is inconsistent with said safety principle. Therefore, the aforesaid advertisements were and are unfair or deceptive acts or practices.

PAR. 9. The aforesaid advertisements have the tendency or capacity to represent, directly or by implication, to children that they can eat plants or parts thereof which they find growing or in natural surroundings without harm or the risk of harm. In truth and in fact, children cannot eat plants or parts thereof which they find growing or in natural surroundings without harm or the risk of harm. Therefore, the aforesaid advertisements were and are unfair and deceptive acts or practices and false advertisements.

PAR. 10. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent General Foods Corporation has been, and is now, in substantial competition, in or affecting commerce, with other corporations engaged in the manufacture and sale of food products.

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

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent 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 respondent with violation of the Federal Trade Commission Act; 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 Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent General Foods Corporation is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 250 North St., White Plains, N.Y.

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

For the purposes of this order, the following definitions apply:

1. The term "commerce" means commerce as defined by the Federal Trade Commission Act, as amended.

2. The term "plant" means any whole plant or any constituent part thereof.

#### I

*It is ordered*, That respondent General Foods Corporation, a corporation, (hereinafter referred to as respondent), its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other

device, in connection with the advertising, offering for sale, sale or distribution in or affecting commerce of any product, forthwith cease and desist from, directly or indirectly:

A. Representing, through depictions, descriptions, or otherwise, that a plant is suitable for human consumption in its raw state in an advertisement containing a visual depiction of (1) the plant in its growing state or natural surroundings which depiction is not a clear portrayal of conditions of domestic cultivation for human consumption or (2) the consumption of a raw plant described in the advertisement as wild.

B. Representing through depictions, descriptions, or otherwise, that a plant is suitable for human consumption in its raw state in an advertisement containing a visual depiction of the plant in its growing state or natural surroundings where said plant is not the advertised product or an ingredient, or a characterizing flavor, or source thereof, in the advertised product.

C. Representing, through depictions, descriptions, or otherwise, that any given thing or things, other than things that are commonly recognized as foods or lawful food additives, are suitable for human consumption as a food where it is reasonably foreseeable, through reasonable inquiry, that such representation has the tendency or capacity to influence members of the audience in reasonably good health to engage in behavior which creates an imminent risk of physical harm to those persons or to others.

## II

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

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change 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 respondent 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  
GER-RO-MAR, INC. T/A SYMBRA'ETTE, ET AL.

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

*Docket 8872. Decision, July 23, 1974-Modified Order, Oct. 2, 1975*

Order modifying an earlier order dated July 23, 1974, 84 F.T.C. 95, 39 F.R. 35133, pursuant to order of the United States Court of Appeals for the Second Circuit dated June 16, 1975, Trade Reg. Rep. ¶ 60,368 at 66,588 (1975 Trade Cases), IX S&D —, by setting aside order paragraphs 1 and 2 proscribing an open-ended, multi-level (pyramid) marketing plan to recruit distributors for its products.

*Appearances*

For the Commission: *Jerome Steiner and Ralph E. Stone.*

For the respondents: *Rosenberg & Wiseman, San Jose, Calif.*

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondents having filed in the United States Court of Appeals for the Second Circuit on Oct. 11, 1974, a petition to review and set aside an order to cease and desist issued herein on July 23, 1974 [84 F.T.C. 95], and the court having rendered its decision and its judgment on June 16, 1975, affirming the order to cease and desist, except for numbered Paragraphs 1 and 2 of the order which it directed be set aside;

*Now, therefore, it is hereby ordered,* That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court to read as follows:

ORDER

*It is ordered,* That respondent Ger-Ro-Mar, Inc., a corporation doing business as Symbra'ette, whose corporate name is now Symbra'ette, Inc., and officers thereof, and respondent Carl G. Simonsen, individually and as an officer of said corporation, or corporations, and respondents' agents, representatives, employees, successors, and assigns, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of brassieres, girdles, lingerie, wigs, or of any other products, or of distributorships or franchises, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Operating any marketing or sales plan or program unless respondents agree to and notify participants that they will promptly

repurchase all or any part of any initial order of merchandise made by any participant, upon written request of the participant mailed within 30 days (or a greater period of time if respondents elect) of the receipt of the initial order by the participant, at the price actually paid by the participant for the merchandise; *Provided, however,* That respondents may insist that prior to making repurchase, the merchandise be returned to respondents' place of business, postage or shipping prepaid, in a resaleable condition, said merchandise to be shipped within 30 days (or a greater period of time if respondents elect) of the date on which written request for repurchase is received.

2. Representing, directly or by implication, or by use of hypothetical examples or representations of past earnings of participants, that participants in any marketing or sales program will earn or receive, or have the reasonable expectancy of earning or receiving, any stated gross or net amounts, unless in fact, a majority of participants in the community or geographic area in which such representations are made, have achieved the stated gross or net amounts represented, and the representations accurately reflect the amount of time required by such participants to achieve such gross or net amounts.

3. Misrepresenting in any manner, directly or by implication, or placing in the hands of others the means or instrumentalities for misrepresenting, the financial gains reasonably achievable by participants in any marketing or sales plan or program, or the commercial feasibility thereof.

4. Failing to maintain adequate records (a) which disclose the facts upon which any claims of the type discussed in paragraphs 2 and 3 of this order are based; and (b) from which the validity of any claim of the type discussed in Paragraphs 2 and 3 of this order can be determined.

5. Requiring that an individual pay a valuable consideration in return for the right to participate in any marketing or sales program, without first disclosing to such prospective participant in writing the number of other participants in the marketing area in which such prospect plans to operate.

6. Representing that the supply of available participants in respondents' marketing program is inexhaustible or virtually inexhaustible.

7. Entering into, maintaining or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose or effect to require any individual to resell at any particular price a product which he or she has purchased, *Provided,* That in those States having Fair Trade laws products may be marketed pursuant to the provisions of such laws.

8. Publishing or distributing, directly or indirectly, any resale price

list, product price list, order form, report form, promotional material or any other document which employs resale prices for commodities sold by respondents without stating clearly and conspicuously in conjunction therewith the following:

The resale prices quoted herein are suggested prices only.

*Provided*, That in those States having Fair Trade laws products may be marketed pursuant to the provisions of such laws.

9. Entering into, maintaining, or enforcing any contract, agreement, combination, understanding, or course of conduct which has as its purpose or effect to require any individual to refrain from reselling products which he or she has purchased, to any specified person, class of persons, business, or class of businesses.

*It is further ordered*, That respondents deliver a copy of this order to all present and future dealers, distributors, or participants in any marketing or sales plan or program they operate, or who are engaged in the sale of respondents' products or services, and secure from each a signed statement acknowledging receipt of this order.

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

*It is further ordered*, That Carl G. Simonsen, 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 each of the respondents herein and their successors and assigns 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 all of the provisions of this order.

Order

86 F.T.C.

## IN THE MATTER OF

## UNITED BUILDERS, INC., ET AL.

*Docket 9043. Order, Oct. 3, 1975*

Order directing the chief administrative law judge to reassign the matter on temporary or permanent basis to another administrative law judge.

*Appearances*

For the Commission: *Allan M. Huss, Aaron H. Bulloff and Sharon J. Devine.*

For the respondents: *John Carrico and Stanley Preiser, Charleston, W. Va.*

## ORDER

The complaint in this matter alleges, in part, that customers of respondents have been denied proper notice of certain rescission rights created by the Truth in Lending Act. It is possible that, under the terms of that Act, those alleged rights may expire three years after the dates of the transactions from which they arose. If so, this three-year limitation period could frustrate, in part or in whole, the operation of a final order which might be entered in this matter, or the operation of an order or judgment of a court which might be entered in part as a consequence of the Commission disposition of this matter. Because of this, delay in the hearing of this matter is exceptionally serious.

Judge Hinkes' order postponing prehearing conference entered in the present matter on Sept. 16, 1975, read together with his motion to modify Commission order of Sept. 16, 1975 entered in the matter of Kellogg Company, *et al.*, Docket No. 8883, on Sept. 19, 1975, indicates to the Commission that further proceedings in this case before Judge Hinkes will not take place as expeditiously as the aforementioned circumstances require. Accordingly,

*It is ordered,* That the chief administrative law judge, reassign this matter on a temporary or permanent basis to another administrative law judge.

IN THE MATTER OF  
JAMES NEECE T/A CARPET SHOWCASE, ET AL.

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

*Docket C-2735. Complaint, Oct. 3, 1975-Decision, Oct. 3, 1975*

Consent order requiring a Beaumont, Tex., distributor and installer of carpeting and floor coverings, among other things to cease using false and deceptive advertisements and sales techniques; failing to disclose the quantity or cost per unit of carpeting or floor coverings; intimidating customers into accepting defective merchandise; in connection with the extension of consumer credit, violating the Truth in Lending Act by failing to disclose to consumers such information as required by Regulation Z of said Act; misbranding textile fiber products and failing to maintain proper records of the fiber content of such products. Further, the order requires respondent to provide a 3-day cooling off period to every customer; to notify each advertising medium used by respondent that the Federal Trade Commission has found that he engages in unfair and deceptive acts; and to refund money to any customer where investigation reveals the transaction involved violations of the order.

*Appearances*

For the Commission: *Richard H. Gateley.*  
For the respondent: *Harry S. Long* and *Michael D. Matheny,*  
Beaumont, Tex.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Truth in Lending Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that James Neece, an individual, trading and doing business as Carpet Showcase, hereinafter referred to as respondent, has violated the provisions of said Acts, and the implementing regulations promulgated thereunder and the Textile Fiber Products Identification 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 James Neece is an individual trading and doing business as Carpet Showcase, a proprietorship existing and doing business under and by virtue of the laws of the State of Texas, with his principal office and place of business located at 3705 Highland Ave., Beaumont, Tex.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale, distribution and installation of carpeting and floor coverings to the public.

## COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count I as if fully set forth verbatim.

PAR. 3. In the course and conduct of his business as aforesaid, respondent now causes, and for some time last past has caused, his said merchandise, when sold, to be shipped from his place of business located in the State of Texas to purchasers thereof located in the State of Texas and various other States and maintains and at all times mentioned herein has maintained a course of trade in commerce or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of his carpeting and floor coverings, the respondent has made, and is now making, numerous statements and representations by repeated advertisements disseminated in various media of general circulation including advertisements transmitted over television stations having the capacity to broadcast into States other than the State of Texas and by oral and written statements and representations of his salesmen to prospective purchasers with respect to his products and services.

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

TO DO THIS JOB, WE HAD TO ORDER A TRUCKLOAD MORE CARPETING THAN WE NEEDED, SO HERE'S YOUR CHANCE TO MAKE A FABULOUS SAVINGS ON THIS BEAUTIFUL CARPETING IN *YOUR HOME*. HURRY — OFFER IS LIMITED TO CARPETING ON HAND.

DURING JULY CARPET SHOWCASE WILL INSTALL THE CARPETING, WITH A THICK PAD, AT NO EXTRA COST TO YOU. FREE INSTALLATION, FREE PADDING, DURING JULY ONLY.

TAKE ADVANTAGE OF OUR BIG JULY SPECIAL, OFFER LIMITED TO 100 MILE RADIUS OF BEAUMONT. THAT'S RIGHT INSTALLATION AND PADDING ABSOLUTELY FREE.

DURING AUGUST WE HAVE A WONDERFUL OFFER FOR YOU: PICK THE CARPET YOU WANT \* \* \* AND DEDUCT 15% OFF THE PRICE FOR A BIG SAVINGS. AND OUR REVOLVING PLAN IS SO EASY TO USE.

IT WAS THE BIGGEST OFFER CARPET SHOWCASE EVER MADE, AND WE'RE GONNA REPEAT IT BECAUSE YOU DEMANDED IT. AGAIN IN SEPTEMBER \* \* \* SELECT THE CARPET YOU WANT, AND CARPET SHOWCASE WILL INSTALL IT, WITH A THICK PAD, AT NO EXTRA COST TO YOU. FREE INSTALLATION, FREE PADDING \* \* \* DURING SEPTEMBER ONLY.

THIS OFFER LIMITED TO 100 MILE RADIUS OF BEAUMONT AND USE OUR REVOLVING CHARGE PLAN.

CALL US FOR FREE ESTIMATE OR BRING IN YOUR ROOM MEASUREMENTS \* \* \* WE FINANCE \* \* \* WITH NO MONEY DOWN.

WE FINANCE NO MONEY DOWN \* \* \* AND WE DO INSTALL TOMORROW IF YOU BUY TODAY.

OUR CONVENIENT REVOLVING CHARGE ACCOUNT MEANS YOU CAN HAVE THAT CARPET RIGHT NOW. BUY FROM CARPET SHOWCASE TODAY, WE INSTALL TOMORROW.

WE HAVE A WIDE SELECTION FOR YOU TO CHOOSE FROM, AND WE CAN SAVE YOU MONEY, INCLUDING *FREE* INSTALLATION UP TO 100 MILES FROM BEAUMONT. YOU DON'T NEED CASH \* \* \* USE OUR REVOLVING CHARGE ACCOUNT THAT'S SO CONVENIENT.

USE OUR REVOLVING CHARGE ACCOUNT \* \* \* EASY BUDGET PLAN.

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the advertising and oral statements and written statements and representations of respondent's salesmen to customers and prospective customers, respondent has represented, and is now representing, directly or indirectly, or by implication that:

1. Respondent is making a bona fide offer to sell the carpeting and floor coverings on the terms and conditions stated.

2. By and through the use of the terms "15% OFF," "SPECIAL" and other words of similar import and meaning not set out specifically herein, that said carpeting and floor coverings may be purchased at special or reduced prices, and purchasers are thereby afforded savings from respondent's regular selling prices.

3. By and through the use of the words "FREE INSTALLATION" and "FREE PADDING" and other words of similar import and meaning, not set out specifically herein, that installation and padding of respondent's carpets and floor coverings is provided without cost or obligation to respondent's customer.

4. By and through the use of the words "WE FINANCE NO MONEY DOWN" and "USE OUR REVOLVING CHARGE ACCOUNT \* \* \* EASY BUDGET PLAN," and other words of similar import and meaning not set forth specifically herein, purchasers of respondent's products are granted easy credit terms, without regard to their financial status or ability to pay and that respondent is in the business of extending credit rather than arranging credit for his customers through financial institutions such as finance companies and banks.

PAR. 6. In truth and in fact:

1. Respondent is not making a bona fide offer to sell carpeting and floor coverings on the terms and conditions stated. To the contrary,

said offers are made for the purpose of obtaining leads to persons interested in the purchase of carpeting and floor coverings. Members of the purchasing public responding to such offers often visit respondent's place of business to select carpeting and floor coverings from sample merchandise exhibited by respondent or his salesmen. Such persons are later called upon in their homes by respondent or his salesmen and negotiate a contract for the sale, delivery and installation of said merchandise without regard for the terms and conditions stated in respondent's offers aforementioned. In addition, unknown to prospective purchasers, respondent installs or causes to be installed carpeting or floor coverings of a grade and quality different than that contracted for by said prospective purchasers.

2. Respondent's products are not being offered for sale at special or reduced prices. To the contrary, the prices at which respondent's products are sold pursuant to such offers are identical to the prices charged by respondent in the regular course of business and therefore do not represent a genuine bargain or saving.

3. The cost of installation and padding is not "free" but is added to the cost of respondent's carpeting and floor coverings and is thereby included in the price paid by purchasers for respondent's products. In some instances, carpeting installed by or on behalf of respondent has rubberized backing which is bonded to the carpeting.

4. Purchasers of respondent's products are not granted easy credit terms without regard to their financial status or ability to pay. Respondent does not extend credit to his customers but arranges for the extension of credit using the services of financial institutions including finance companies and banks.

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

PAR. 7. In the further course and conduct of his business as aforesaid, and in furtherance of a sales program for the purpose of inducing the purchase of his carpet and floor coverings, respondent, his salesmen or representatives have engaged in the following additional unfair, false, misleading and deceptive acts and practices:

In a substantial number of instances, through the use of the false, misleading and deceptive statements, representations and practices set forth in Paragraphs Four through Five, above, respondent or his representatives have been able to induce customers into signing a contract upon initial contact without giving the customer sufficient time to carefully consider the purchase and the consequences thereof.

PAR. 8. In the further course and conduct of his aforesaid business, respondent now induces and has induced purchasers to pay substantial



sums of money to respondent without disclosing to such purchasers the price per square yard, the number of square yards of carpeting or floor coverings contracted for or the cost of installation and padding. These facts, if known to certain prospective purchasers, would likely affect their decision as to whether to buy or use the products and services of respondent. Therefore, respondent's failure to make such disclosures is an unfair or deceptive act or practice.

PAR. 9. In the course and conduct of his aforesaid business, respondent is using a contract providing, among other things, that a purchaser repudiating his purported obligations under such contract is liable for the amount due under the contract as well as a penalty of thirty percent of the monetary obligation evidenced thereby in addition to attorney's fees necessary to enforce collection.

The contract is oftentimes used by respondent to intimidate purchasers who have executed said contracts into accepting carpeting and floor coverings which are of a grade and quality different than that contracted for, which are defective in some respect or which are improperly installed.

The utilization of the said contract, and the intimidations by respondent have misled purchasers into the mistaken and erroneous belief that they must accept respondent's products without recourse or legal redress and have, or may, unlawfully restrict, restrain and hinder competition in the selling of carpet and floor coverings. Therefore, the acts and practices alleged herein are false, misleading and unfair and a continuing violation of Section 5 of the Federal Trade Commission Act.

PAR. 10. In the course and conduct of his business as aforesaid, and at all times mentioned herein, respondent has been and now is, in substantial competition in commerce, with corporations, firms and individuals in the sale, distribution and installation of carpeting and floor coverings and service of the same general kind and nature as that offered by respondent.

PAR. 11. The use by respondent of the aforesaid unfair, false, misleading and deceptive statements, representations, acts and practices and his failure to disclose material facts and his use of contracts 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 state- purchase of substantial quantities of respondent's products and services by reason of said erroneous and mistaken beliefs.

PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, have caused and are now causing substantial pecuniary losses to persons utilizing respondent's products and services and are all to the prejudice and injury of the public and to respondent's competitors and constitute unfair methods of competition in commerce and unfair

and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleging violation of the Truth in Lending Act and the implementing regulation promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 13. In the ordinary course and conduct of his business as aforesaid, respondent regularly arranges for the extension of, or offers to arrange for the extension of, consumer credit, as "consumer credit" and "arrange for the extension of credit" are defined in Sections 226.2 (k) and 226.2 (f) 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. 14. Subsequent to July 1, 1969, respondent, in the ordinary course of business as aforesaid, and in connection with his credit sales, as "credit sale" is defined in Regulation Z, has caused and is causing customers to execute binding retail charge agreements.

PAR. 15. In order to promote the sale of carpet and floor coverings, respondent disseminates advertisements, as "advertisement" is defined in Section 226.2 (b) of Regulation Z, in various media. These advertisements aid, promote or assist directly or indirectly the extension of consumer credit. Certain of said advertisements which were published, broadcast or delivered subsequent to July 1, 1969, stated that:

A. No downpayment was required without also stating the following items and terminology described under Section 226.8 of Regulation Z, as required by Section 226.10 (d) (2) thereof:

1. The cash price or amount of the loan, as applicable;
2. The number and amount of payments scheduled to repay the indebtedness if the credit is extended;
3. The amount of the finance charge expressed as an annual percentage rate; and
4. The deferred payment price.

B. No downpayment would be required in connection with any extension of credit when the creditor usually and customarily required a downpayment, in violation of Section 226.10(a)(2) of Regulation Z.

PAR. 16. In the further course and conduct of his business as aforesaid, and in connection with credit sales, the respondent has failed to preserve evidence of compliance with the requirements of Regulation Z for two years after the date of each disclosure as required by Section 226.6(i) of Regulation Z.

PAR. 17. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with provisions of Regulation Z, constitute violations of that Act, and pursuant to Section 108 thereof, respondent thereby is violating the Federal Trade Commission Act.

### COUNT III

Alleging violations of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, and the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference in Count III as if fully set forth verbatim.

PAR. 18. Respondent is now and has been engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale in commerce, and in the transportation or causing to be transported in commerce, of textile fiber products including carpeting and floor coverings and has sold, offered for sale, advertised, delivered, transported, and caused to be transported, textile fiber products which have been advertised or offered for sale in commerce, and has sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original State or contained in other textile fiber products, as the terms "commerce" and "textile fiber products" are defined in the Textile Fiber Products Identification Act.

PAR. 19. Respondent is misbranding textile fiber products by failing to affix a stamp, tag, label or other means of identification to each such textile fiber product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act; or as an alternative to the foregoing, where properly labeled samples, swatches, or specimens are used to effect the sale of articles of carpeting or floor covering or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, and such articles of carpeting or floor covering or other household textile articles are of the same fiber content as the samples, swatches or specimens from which the sale was effected, failing to provide an invoice or other paper to accompany them showing the information otherwise required to appear on the label, as allowed by Rule 21(b) of the rules and regulations promulgated under the Textile Fiber Products Identification Act, effective Mar. 30, 1960, as amended.

PAR. 20. Respondent has failed to maintain and preserve proper records showing the fiber content of his textile fiber products, in that said respondent substituted stamps, tags, labels or other identification pursuant to Section 5 (b) of the Textile Fiber Products Identification

Act and failed to maintain and preserve such records as would show the information set forth on the stamps, tags, labels or other identification removed by him, together with the name or names of the person or persons from whom such textile fiber products were received, in violation of Section 6(b) of the Textile Fiber Products Identification Act and Rule 39 of the rules and regulations promulgated under the Textile Fiber Products Identification Act, effective Mar. 30, 1960, as amended.

PAR. 21. The acts and practices of respondent as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices, in commerce, and unfair methods of competition, in commerce, under 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 Dallas Regional Office 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 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 Act, and that the complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent James Neece is an individual trading and doing business as Carpet Showcase, a proprietorship existing and doing business under and by virtue of the laws of the State of Texas, with its

office and principal place of business located at 3705 Highland Ave., Beaumont, Tex.

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

#### ORDER

*It is ordered,* That respondent James Neece, individually and trading and doing business as Carpet Showcase, or under any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale, distribution or installation of carpeting and floor coverings, or any other article of merchandise, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading, or deceptive statements or representations are made in order to obtain leads or prospects for the sale of carpeting or other merchandise or services.

2. Making representations by any means purporting to offer merchandise for sale when the purpose of the representations is not to sell the offered merchandise but to obtain leads or prospects for the sale of other merchandise at a higher price or of a grade or quality different than that contracted for by prospective customers.

3. Representing by any means that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell such merchandise or services.

4. Using the words "15% OFF," "SPECIAL" or any other word or words of similar import or meaning not set forth specifically herein unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondent for a reasonably substantial period of time in the recent regular course of his business.

5. Representing by any means that any merchandise or service is furnished "free" or at no cost to the purchaser.

6. Representing by any means quantities of carpet or floor coverings in a unit of measurement not usually and customarily employed in the retail advertising, offering for sale or sale of carpeting or floor coverings.

7. Using the terms "WE FINANCE — NO MONEY DOWN,"

"USE OUR REVOLVING CHARGE ACCOUNT \* \* \* EASY BUDGET PLAN," or any other terms of similar import or meaning not set forth specifically herein, or representing by any means that credit is extended to customers without regard to their financial status or ability to pay or that respondent extends credit to his customers rather than arranging for the extension of credit through financial institutions including finance companies and banks.

8. Contracting for any sale whether in the form of credit acceptance, conditional sales contract, promissory note or otherwise which shall become binding on the customer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution.

9. Failing to make the following disclosures in connection with the sale or offering for sale of carpet, floor coverings or similar products on each instrument utilized by respondent that requires payment of any consideration, at any time, to respondent or any third parties, by respondent's clients. Said disclosures shall be in more conspicuous print than all other language in said instrument, but in no case shall they be smaller than 12-point upper case type. *Provided*, That said disclosures and instrument shall be delivered to prospective customers at least three days, excluding Sundays and legal holidays, prior to the time prospective customers execute said instruments or pay any consideration to respondent. *Provided, further*, That said disclosures shall be made on the contract or other binding instrument to be executed by prospective customers. The disclosures shall contain the following information in the sequence set forth and be set off from the text of the instrument by a black border and immediately above the line for the prospective customers' signatures:

A. The number of square yards of each style of carpeting or floor covering to be purchased by the customer.

B. The price per square yard of each style of carpeting or floor coverings to be purchased by the customer; excluding the cost of padding and the cost of installation.

C. The cost for installing one square yard of such carpeting or floor coverings.

D. The cost of padding for one square yard of carpeting or floor coverings.

E. The cost of installing each style of carpet or floor covering, such figure to be obtained by multiplying the number of square yards as disclosed in subparagraph A above by the cost per square yard as disclosed in subparagraph C above.

F. The cost of padding to be furnished for the carpet or floor coverings, such cost to be obtained by multiplying the number of

square yards as disclosed in subparagraph A above by the cost per square yard as disclosed in subparagraph D.

G. The total price for each style of carpeting or floor coverings which shall be obtained by multiplying the number of square yards as disclosed in subparagraph A above by the cost per square yard as disclosed in subparagraph B above and to this amount adding the sum of the cost of padding as disclosed in subparagraph F and the cost of installation, as disclosed in subparagraph E.

H. A notice in the following form:

#### NOTICE

IF YOU ARE OBTAINING CREDIT IN CONNECTION WITH THIS PURCHASE, YOU WILL BE REQUIRED TO SIGN A PROMISSORY NOTE, A SALES CONTRACT OR OTHER INSTRUMENT OF INDEBTEDNESS WHICH MAY BE PURCHASED FROM THE SELLER BY A BANK, FINANCE COMPANY OR ANY OTHER THIRD PARTY. IF SUCH IS THE CASE, YOU WILL BE REQUIRED TO MAKE YOUR PAYMENTS TO SOMEONE OTHER THAN THE SELLER. YOU SHOULD BE AWARE THAT IF THIS HAPPENS YOU MAY HAVE TO PAY THE NOTE, CONTRACT OR OTHER INSTRUMENT OF INDEBTEDNESS IN FULL TO ITS NEW OWNER EVEN IF YOUR PURCHASE CONTRACT IS NOT FILLED.

10. Representing by any means that persons executing contracts or other binding instruments with respondent may be or are liable to pay a penalty of thirty percent of the amount of the contract or any other liquidated sum upon cancellation of said contracts or other binding instruments; *Provided*, That respondent may make such representations concerning a customer's liabilities as may be allowed by State law.

11. Utilizing any instrument including a completion certificate, or using coercion, threats, intimidations or any means which may lead a customer to accept merchandise which is of a price, grade or quality different than that contracted for, which is defective in some respect or which is improperly installed.

12. Failing, in all pamphlets, brochures and other promotional material to make the following disclosures in the manner and form provided for herein.

(a) At the time advertising is submitted to any advertising agency and newspaper or other printed publication, respondent shall provide a copy of the following notice to each such publication:

#### NOTICE

The Federal Trade Commission has found that \_\_\_\_\_ (*Name of Respondent*) has engaged in unfair and deceptive acts and practices. A copy of the Commission's news release is available from \_\_\_\_\_ (*Name of Respondent*) upon request.

(b) At the time advertising is submitted to any radio or television

station, respondent shall provide a copy of the following notice to each such station:

NOTICE

The Federal Trade Commission has found that \_\_\_\_\_ (*Name of Respondent*) has engaged in unfair and deceptive acts and practices. A copy of the Commission's news release is available from \_\_\_\_\_ (*Name of Respondent*) upon request. Your attention is directed to an agreement between the Federal Trade Commission and the Federal Communications Commission dated April 27, 1972.

13. Failing to maintain for a period of three (3) years after any advertisements are disseminated, records disclosing:

(a) The date or dates each advertisement was published; and

(b) The name and address of the advertising agencies and the newspapers, other publications or broadcast media disseminating said advertisement.

14. Advertising, offering for sale, selling or distributing any carpeting or floor coverings using a unit of measurement which tends to exaggerate the size or quantity of carpet or floor coverings being offered by respondent.

15. Failing to maintain and produce for inspection and copying for a period of three (3) years following the date of execution of any contract or other binding instrument, the contract or other binding instrument and adequate records which disclose the facts upon which the cost of carpeting, installation and padding as set forth in Paragraph 9 is based and from which the validity of such cost can be determined.

*It is further ordered,* That respondent forthwith cease and desist from:

(a) Including in any contract, binding instrument or other document any waiver, limitation or condition on the rights of customers or prospective customers under this order.

(b) Misrepresenting the rights of a customer or prospective customer under this order.

II

*It is further ordered,* That respondent James Neece, individually and trading and doing business as Carpet Showcase, or under any other trade name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement for the 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. Causing to be disseminated to the public in any manner whatsoever any advertisement to aid, promote or assist directly or indirectly any credit sale or other extension of consumer credit, other than open end credit, which advertisement represents, directly or by implication:

(a) That no downpayment is required, the amount of the downpayment or the amount of any installment payment, either in dollars or as a percentage, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are clearly and conspicuously stated, in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z;

(1) the cash price or the amount of the loan, as applicable;

(2) the amount of the downpayment required or that no downpayment is required, as applicable;

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

(4) the amount of the finance charge expressed as an annual percentage rate; and

(5) the deferred payment price or the total of payments, as applicable.

2. Representing in any advertisement, directly or by implication, 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 as required by Section 226.10(a)(2) of Regulation Z.

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

4. Failing to preserve evidence of compliance with the requirements imposed under Regulation Z, other than advertising requirements under Section 226.10, for a period of not less than two years after the date each disclosure is required to be made and to make available all records and evidence of compliance regarding Regulation Z to the Federal Trade Commission or its staff on request.

### III

*It is further ordered,* That respondent James Neece, individually and trading and doing business as Carpet Showcase, or under any other trade name or names, his successors and assigns, and respondent's

agents, representatives, and employees, directly or through any corporate, subsidiary, division, or other device, in connection with the introduction, delivery for introduction, sale, advertising, and offering for sale in commerce and in the transportation or causing to be transported in commerce, of any textile fiber product including any carpeting and floor coverings; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

1. Misbranding such textile fiber products by failing to affix a stamp, tag, label or other means of identification to each such textile fiber product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act; or as an alternative to the foregoing, where properly labeled samples, swatches, or specimens are used to effect the sale of articles of carpeting or floor covering or other household textile articles which are manufactured specifically for a particular customer after the sale is consummated, and such articles of carpeting or floor covering or other household textile articles are of the same fiber content as the samples, swatches or specimens from which the sale was effected, failing to provide an invoice or other paper to accompany them showing the information otherwise required to appear on the label, as allowed by Rule 21(b) of the rules and regulations promulgated under the Textile Fiber Products Identification Act, effective Mar. 30, 1960, as amended.

2. Failing to maintain and preserve, as required by Section 6(b) of the Textile Fiber Products Identification Act and by Rule 39 of the rules and regulations promulgated thereunder, such records of the fiber content of textile fiber products as will show the information set forth on the stamps, tags, labels or other identification removed by respondent, together with the name or names of the person or persons from whom such textile fiber products were received, when substituting stamps, tags, labels or other identification pursuant to Section 5(b) of the Textile Fiber Products Identification Act.

*It is further ordered*, That respondent make no representations or engage in any course of conduct which is inconsistent with or detracts from the effectiveness of this order.

*It is further ordered:*

1. That respondent deliver, by hand, a copy of this order to each of his present or future salesmen, independent contractors, sales agents, employees or any other person who sells or promotes the sale of respondent's product or service.

2. That respondent provide each person so described in subparagraph 1 above with a form returnable to respondent, fully stating an intention to be bound by and conform their sales practices to the requirements of this order and retain such form for a period of three (3) years after it is executed by said persons;

3. That respondent inform each person described in subparagraph 1 above that respondent shall not use any such person, or the services of any such person, until such person agrees to and files notice with respondent to be bound by the provisions contained in this order;

4. That in the event such person will not agree to file such notice with respondent and be bound by the provisions of this order, respondent will not use such person, or the services of such person;

5. That respondent institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in subparagraph 1 conform to the requirements of this order; and

6. That respondent discontinue dealing with any person described in subparagraph 1 of this order who engages in acts or practices prohibited by this order.

*It is further ordered,* That the respondent shall forthwith deliver a copy of this order to cease and desist to all present and future parties employed or utilized by respondent engaged in the arranging or consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising and that respondent secure a signed statement from each such party that he has read and understands such order. Such statement shall be retained for at least three (3) years and made available to the Federal Trade Commission or its staff upon request.

*It is further ordered,* That respondent, upon receipt of a complaint from a customer alleging facts that indicate this order may have been violated, refund all monies paid by such customer where respondent determines, after a good faith investigation, that one or more paragraphs of this order may have been violated in connection with such customer's transaction with respondent. This paragraph shall not apply to transactions prior to the date this order became final. Respondent shall not engage in any course of conduct which contravenes the refund rights of any customers provided by this order.

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in his business

organization such as dissolution, assignment or sale or transfer of all or a substantial part of the business or assets to any other person, partnership or corporation, or any other change in the business organization which may affect compliance obligations arising out of the order.

*It is further ordered,* That in the event the Federal Trade Commission promulgates a trade regulation rule applicable to respondent that this order shall be deemed modified to the extent it contravenes said rule.

*It is further ordered,* That the respondent named herein promptly notify the Commission of discontinuance of any 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 respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the matter and form in which he has complied with this order.

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IN THE MATTER OF

LEAR SIEGLER, INC.

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

*Docket 8953. Complaint, Jan. 24, 1974-Decision, Oct. 6, 1975*

Consent order requiring a Santa Monica, Calif., firm offering courses in computer programming and computer operations, among other things to cease misrepresenting aspects of their courses such as the significance or importance of their courses; the qualifications of students completing their courses to obtain employment in areas for which they have been trained; the demand for graduates of their courses; and employment services provided respondent's students. Further, respondent is required to contact past participants in their courses and provide them with a questionnaire to be returned to respondent and to make restitution to those prior students determined to be eligible under the provisions of the order.

*Appearances*

For the Commission: *Charles L. Hall* and *D. McCarty Thornton IV*.  
For the respondents: *Robert J. Hoerner, Jones, Day, Cockley & Reavis*, Cleveland, Ohio.

## 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 Lear Siegler, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Lear Siegler, 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 3171 S. Bundy Dr., in the city of Santa Monica, State of California. Respondent is now, and for some time last past has been, engaged in the formulating, development, offering for sale, sale and distribution of courses of instruction intended to prepare graduates thereof for entry-level employment in positions involving the commercial application of data processing, including computer programming and computer operations, and courses of instruction in other fields. Respondent's volume of business in said courses of instruction has been, and is, substantial.

PAR. 2. Respondent conducts its business of offering for sale, sale and distribution of courses of instruction through resident training facilities organized as branches of its unincorporated education division. Through said branch facilities, as aforesaid, respondent places into operation and implements a sales program whereby members of the general public by means of advertisements placed in broadcast and printed media of general circulation, and by means of brochures, pamphlets and other promotional literature disseminated through the United States mails or by other means, and through the use of salesmen and sales personnel, and by means of statements, representations, acts and practices as hereinafter set forth, are induced to sign contracts or enrollment agreements for a course of resident training of a stated length of time and for a stated tuition cost.

Respondent arranges or assists in the arrangement of credit and deferred payment terms for the financing of said executed contracts and accepts the revenues flowing therefrom or accepts the proceeds thereof.

In the manner aforesaid, respondent dominates, directs and controls, and accepts the pecuniary and other benefits flowing from the acts and practices hereinafter set forth.

PAR. 3. In the course and conduct of its business, as aforesaid,



Job Insurance

Special Training Is The Answer. Most Of The Nation's 6% Unemployed Are Untrained. \* \* \* Our Graduates Are The Most Employable.

\* \* \* \* \*

Jobs Available For The Well Trained Day & Evening Classes Now Forming.

\* \* \* \* \*

Top Paying Positions For Well Trained Men & Women. Decide Today To Prepare Yourself For a High Paying Prestige Position. \* \* \*

\* \* \* \* \*

Computer Operators Needed. Classes Starting Now.

\* \* \* \* \*

500,000 computer specialists will be needed by 1972. There is an urgent yet unfilled need for trained programmers, operators and analysts.

\* \* \* \* \*

The Urgent Need For Trained Specialists. The demand for qualified people in the data processing field is urgent. Today there are more jobs than there are specialists to fill them. \* \* \* 70,000 trained men and women are needed now. \* \* \*

\* \* \* \* \*

Free Nationwide Placement Assistance

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondent and its branch facilities and the salespersons of the branch facilities have represented, directly or by implication, that:

1. There is an urgent need or demand for all or most of respondent's graduates in positions for which respondent trains such persons.
2. Respondent had a reasonable basis from which to conclude that:
  - (a) there was at the time such representations were made, or
  - (b) would be at the time that persons then enrolling graduated from respondent's courses,
 an urgent need or demand for all or most of respondent's graduates in positions for which respondent trains such persons.
3. All that is necessary for the placement of respondent's graduates as programmers in scientific applications is the completion of respondent's course in computer programming.
4. The position of systems analyst is an entry-level employment objective of respondent's courses of instruction.

5. All or substantially all of respondent's graduates are able, on graduation, to secure the positions for which respondent has trained them.

6. Inquiries are being solicited for the ultimate purpose of offering employment to qualified applicants who will be trained in the skills required.

7. Respondent's graduates who seek employment in the field of electronic data processing do not find it necessary, in many instances, to seek said employment through sources other than respondent's placement office.

8. Respondent's graduates will qualify as experienced job applicants because of the computer training they receive while enrolled in respondent's courses.

9. The placement assistance furnished by respondent is free.

PAR. 6. In truth and in fact:

1. At the time it was so represented there was not an urgent need or demand for all or most of respondent's graduates, in positions for which respondent trains such persons.

2. Respondent had no reasonable basis from which to conclude that:

(a) There was at the time such representations were made, or

(b) would be at the time that persons then enrolling graduated from respondent's courses,

an urgent need or demand for all or most of respondent's graduates in positions for which respondent trains such persons.

3. In many instances a college degree in a science or mathematical discipline is necessary for the placement of respondent's graduates as a programmer in scientific applications.

4. The position of systems analyst is not an entry-level employment objective of respondent's course of instruction.

5. All or substantially all of respondent's graduates are not able, on graduation, to secure the positions for which respondent has trained them.

6. Inquiries are not solicited for the ultimate purpose of offering employment to qualified applicants, but are solicited for the sole purpose of obtaining leads to prospective purchasers of respondent's courses of instruction.

7. Respondent's graduates who seek employment in the field of electronic data processing do find it necessary, in many instances, to seek said employment through sources other than respondent's placement office.

8. Respondent's graduates do not qualify as experienced job applicants because of the computer training they receive while enrolled in respondent's courses. Most employers interviewing respondent's



graduates who are looking for experienced applicants are not willing to suspend the requirement of experience because an applicant has completed respondent's course of computer training.

9. The placement assistance furnished by respondent is not free, but rather included in the tuition cost of respondent's courses.

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

PAR. 7. In the further course and conduct of their business, and in furtherance of their purpose of inducing the purchase of their courses by the general public, respondent and its branch facilities, directly or indirectly, have held out commissioned salespersons to be qualified or trained vocational counselors. Respondent thereby has falsely and deceptively represented that such persons were in a position to give disinterested advice to prospective students as to the best career choice for them, when in fact such persons had a direct or indirect economic interest in whether the applicants enrolled at respondent's branch facilities. Therefore, the aforesaid acts and practices were, and are, false, misleading, deceptive or unfair acts or practices.

PAR. 8. Through the use of the aforesaid advertisements and otherwise, respondent has represented, directly and by implication, that persons completing respondent's course in computer operations or computer programming will thereby have attained the prerequisites necessary to qualify them for employment as operators or programmers at salaries within a specified range. Respondent failed to disclose in such advertising or through its sales representatives: (1) most of respondent's graduates from said courses who attained entry-level employment as computer operators or computer programmers earn salaries below or only slightly above the minimum salary figure used in the aforementioned specified salary ranges and (2) few, if any, of the graduates from said courses who attained entry-level employment as computer operators or computer programmers earn salaries at or near the maximum salary figure used in the aforementioned specified salary ranges. Knowledge of such facts would indicate the salary a graduate could expect to earn for the next several years. Thus, respondent has failed to disclose material facts, which if known to a consumer would be likely to affect his or her consideration of whether or not to purchase such courses of instruction. Therefore, the aforesaid acts and practices were, and are, false, misleading, deceptive or unfair acts or practices.

PAR. 9. Through the use of the aforesaid advertisements and otherwise, respondent has represented, directly or by implication, that there was at the time of the representation or would be at the time of graduation from respondent's courses an urgent need or demand fo

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respondent's graduates in positions for which respondent trains such persons. At the time of the said representations respondent had no reasonable basis adequate to support such representations. Therefore, the aforesaid acts and practices were, and are, unfair acts or practices.

PAR. 10. Respondent offered for sale courses of instruction intended to prepare graduates thereof for entry-level employment in positions involving the commercial application of data processing, including computer programming and computer operations, without disclosing in advertising or through their sales representatives: (1) the percentage of recent graduates of each school for each course offered, that were able to obtain employment in the positions for which they were trained; (2) the employers that hired any such recent graduates for each course offered; (3) the initial salary any recent graduates received for each course offered; and (4) the percentage of recent enrollees of each school for each course offered that have failed to complete their course of instruction. Knowledge of such facts would be an indication of the probability of graduating from respondent's courses and would indicate the possibility of securing future employment upon graduation and the nature of such employment. Thus, respondent has failed to disclose material facts, which if known to a consumer, would be likely to affect his or her consideration of whether or not to purchase such courses of instruction. Therefore, the aforesaid acts and practices were, and are, false, misleading, deceptive or unfair acts or practices.

## PAR. 11.

(a) Respondent as aforesaid, has been, and is now failing to disclose material facts while using other false, misleading, deceptive or unfair acts or practices, to induce persons to pay over to respondent substantial sums of money to purchase courses of instruction whose value to the said person for future employment in the jobs for which training was offered was virtually worthless. Respondent has received the said sums and has failed to offer to refund and has refused to refund such money to such purchasers of its courses.

The use by respondent of the aforesaid practices and its continued retention of said sums, as aforesaid, is an unfair act or practice.

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

The effect of using these aforesaid acts and practices to secure substantial sums of money is or may be to substantially hinder, lessen,

restrain or prevent competition between the respondent and the aforesaid competitors.

PAR. 12. In the course and conduct of its business, and at all times mentioned herein, respondent has been, and now is in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of instruction covering the same or similar subjects.

PAR. 13. The use by respondent of the aforesaid false, misleading, unfair or deceptive statements, representations, acts and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true, and to induce a substantial number thereof to purchase respondent's courses by reason of said erroneous and mistaken belief.

PAR. 14. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Commission having issued its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent having been served with a copy of the complaint the Commission issued, together with a proposed form of order; and

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

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

1. Lear Siegler, 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 3171 S. Bundy Dr., Santa Monica, Calif.

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

## I

*It is ordered*, That respondent, Lear Siegler, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the creating, advertising, promoting, offering for sale, sale or distribution of courses of study, training or instruction in the field of electronic data processing or any other course in any field in commerce or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

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

(a) The training offered to students enrolled in any computer programming course or any similar course of instruction offered by respondent is, by itself, sufficient to qualify a graduate thereof for the scientific application of computer programming; or misrepresenting, in any manner, the significance or importance of any course of instruction in qualifying any person for employment in a particular field of endeavor.

(b) The position of systems analyst is an entry level employment objective of any course of instruction offered by respondent; or misrepresenting, in any manner, the nature or type of position for which a graduate of any course of instruction will be qualified or in which such a graduate will achieve employment.

(c) Any school, location or facility at which respondent conducts business or offers any course of instruction has a stated placement rate, ratio or percentage, unless any such placement rate, ratio, or percentage is, in fact, the current and actual placement rate, ratio, or percentage at such school, location or facility, computed in the manner set forth in Paragraph 6(b) of Part I of this order.

Persons completing respondent's courses in computer operations and computer programming will thereby have received the training and experience required to qualify them for employment at salaries earned

by experienced operators and programmers; or representing, orally or in writing, that any amount of salary or other remuneration will or may be earned by any person completing any course offered by respondent, unless respondent in each and every instance has in good faith conducted a statistically valid survey which establishes the validity of any such claim at all times and in all locations where the representation is made.

(e) All or substantially all graduates of any course of instruction offered by respondent will upon graduation, obtain jobs in the positions for which they have been trained; or misrepresenting, in any manner, the ease with which graduates of any course will attain employment, or the effectiveness of any course of training or instruction in preparing or qualifying any graduate for employment.

(f) Inquiries are solicited for the purpose of offering employment to qualified applicants; or misrepresenting, orally or in writing, that employment is being held out or made available in any respect.

(g) (1) There is a substantial demand, or a demand of any size or proportion, for persons completing any of the courses offered by respondent in the areas of computer programming, computer operations or computer technology, or any other course in any field,

(2) or otherwise representing that opportunities for employment, or opportunities of any type or number are available to such persons, except as hereinafter provided in Paragraph 6(b) of this order. *Provided, however,* That respondent shall cease and desist making such representations unless the respondent in each and every instance:

(a) Until the passage of a base period to be determined pursuant to Paragraph 6(b) of Part I of this order, after the establishment of a new school location by respondent in any metropolitan area or county, whichever is larger, where it did not previously operate a school, and after the introduction by respondent of any new course of instruction at any school or location, shall:

(i) Have in good faith conducted a statistically valid survey which establishes the validity of any such representation at all times when the representation is made, and

(ii) have disclosed in immediate and conspicuous conjunction with any such representation, that:

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

(b) After the passage of a base period to be determined pursuant to Paragraph 6(b) of Part I of this order, and until two years after the establishment of a new school location by respondent in any metropolitan area or county, whichever is larger, where it did not previously

operate a school, and after the introduction by respondent of any new course of instruction at any school or location, shall:

(i) Make any such representations in the form and manner provided in Paragraph 6(b) of Part I of this order, and

(ii) disclose in immediate and conspicuous conjunction with any such representation, that:

This school (course) has not been in operation long enough to indicate what, if any, actual employment may result upon graduation.

2. Using, orally, in writing or in any other manner, at any time statistical data or numerical estimates, derived from any source whatsoever, respecting present or future occupational demand or the growth of employment or the salaries earned in the field of electronic data processing, or in any other field or misrepresenting in any manner the meaning, application, relevancy or import of any statistical data or statistical projections of any type from any source.

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

(a) Any school, location or facility operated by respondent maintains a full-time placement office unless in each and every instance such placement office is staffed with personnel whose function is to furnish placement assistance and requests for placement assistance are handled without referral to employment agencies or other third parties.

(b) Graduates of any course of instruction offered by respondent are not required to actively seek employment opportunities through sources other than respondent's placement office; or misrepresenting in any manner the requirements, duties, obligations or responsibilities imposed upon any person who seeks placement assistance; or misrepresenting in any manner the capabilities or functions of any placement office, referral service or any other type of assistance in obtaining employment for persons completing any said course.

(c) The placement assistance furnished by respondent is free or without cost; or misrepresenting in any manner the cost of any placement assistance or service.

(d) Graduates of any course of instruction offered by respondent in the field of electronic data processing will be regarded as equivalent to experienced job applicants as a result of the computer training received during the course of their enrollment; or misrepresenting in any manner the value, benefit, advantages or seniority which accrues to any graduate of any course of instruction offered by respondent.

4. Failing to keep adequate records which may be inspected by the Commission staff members upon reasonable notice:

(a) Which disclose the facts upon which any placement percentages

or claims, or other representations of the type described in Paragraphs 1 and 6 of this order are based; and

(b) From which the validity of any placement percentages or claims, or other representations of the type described in Paragraphs 1 and 6 of this order can be determined.

5. Representing, orally, in writing or in any other manner, directly or by implication that any person engaged in connection with the promotion, offering for sale, sale, distribution or other solicitation of any course of instruction offered by respondent is a trained vocational counselor; or misrepresenting in any manner the training, experience, title, qualifications or status of any person engaged in connection with the promotion, offering for sale, sale, distribution or other solicitation of any course of instruction, or the import or meaning of any advice given by or any other statement made by any such person; or misrepresenting the nature of any encounter between respondent's employees and prospective students for respondent's courses of instruction.

6. Failing to send by certified mail, return receipt requested, to each person who shall contract with respondent for the purchase of any vocational school course of instruction, a written notice printed in at least ten (10) point type which shall disclose in substantially the same form as provided in Appendix A the following information and none other:

(a) The title "IMPORTANT INFORMATION" printed in boldface type across the top of the form;

(b) paragraphs reciting the following information to be computed in the manner and form set forth below for the applicable base period as hereinafter defined in subparagraph (6):

(1) For each different course of instruction offered by respondent for each school, location or facility at which respondent offers said courses of instruction;

the dates of the "base period" as computed in (b)(6);

the total number of students who graduated during such base period;

the numbers and percentages of total graduates who attained employment in the fields for which such graduates were trained. Such information must include an accurate description of each position in which such graduates attained employment.

(2) As to the same graduates used to compute the placement and employment statistics in (b)(1) above, a list of all employers which hired any such graduates during the base period, the number of such graduates hired by each firm or employer and the positions in which said graduates were hired.

(3) As to the same graduates used to compute the statistics in (b)(1)

and (b)(2) above, the annual salary or income of said graduates. Such salary or income shall be classified by number of graduates attaining employment in each position described in (b)(1) at starting salaries expressed in consecutive categories of one thousand dollar amounts, in the form described in Appendix A.

(4) In compiling the foregoing information respondent shall not include any such graduates who respondent knows have not retained such positions for more than one month from the initial date of employment. Respondent may use information supplied to it by graduates, employers, or other sources and shall not be required to obtain such information independently.

(5) For each course of instruction for which respondent is required to disclose information pursuant to subparagraphs (b)(1) through (b)(4), the total number of students who enrolled in said course and were scheduled to graduate during the base period and the number and percentage of the enrollees in said course who failed to complete the course of instruction. The term, "failure to complete," shall encompass those enrollees who:

(A) Withdrew;

(B) failed the course (*i.e.*, were academically terminated);

(C) did not complete the course within the base period in which they were scheduled to graduate and must take (a) make-up exam(s) in order to graduate;

(D) completed the course but did not receive a graduation certificate due to their failure to pay the balance of the tuition; or

(E) for any other reason, did not successfully complete the course within the base period in which they were scheduled to graduate.

(6) "Base Period" shall mean a six (6) month period beginning eight (8) months before and ending two (2) months before the date on which respondent must begin to disseminate the necessary statistics with respect to the base period.

There shall be a one month period immediately following the close of a base period during which respondent shall gather the necessary statistics with respect to said base period. These statistics will relate to those graduates who successfully completed the particular course of instruction during the base period and who obtained employment during the base period or the one month period thereafter. Respondent may not include in the computation of the statistics for the base period any persons who graduate during the month after the base period and who find jobs during said one month period. Such persons will be included in statistics for the base period during which they graduate.

At the end of the first month period immediately following the close of a base period, respondent shall be allowed a second one-month period



to calculate and prepare for distribution the necessary statistics with respect to said base period.

On the first of each month, respondent shall begin to distribute statistics relating to the base period for the period beginning eight (8) months before and ending two (2) months before the first day of each month. Respondent shall continue to distribute said statistics until the first day of the next month and not thereafter.

For any six (6) month period during which respondent has no graduates for a particular course of instruction, respondent may continue to distribute the statistics with respect to the prior base period for said course of instruction until such time as respondent has graduates of said course of instruction and has had one month in which to gather statistics with respect to those graduates and a second month during which to calculate and prepare for distribution the necessary statistics.

Appendix B contains a sample base period calculation.

*Provided, however,* That subparagraph (b)(1) through (b)(6) above shall be inapplicable to any newly established school that respondent may establish in any metropolitan area or county, whichever is larger, where it did not previously operate a school, or to any course newly introduced by respondent, until such time as the new school or course has been in operation for the base period defined in subparagraph (b)(6) above. The following statement shall be included in such notice during such period:

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

After such time as the new school or course has been in operation for the base period (subparagraph (b)(6) above), and until two years after the establishment of a new school location in any metropolitan area or county, whichever is larger, where they did not previously operate a school, or after the introduction of any new course by respondent, the following statement shall be included in such notice:

This school (course) has not been in operation (offered) long enough to indicate what, if any, actual employment or salary you may expect to achieve upon graduation from this school (course).

7. Contracting for any sale of any course of instruction in the form of a sales contract or other agreement which shall become binding prior to the purchaser affirming the enrollment contract by signing and returning to respondent the affirmation form specified in Paragraph 8, within ten (10) days of his receipt of that form. If the purchaser fails to affirm the enrollment contract within the ten (10) day period, respondent shall consider the contract null and void and within ten (10) business days of the expiration of the affirmation period shall refund

all monies paid by the purchaser and cancel and return to the purchaser any evidence of indebtedness.

8. Failing to send by certified mail, return receipt requested, to each person who shall contract with respondent for the purchase of any course of instruction, a one page form, in duplicate that contains the following unsigned affirmation statement printed in bold face type of at least ten (10) points:

NOTICE TO THE PURCHASER

THE ENROLLMENT CONTRACT THAT YOU SIGNED WITH (NAME OF SCHOOL) ON (DATE) TO ENROLL IN (NAME OF COURSE) IS NOT EFFECTIVE OR VALID UNLESS YOU FIRST SIGN THIS STATEMENT AND RETURN IT TO THE ABOVE-NAMED SCHOOL WITHIN TEN (10) DAYS FROM THE TIME THAT YOU RECEIVED THIS STATEMENT. YOU ARE FREE TO CANCEL YOUR ENROLLMENT AND RECEIVE A FULL REFUND OF ANY MONIES YOU HAVE PAID TO THE SCHOOL BY NOT SIGNING OR MAILING THIS STATEMENT WITHIN TEN (10) DAYS. AT THE EXPIRATION OF THIS TEN (10) DAY PERIOD THE SCHOOL HAS TEN (10) BUSINESS DAYS TO SEND YOU YOUR REFUND (IF ANY) AND TO CANCEL AND RETURN TO YOU ANY EVIDENCE OF INDEBTEDNESS THAT YOU SIGNED. HOWEVER, IF YOU DO WANT TO ENROLL IN THE ABOVE-NAMED SCHOOL, YOU SHOULD SIGN YOUR NAME BELOW AND MAIL THIS STATEMENT TO THE SCHOOL WITHIN TEN (10) DAYS. KEEP THE DUPLICATE COPY FOR YOUR OWN RECORDS.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

The affirmation form shall not contain any information or representation other than the information specified in this paragraph, and the form shall be mailed in the same envelope that is used to mail placement information as required by Paragraph 6. The affirmation form and said placement information shall be sent by respondent no later than the next day after the person shall have contracted for the purchase of any course of instruction. During such period provided for in this paragraph, respondent shall not initiate contact with such person other than that required by this paragraph.

9. Making any representations of any kind whatsoever in connection with the creating, advertising, promoting, offering for sale, sale or distribution of courses of study, training or instruction in the field of electronic data processing or any other course offered to the public in any field in commerce, for which respondent has no reasonable basis prior to the making or dissemination thereof.

10. Using course names and descriptions which either directly or by implication indicate that respondent's courses are designed to prepare students for certain entry-level positions when in fact a substantial

number of graduates of such courses do not achieve such entry-level positions.

## II

### 1. *It is further ordered, That:*

(a) Respondent herein deliver, by registered mail, a copy of this decision and order to each of its present and future employees, salesmen, agents, solicitors, independent contractors or to any other person or entity which promotes, offers for sale, sells or distributes any course of instruction included within the scope of this order;

(b) respondent herein provides each person or entity so described in subparagraph (a) above with a form returnable to respondent clearly stating his or her intention to be bound by and to conform his business practices to the requirements of this order; retain said statement during the period said person or entity is so engaged; and make said statement available to the Commission's staff for inspection and copying upon request;

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

(d) if such party as described in subparagraph (a) above will not agree to so file the notice set forth in subparagraph (b) above with respondent and be bound by the provisions of the order, respondent shall not use or engage or continue the use or engagement of, such party to promote, offer for sale, sell or distribute any course of instruction included in this order;

(e) respondent herein informs the persons or entities described in subparagraph (a) above that respondent is obligated by this order to discontinue dealing with or to terminate the use or engagement of persons or entities who continue on their own the deceptive acts or practices prohibited by this order;

(f) respondent herein institutes a program of continuing surveillance adequate to reveal whether the business practices of each said person or entity described in subparagraph (a) above conform to the requirements of this order;

(g) respondent herein discontinues dealing or terminates the use or engagement of any person or entity described in subparagraph (a) above, as revealed by the aforesaid program of surveillance, who continues on his own or her own any act or practice prohibited by this order.

### 2. *It is further ordered, That respondent herein present to each*

interested applicant or prospective student immediately prior to the commencement of any interview or sales presentation during which the purchase of or enrollment in any course of instruction offered by respondent herein is discussed or solicited, a 5" x 7" card containing only the following language:

YOU WILL BE TALKING TO A SALESPERSON

3. *It is further ordered*, That the respondent, Lear Siegler, Inc., shall forthwith distribute a copy of this order to each of its domestic operating divisions.

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

III

*It is further ordered*, That:

1. Respondent shall submit to the Commission, within five (5) days after the date this order is served on respondent (hereinafter "date of service"), a notarized affidavit, executed by respondent's corporate manager of regulatory agency relations, to the effect that respondent has made or has caused to be made a good faith search of documents that pertain to purchasers of respondent's computer courses of instruction, and that respondent, to the best of his knowledge, has previously or simultaneously with said affidavit submitted to the Commission the names of all computer course purchasers covered by this agreement.

2. Respondent or its designee shall make an inquiry in writing on the one hundred and twentieth (120th) day after the date of service, in the language, manner and form shown in Appendices C and D, via certified mail with return receipt requested and with a self-addressed, postage prepaid envelope, to the home address of each former purchaser of one of respondent's computer courses who appears on a list of such purchasers to be supplied to respondent by the Commission within sixty (60) days after the date of service.

3. With respect to each purchaser whose mailed inquiry is returned undelivered or whose aforesaid return receipt card is not returned, respondent or its designee shall have a duty to mail on the one hundred and forty-fifth (145th) day after the date of service the same inquiry via first class mail to such purchaser's business address that is included

in the aforesaid list of purchasers supplied to respondent by the Commission.

4. On the two hundred and seventieth (270th) day after the date of service, respondent shall pay a refund, by check or otherwise, in an amount derived in accordance with Part III of this order, to each "eligible class member" determined in accordance with Part III of this order.

5. "Eligible class member" means only those persons who:

(a) Enrolled during the period of time from July 1, 1970 to Dec. 31, 1973 in respondent's computer programming or computer operations courses; and

(b) did not have his or her course tuition paid in full by a State or local department or division of vocational rehabilitation; and

(c) completed all of the data processing classes of the computer course for which he or she enrolled; and

(d) (1) sought employment in the position for which he or she was trained, or

(2) for reasons related to the sufficiency or quality of the training, or job demand, elected not to seek employment in the position for which he or she was trained; and

(e) (1) after completion of respondent's computer programming classes, did not attain employment as a systems analyst, computer programmer, or combination computer programmer and operator; or instructor of systems analysis, computer programming, combination computer programming and operations; or a manager or supervisor of persons engaged in computer programming; or in a position whose duties were or are equivalent to a systems analyst, computer programmer, or combination computer programmer and operator; or

(2) after completion of respondent's computer operations classes, did not attain employment as a systems analyst, computer programmer, combination computer programmer and operator, or computer operator; or instructor of systems analysis, computer programming, combination computer programming and operations, or computer operations; or a manager or supervisor of persons engaged in computer programming or operations; or in a position whose duties were or are equivalent to a systems analyst, computer programmer, or combination computer programmer and operator, or computer operator; or

(3) attained one of the employment positions for which he or she was trained as listed in subsection (e) (1) and (2) only after receiving further training in computer programming or computer operations at a college or another vocational school, which training was not paid for in full by his or her employer.

6. Each refund shall be accompanied by a letter in the language,

manner and form shown in Appendix E; and a notice in the language, manner and form shown in Appendix F shall be sent via first class mail, with the sender's return address on the face of the envelope, to the last known home address of all persons whose returned questionnaire show them to be ineligible for a refund under Part III of this order.

7. Respondent shall make pro rata refund payments to each eligible class member based upon the proportion that total tuitions paid by or for all such members bear to the total amount available for refunds as provided in Part III of this order, except that members whose tuition was paid in part by a State or local department or division of vocational rehabilitation shall receive a pro rata refund based only on that amount of their tuition not paid by a State or local department or division of vocational rehabilitation. In no event shall any member receive an amount greater than the tuition paid by or for such member.

8. Respondent shall ultimately provide a sum of no greater than seven hundred fifty thousand dollars (\$750,000) solely to carry out its obligations to provide refunds and pay administrative costs under Part III of this order. Of this sum, five thousand dollars (\$5,000) shall be set aside for payment of administrative costs incurred by respondent or its designee in complying with Part III of this order. Any unused administrative funds shall remain the property of respondent.

9. It is agreed that respondent shall file, within one hundred and eighty (180) days after the date of service, under Rule 3.61(d) of the Commission's Rules of Practice, a written request for advice as to whether its determination of who is an eligible class member complies with the terms of this order provision; and that respondent shall submit simultaneously with its request all Appendix D questionnaires it has received as of the date said request for advice is filed. Respondent shall also, at this time, present any challenges to the factual accuracy of any questionnaire together with substantiating material; such challenges and substantiating material shall be presented solely as a means of assisting the Commission in affording respondent an advisory opinion pursuant to said Rule 3.61(d); *Provided*, That the Commission shall render its advice to respondent and return all Appendix D questionnaires to respondent within two hundred and forty (240) days after the date of service.

10. Respondent or its designee shall contact and deliver a refund check to each eligible class member or his legal representative. For such purpose, respondent shall, among other things, request the last known address of the eligible class member from the Postal Service, telephone the eligible class member or request the assistance of the Social Security Administration; *Provided*, That should the administrative fund referred to in Paragraph 8 be exhausted, each eligible class

member shall have deducted from the total refund amount due him all additional costs incurred by respondent or its designee under this paragraph.

11. Respondent shall, on the two hundred and eightieth (280) day after the date of service, file with the Commission a report in writing setting forth the manner and form in which it has complied with Part III of this order.

12. Respondent shall maintain records and documents for two (2) years after the date this order is served on respondent, which demonstrate that respondent has complied with Part III of this order.

13. It is agreed that should any duty required to be performed on a day certain under Part III of this order fall upon a non-business day, the parties herein may perform such duties on the next following business day.

## APPENDIX A

### IMPORTANT INFORMATION

Regarding Students of Harrison Business College, of Indianapolis, Indiana\*.  
 Course: Computer Operations  
 Base Period: Jan. 1, 1974 through June 30, 1974  
 Information Regarding Post-Graduate Employment of Graduates:

	<i>Number</i>	<i>Percent</i>
Total graduates	80	100%*
Total graduates obtaining employment as computer operators	16	20%

*Employers Hiring Persons Who Graduated From Harrison Business College  
 of Indianapolis, Ind. From Jan. 1, 1974 Through June 30, 1974:*

<i>As Computer Operators</i>	<i>Total Hired</i>
ABC Company	4
D _____ Company	4
H _____ & Sons	4
L _____ Company	4

*Salary Information Regarding Persons Who Graduated From Harrison Business  
 College of Indianapolis, Ind. From Jan. 1, 1974 Through June 30, 1974:*

<i>As Computer Operators</i>	
4	Graduate(s) began at a salary between \$5,000 and 5,999
6	Graduate(s) began at a salary between \$6,000 and 6,999
6	Graduate(s) began at a salary between \$7,000 and 7,999

*Information Regarding Total Number and Percentage - Who Failed to Complete This  
 Course:*

\* The examples of this appendix are for illustration and are not based on actual statistics.

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Total number of students enrolled in this course and scheduled to graduate from Jan. 1, 1974 through June 30, 1974:	240
Total number who failed to complete this course:	160
Total percentage who failed to complete this course:	66%

## APPENDIX B

Base Period 1 begins Jan. 1, 1974 and ends June 30, 1974.

During July, Respondent shall gather the statistics with respect to Base Period 1. These statistics shall include the required information regarding jobs obtained by the January-June graduates from January 1 through July 31. These statistics may not include any persons who graduate during July and who obtain employment before July 31. Those persons will be included in the statistics for Base Period 2. During August, Respondent shall calculate and prepare the Base Period 1 statistics for distribution.

On September 1, Respondent shall begin to disseminate statistics with respect to graduates for the period January 1 through June 30, and Respondent shall continue to use those statistics through September 30.

During August, Respondent shall gather the statistics with respect to Base Period 2, which begins Feb. 1, 1974, and ends July 31, 1974. These statistics shall include the required information regarding jobs obtained by the February-July graduates from February through August 31. During September, Respondent shall calculate and prepare for distribution the necessary statistics.

Beginning October 1, Respondent shall disseminate the necessary statistics for Base Period 2 and shall be prohibited from disseminating previous base period statistics.

## APPENDIX C

(NAME)

(ADDRESS)

Re: Eligibility for partial reimbursement to certain former students of (School Name, City, State)

Dear (Name):

In settlement of a complaint brought by the United States Federal Trade Commission, Lear Siegler, Inc., has agreed to a Consent Order.

The purpose of the enclosed questionnaire is to determine whether or not you are eligible for a partial reimbursement of tuition. Of course, you are under no obligation to send in this questionnaire, but you *must* return this questionnaire to have your eligibility determined.

You may already have received and sent in a similar questionnaire to the Federal Trade Commission. That questionnaire was used in preparation of the Federal Trade Commission's adjudicative proceeding. Now that this proceeding has been settled, this questionnaire seeks *different* information, information which is necessary to determine your eligibility.

**DIRECTIONS:** Please mark or fill in the appropriate spaces on the questionnaire enclosed, and return it in the enclosed stamped addressed envelope. It is suggested that you fill out and mail in this questionnaire as soon as possible, but in any event no later than (date which represents the one hundred and seventieth day from the date of service). If you should misplace the envelope provided, please mail your questionnaire to the (Name and address of party on return envelope).

You must follow the directions and should answer all questions which apply to you



*completely and truthfully*, to the best of your knowledge. Questionnaires which are incomplete or improperly filled out could result in the loss of eligibility.

NOTE: The Order of the Commission does not affect any tuition loan obligations you may have incurred in connection with your attendance at a Lear Siegler school.

You will be notified whether or not you are eligible. Please send notification of any change in your home address to the (name and address on the return envelope).

Your cooperation is appreciated.

LEAR SIEGLER, INC.

By \_\_\_\_\_  
James N. Thayer  
Vice President and Secretary

APPENDIX D

ELIGIBILITY QUESTIONNAIRE

RE: YOUR ATTENDANCE AT (NAME OF SCHOOL, CITY AND STATE.)

1. Did you enroll in a computer programming or computer operations course at the above-named school?

(CHECK ONE)

Yes ..... ( )

No ..... ( )

IF THE ANSWER IS "NO", DO NOT FILL IN THE REMAINDER OF THE QUESTIONNAIRE; TURN TO THE LAST PAGE, DATE AND SIGN ON THE APPROPRIATE LINES, AND RETURN THE QUESTIONNAIRE IN THE POSTAGE-PAID ENVELOPE.

2. For which course did you enroll? (CHECK ONE)

a. Computer programming ..... ( )

b. Computer operations ..... ( )

c. Other (PLEASE EXPLAIN) ..... ( )

3. Which class sessions did you attend? (CHECK ONE)

Day classes ..... ( )

Evening classes ..... ( )

4. In what month and year did you enter the school?

(You must give *both* month and year)

MONTH/YEAR \_\_\_\_ / \_\_\_\_

5. Did you complete all of the data processing classes included in the course for which you enrolled? (CHECK ONE)

No ..... ( )

Yes ..... ( )

6. When you left the school did you make any effort to seek a job in the computer field? (CHECK ONE)

No ..... ( )

Yes (SKIP TO Q. 8) ..... ( )

7. Please give the *most important* reason why you did *not* seek a job in the computer field: (CHECK ONE ONLY)

a. I took the course for advancement in my job and not for the purpose of seeking a job as a systems analyst, computer programmer or computer operator ..... ( )

b. I preferred a job in another field (such as accountant or secretary) ..... ( )

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- c. I decided I did not want a job in the computer field ..... ( )
- d. I decided I would not be able to find a job in the computer field due to a lack of on-the-job experience ..... ( )
- e. I decided I would not be able to find a job in the computer field due to insufficient training ..... ( )
- f. I decided I would not be able to find a job in the computer field for the position for which I was trained due to a lack of a 2 or 4 year college degree ..... ( )
- g. I married or started a family ..... ( )
- h. I was drafted or enlisted in the military service ..... ( )
- i. I went to college or other schooling ..... ( )
- j. Other (PLEASE DESCRIBE) ..... ( )
- 
- 
8. Have you ever attained a job in the computer field at any time after you left the school? (CHECK ONE)
- Yes ..... ( )
- No (SKIP TO Q. 13) ..... ( )
9. What is the *highest* position you have attained in the computer field at any time since you left the school?
- (Please check the position which is closest to the job you have or have had) (CHECK ONE)
- a. Systems analyst ..... ( )
- b. Computer programmer ..... ( )
- c. Combination of computer programmer and operator ..... ( )
- d. Computer operator ..... ( )
- e. Other (PLEASE DESCRIBE JOB DUTIES) ..... ( )
- 
- 
10. Before you attained the above position in the computer field, did you take any further training in computer programming or computer operations at a college or at another vocational school? (CHECK ONE)
- Yes ..... ( )
- No (SKIP TO Q. 13) ..... ( )
11. Did your employer pay in full for such further training? (CHECK ONE)
- Yes ..... ( )
- No ..... ( )
12. In between your course at the above-named school and the further training you took, what is the *highest* position you attained in the computer field? (Please check the position which is closest to the job you had.) (CHECK ONE)
- a. Systems analyst ..... ( )
- b. Computer programmer ..... ( )
- c. Combination of computer programmer and operator ..... ( )
- d. Computer operator ..... ( )
- e. None of the above ..... ( )
13. How much in tuition was paid by you or on your behalf for the course you took? (Include all outstanding tuition loan obligations, but do not include interest charges)
- AMOUNT: \$ \_\_\_\_\_
14. Did a state or local department or division of vocational rehabilitation pay any of the tuition for the course for which you enrolled? (CHECK ONE)
- Yes ..... ( )
- No (SKIP TO Q. 16) ..... ( )

15. How much of your tuition was paid by a state or local department or division of vocational rehabilitation?

AMOUNT: \$ \_\_\_\_\_

16. Have you ever received a refund of any tuition money from the above-named school? (CHECK ONE)

Yes ..... ( )

No (SKIP TO Q. 18) ..... ( )

17. How much was the refund?

AMOUNT: \$ \_\_\_\_\_

18. Did you obtain a loan(s) for all or any part of your tuition? (CHECK ONE)

Yes ..... ( )

No (SKIP TO "SIGNATURE") ..... ( )

19. Please give the name and address of the financial institution who made the loan(s).

\_\_\_\_\_

Please attach to this form any documents or copies of such documents that indicate you paid an amount of money for any course of instruction offered by the above school. If you cannot provide such documents, your eligibility to receive reimbursement will not be affected.

WARNING: It is a federal crime for anyone to knowingly and willfully make a false, fictitious or fraudulent statement or representation in any matter within the jurisdiction of any department or agency of the United States. 18 U.S.C. §1001.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINT NAME HERE

\_\_\_\_\_  
SOCIAL SECURITY NO.

HOME ADDRESS:

\_\_\_\_\_  
Number Street Apt.

\_\_\_\_\_  
City State Zip Code

HOME TELEPHONE:

\_\_\_\_\_

BUSINESS ADDRESS:

\_\_\_\_\_  
Employer's Name

\_\_\_\_\_  
Number Street

\_\_\_\_\_  
City State Zip Code

BUSINESS TELEPHONE:

\_\_\_\_\_

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## APPENDIX E

## IMPORTANT NOTICE

(NAME)

(ADDRESS)

DEAR (NAME)

Pursuant to an Order of the Federal Trade Commission issued on \_\_\_\_\_, Lear Siegler, Inc. has been directed to make [percentage] per cent refunds of tuition to certain students who had enrolled in computer programming or computer operations courses previously offered by our company.

The Order of the Commission contains the provisions identifying the class of persons eligible for refunds, and the procedures for making refunds. (You may obtain a copy of the Order without charge by writing to the Federal Trade Commission, Publications, Room 130, Washington, D.C. 20580. Refer to "Lear Siegler, Inc., Docket No. C- 8953.")

In accordance with the provisions of the Order, it has been determined that you are entitled to a refund of \$ \_\_\_\_\_. A check for this amount is enclosed.

*Note:* The Order of the Commission does not affect any tuition loan obligations you may have incurred in connection with your attendance at the Lear Siegler School.

LEAR SIEGLER, INC.

By: \_\_\_\_\_

James N. Thayer

Vice President and Secretary

Enclosure.

[Return Address of Independent Contractor]

## APPENDIX F

## IMPORTANT NOTICE

Pursuant to an Order of the Federal Trade Commission issued on [Oct. 6, 1975], Lear Siegler, Inc. was directed to make partial reimbursements of tuition to certain students who had enrolled in computer programming or computer operations courses formerly offered by our company. The Order of the Commission contains the provisions identifying the class of persons eligible for reimbursements, and the procedures for making reimbursements.

In accordance with the provisions in the Order, it has been determined, based upon your responses to the "Eligibility Questionnaire," that you are not eligible for any reimbursement.

The Order specified that the class of purchasers entitled to reimbursement was limited to those persons who meet *all* of the following tests:

1. enrolled in a computer programming or a computer operations course at a Lear Siegler-owned school from July 1, 1970 through Dec. 31, 1973; and
2. completed all of the data processing classes of the computer course for which they enrolled; and
3. sought employment in the position for which they were trained, except if they elected not to seek employment in the position for which they were trained because of reasons related to sufficiency or quality of the course, or job demand; and
4. (a) for computer programming course enrollees, those persons who did not attain employment as a systems analyst, computer programmer, or combination computer

programmer and operator; or instructor of systems analysis, computer programming, combination computer programming and operations; or a manager or supervisor of persons engaged in computer programming; or in a position whose duties were or are equivalent to a systems analyst, computer programmer, or combination computer programmer and operator; or

(b) for computer operations course enrollees, those persons who did not attain employment as a systems analyst, computer programmer, combination computer programmer and operator, or computer operator; or instructor of systems analysis, computer programming, combination computer programming and operations, or computer operations; or a manager or supervisor of persons engaged in computer programming or operations; or in a position whose duties were or are equivalent to a systems analyst, computer programmer, combination computer programmer and operator, or computer operator; or

(c) persons who attained any one of the employment positions for which he or she was trained as listed above only after receiving further training in computer programming or computer operations at a college or another vocational school, which training was not paid for in full by their employer.

You may obtain a copy of the order without charge by writing to the Federal Trade Commission, Publications, Room 130, Washington, D. C. 20580, (refer to "Lear Siegler Inc., Docket No. [D. 8953]").

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IN THE MATTER OF

TARA INDUSTRIES, INC., ET AL.

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

*Docket C-2736. Complaint, Oct. 6, 1975—Decision, Oct. 6, 1975*

Consent order requiring a Fords, N.J., seller and distributor of swimming pools and swimming pool accessories, among other things to cease misrepresenting the availability of merchandise; using bait advertising; disparaging products offered for sale; misrepresenting reductions in prices; misrepresenting guarantees; failing to disclose customer's right to cancel contracts within specified time frames; and failing to make material disclosures as to the major structural components of their swimming pools.

*Appearances*

For the Commission: *John A. Crowley.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Tara Industries, Inc., a corporation, and James Mac Dermott, individually and as an officer of

said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Tara Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 554 New Brunswick Ave., Fords, N.J.

Respondent James Mac Dermott is an individual and an officer of Tara Industries, Inc. He formulates, directs and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of swimming pools and swimming pool accessories.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, the aforementioned swimming pools and swimming pool accessories, when sold, to be shipped from the places of business of their supplier in the United States to purchasers thereof located in States other than the State from which such shipments originate.

There is now, and has been, at all times mentioned herein, a substantial and continuous course of trade in said swimming pools and swimming pool accessories in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of their products, respondents have made statements and representations with respect thereto in advertisements inserted in newspapers of general interstate circulation and by oral statements and representations made by respondents, their representatives, agents or employees with respect to the nature and limitations of their offers, their prices, their purchasers' savings and the quality of their products.

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

ACT NOW

31' x 16'

Outside

5' x 24' x 4'

Swim

Prices will

**NEVER BE LOWER!**

**SWIMMING POOL**

885

Complaint

Area	only \$549, Completely Installed
	Sensational PRE-SEASON OFFER
New 1973	SWIMMING POOL
Outside Dimensions 16'x31'	Swim Area 15'x24' — 4' Deep \$689 Completely Installed
	Sensational PRE-SEASON OFFER
New 1973	SWIMMING POOL
Outside Dimensions 16'x31'	Swim Area 15'x24' — 4' Deep \$889 Completely Installed

\* \* \* Unconditionally guaranteed for 10 years.

\* \* \* Swimming pools are maintenance free.

\* \* \* Usual selling price \$6000.

\* \* \* Reduced Prices \* \* \* use of Pools as models or demonstrators.

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

1. The offers set out in their advertisements are bona fide offers to sell swimming pools of the kind therein described and on the terms and conditions stated.
2. Their advertised offers of a swimming pool for \$689 or \$889 is a special or sale price and respondents' purchasers or potential purchasers are being offered a price for said pool which would effect a savings amounting to the difference between the special or sale price and some higher price at which such pool is usually and customarily sold.
3. Swimming pools sold by respondents are maintenance free.
4. Some swimming pools sold by respondents are unconditionally guaranteed for a period of ten years.
5. Certain swimming pools sold by respondents are usually sold at prices higher than those offered to potential purchasers and therefore respondents' purchasers are being offered a special or bargain price for said pools which would effect a savings amounting to the difference between the usual and customary price and the price at which the pools are being sold.
6. After the installation of their pool is completed, some purchasers who permit their pools to be used for demonstration and advertising

purposes by respondents in selling pools to other persons would receive an allowance or reduction in price.

PAR. 6. In truth and in fact:

1. The offers set out in respondents' advertisements are not bona fide offers to sell swimming pools of the kind therein described at the prices or on the terms and conditions stated but are made for the purpose of obtaining leads to persons interested in purchasing said pools. After obtaining such leads, respondent Mac Dermott, respondents' salesmen or representatives call upon such persons and disparage respondents' advertised swimming pools and otherwise discourage the purchase thereof and attempt to sell and frequently do sell different and more expensive swimming pools.

2. The advertised swimming pools are not being offered for sale at special or reduced prices and savings are not thereby afforded to purchasers from respondents' usual and customary selling price.

3. The swimming pools sold by respondents are not maintenance free.

4. The swimming pools sold by respondents are not warranted in every respect without conditions or limitations for a period of ten years or any other period of time. Such warranty or guarantee as may be provided is subject to numerous terms, conditions and limitations with respect to the duration of the warranty or guarantee. The purchaser is not informed of the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or guarantor will perform thereunder until after the installation of the swimming pool.

5. Certain swimming pools sold by respondents have not usually been sold at prices higher than those offered to potential purchasers. Respondents use the stated higher price to mislead potential purchasers into the belief that they are receiving a special or discount price. Respondents do not have a usual and customary selling price for these pools and the prices at which these pools are sold is often substantially below the stated price and varies from purchaser to purchaser depending upon the resistance of the particular purchaser.

6. After the installation of the swimming pool sold by respondents is completed, the purchaser's pool will not, in most instances, be used for demonstration or advertising purposes by respondents. As a result of allowing, or agreeing to allow their pools to be used as demonstrators or models, purchasers are not granted reduced prices or allowances.

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

PAR. 7. In the further course and conduct of their business, and in furtherance of a sales program to induce the purchase of their



swimming pools and swimming pool accessories, respondents and their salesmen or representatives have engaged in the following additional unfair, false, misleading and deceptive acts and practices:

In a substantial number of instances, through the use of the false, misleading and deceptive statements, representations and practices set forth in Paragraphs Four through Six above, respondents or their salesmen or representatives have induced purchasers to sign contracts upon initial contact by not giving the purchaser sufficient time to carefully consider the purchase and consequences thereof.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that such statements were and are true and into the purchase of substantial quantities of respondents' swimming pools and swimming pool accessories by reason of said erroneous and mistaken belief.

PAR. 9. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in or affecting commerce, and as "commerce" is defined in the Federal Trade Commission Act, with corporations, firms and individuals engaged in the sale of swimming pools and other products of the same general kind and nature as sold by respondents.

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

#### DECISION AND ORDER

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

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint,

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

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

1. Respondent Tara Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 554 New Brunswick Ave., Fords, N.J.

Respondent James Mac Dermott is an individual and is an officer of said corporation. He formulates, directs and controls the acts and practices of said corporation and his address is the same as that of said corporation.

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

#### ORDER

*It is ordered*, That respondents, Tara Industries, Inc., a corporation, its successors and assigns, and its officers, and James Mac Dermott, individually and as an officer of the aforesaid corporation and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, distribution or installation of swimming pools or any other product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

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

3. Representing directly or indirectly that any products or services

are offered for sale when such is not a bona fide offer to sell said products or services.

4. Disparaging any product, installation or service which is advertised or offered for sale by respondents.

5. Representing, directly or by implication, that any price for a swimming pool or other product or service sold by respondents is a special, preseason or sale price, when such price does not constitute a significant reduction from an established selling price at which such swimming pool, product or service has been sold in substantial quantities by respondents in the recent, regular course of business.

6. Representing, in any manner, that the swimming pools or any other products sold by respondents are maintenance free or require no periodic servicing or inspection.

7. Representing directly or indirectly that any of respondents' products, installations or services are warranted or guaranteed, unless the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such warranty or guarantee.

8. Representing that by purchasing any merchandise, purchasers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for sale at retail in good faith for a reasonably substantial period of time in the recent, regular course of business.

9. Misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of any merchandise sold or offered for sale by respondents.

10. Representing, directly or indirectly, that any price is reduced from respondents' former price if records customarily maintained by respondents fail to establish that such price constitutes a significant reduction from the price at which such merchandise has been sold in substantial quantities or offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

11. Misrepresenting, directly or indirectly, that the pool of any of respondents' purchasers or prospective purchasers will be used for any type of advertising, demonstration or model or that as a result of such use, respondents' purchasers or prospective purchasers will be granted reduced prices or will receive a discount.

12. Failing to furnish the buyer with a fully completed receipt or

copy of any contract pertaining to such sales at the time of its execution, which is in the same language, *e.g.*, Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form:

YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

13. Failing to furnish each buyer, at the time he signs the sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten point boldface type the following information and statements in the same language, *e.g.*, Spanish, as that used in the contract:

#### NOTICE OF CANCELLATION

[*enter date of transaction*]

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(Date)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENTS EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE: OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO \_\_\_\_\_ [Name of seller] , AT \_\_\_\_\_ [address of seller's place of business] \_\_\_\_\_ , NOT LATER THAN MIDNIGHT OF \_\_\_\_\_ (Date) .

I HEREBY CANCEL THIS TRANSACTION.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Buyer's signature)

14. Failing, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

15. Including in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this order including specifically his right to cancel the sale in accordance with the provisions of this order.

16. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

17. Misrepresenting in any manner the buyer's right to cancel.

18. Failing or refusing to honor any valid notice of cancellation by a buyer and within 10 business days after receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller; (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

19. Negotiating, transferring, selling or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

20. Failing, within 10 business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or abandon any shipped or delivered goods.

*Provided, however,* That nothing contained in this order shall relieve respondents of any additional obligations respecting contracts required by federal law or the law of the State in which the contract is made. When such obligations are inconsistent, respondents can apply to the Commission for relief from this provision with respect to contracts executed in the State in which such different obligations are required. The Commission, upon showing, shall make such modifications as may be warranted in the premises.

*It is further ordered,* That respondents maintain records, to be

furnished upon request of the Federal Trade Commission or its staff, which disclose the factual basis for any representations or statements made with respect to any prohibition or affirmative disclosure requirement of this order, including, but not limited to, a copy of each advertisement in which a swimming pool is offered for sale at a specified price, the volume of sales of such advertised pool at the advertised price and the name and address of each purchaser of such advertised pool.

*It is further ordered,* That in any advertisement for swimming pools, respondents shall disclose the material composition of the major structural components of said swimming pool including pool walls, deck, supporting members, rails and liner. Where print advertisements are utilized by respondents, said disclosures shall be set forth in a type size sufficient to clearly and conspicuously disclose the material composition of the said components to a potential purchaser. Where a pool requires periodic painting to preserve or protect wooden components thereof, respondents shall clearly and conspicuously set forth said fact in type of the same size used to list the material composition of major structural components of said swimming pools.

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

*It is further ordered,* That respondents shall forthwith distribute a copy of this order to all operating personnel, agents or representatives concerned with the promotion, sale and distribution of swimming pools or any other product and secure from such person a signed statement acknowledging receipt of said order.

*It is further ordered,* That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or State regulatory agencies. No provision of this order shall be construed to imply that any past or

future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

*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.

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IN THE MATTER OF

SIMEON MANAGEMENT CORPORATION, ET AL.

*Docket 8996. Order, Oct. 7, 1975*

Denial of request by individual respondent Darrel P. Simpson that initial decision be set aside as to him, but without prejudice to his filing a motion with supporting affidavit no later than Nov. 24, 1975.

*Appearances*

For the Commission: *Alfred Lindeman and Paul D. Hodge.*

For the respondents: *Marvin Gross, Grayson and Gross, Inc.*, Los Angeles, Calif. for Simeon Management Corporation, *pro se* for Medical Weight Loss, Inc., *Robert M. Aran* for Darrel P. Simpson, *David L. Cunningham*, Sausalito, Calif. for Bariatric Medical Clinics Management Corporation, *Leo Shaw*, San Diego, Calif. for Weight Reduction Medical Clinic and *Josef D. Cooper, Cooper and Scarpulla*, San Francisco, Calif. for C.M. Norcal, Inc., HCG Weight Clinics Foundation, Peter J. Marengo, III and Joseph Costa.

ORDER DENYING WITHOUT PREJUDICE REQUEST TO SET  
ASIDE INITIAL DECISION AS TO ONE RESPONDENT

On Jan. 7, 1975, the administrative law judge filed an initial decision as to three respondents, J. William Byrd, Medical Weight Loss, Inc., and Darrel P. Simpson. The decision was predicated on their failure to answer the complaint. On Mar. 7, 1975, the Commission stayed the effective date of the initial decision as to the three respondents until further order of the Commission.<sup>1</sup>

By letters to Charles A. Tobin dated Feb. 25, 1975, and Mar. 13, 1975, counsel for respondent Simpson asserted that Mr. Simpson had not been served with the complaint and that, at the time he was served

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<sup>1</sup> The law judge filed an initial decision as to the remaining respondents on June 18, 1975. Respondents and complaint counsel have filed cross-appeals from the second initial decision and oral argument has been scheduled for Oct. 9, 1975.

with the first initial decision, he was totally unaware of the contents of the complaint.

Unsworn, second-hand allegations, however, do not warrant the setting aside of an initial decision. Accordingly,

*It is ordered,* That respondent Simpson's request that the initial decision, filed on Jan. 7, 1975, be set aside as to him, be, and it hereby is, denied without prejudice to the filing of a motion, accompanied by an affidavit by Mr. Simpson, in support of the motion, no later than Nov. 24, 1975.

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IN THE MATTER OF  
PORTER & DIETSCH, INC., ET AL.

*Docket 9047. Order, Oct. 7, 1975*

Granting of respondents' motion for issuance of corrective news release disclosing complaint was issued subject to caveat.

*Appearances*

For the Commission: *Dean A. Fournier, Alan H. Melnicoe and William H. Patton.*

For the respondents: *Albert A. Corretta, Browne, Beveridge, DeGrandi and Kline, Wash., D.C. for Porter & Dietsch, Inc. and pro se for Pay N' Save Corporation.*

ORDER GRANTING RESPONDENTS' MOTION FOR ISSUANCE OF  
CORRECTIVE NEWS RELEASE

The administrative law judge has certified an unopposed motion filed by respondents Porter & Dietsch, Inc.; William H. Fraser; Kelly Ketting Furth, Inc.; and Joseph Furth for the issuance of a corrective news release.

The news release published shortly after the complaint was issued failed to include the usual caveat that the Commission issues a complaint when it "has reason to believe" that the law has been violated and a proceeding is in the public interest, and that the issuance of a complaint simply marks the beginning of a formal proceeding in which the allegations will be ruled upon after a public hearing.

Respondents move that a corrective news release disclosing that the complaint was issued subject to the above-indicated caveat be promptly published. Accordingly,

*It is ordered,* That the aforesaid motion be, and it hereby is, granted, and that the Office of Public Information be directed to issue promptly



a press release disclosing that the earlier release erroneously failed to include the following caveat:

The FTC issues a complaint when it has "reason to believe" that the law has been violated and that a proceeding is in the public interest. Such action simply marks the beginning of a formal proceeding in which the allegations will be ruled upon after a public hearing.

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IN THE MATTER OF  
FMC CORPORATION

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

*Docket 8961. Complaint, Apr. 8, 1974-Decision, Oct. 8, 1975*

Consent order requiring a Chicago, Ill., producer and distributor of pesticides, among other things to cease misrepresenting their products as being absolutely or unqualifiedly safe, non-toxic or free of hazard under conditions of normal use to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment.

*Appearances*

For the Commission: *Paul L. Chassy, Miriam A. Bender and Eugene Kaplan.*

For the respondents: *Thomas J. Whitehead, McKean, Whitehead & Wilson, Wash., D.C.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that FMC Corporation, a corporation, hereinafter referred to as respondent, has violated 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. For the purposes of this complaint and the order attached hereto, the following definitions of terms shall apply:

(1) "Pesticide" refers to (a) any substance or mixture of substances, including insecticides, intended for preventing, destroying, repelling or mitigating any pest, and (b) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

(2) "Insecticide" refers to any substance or mixture of substances

intended for preventing, destroying repelling or mitigating any insects which may be present in any environment whatsoever.

(3) "Phosphate insecticides" refers to those insecticides belonging to the organic phosphorous chemical class.

(4) "Labeling" refers to all labels and other written, printed, or graphic matter (a) accompanying the pesticide at any time, or (b) to which reference is made on the label or in literature accompanying the pesticide where warnings, cautions, directions or limitations for the pesticide's use appear.

PAR. 2. FMC Corporation 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 1105 Coleman Ave., in the city of San Jose, State of California.

PAR. 3. Respondent is now, and for some time last past has been, through its Agricultural Chemicals Division (formerly Niagara Chemical Division), engaged in the production, formulation, advertising, offering for sale, sale and distribution of pesticides designated as "Furadan," "Thiodan," "Ethion," "Sincox," "Polyram" and other pesticide products to formulators, distributors, retailers, for resale to the public, and to the public.

PAR. 4. In the course and conduct of its business as aforesaid respondent now causes, and for some time last past has caused the said products, when sold, to be transported from its place of business in one State of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of its said business, and for the purposes of inducing the purchase of Furadan, Thiodan, Ethion, Sincox, Polyram, and other pesticide products, respondent has made, and is now making, alone or in cooperation with others, orally or in writing, numerous statements and representations concerning the safety and efficacy of said products, which are disseminated in advertisements in print and broadcast media, in promotional materials and by other means. Such statements and representations include, but are not limited to, the following:

Furadan:

- (1) Safe to use.
- (2) Furadan granules are safe to handle.
- (3) Furadan \* \* \* is safe to handle in comparison to other products.
- (4) Furadan is easy to use \* \* \* Safer for the operator, too.
- (5) Furadan \* \* \* is less hazardous than most other rootworm insecticides.

(6) Furadan presents less hazards to the user than many pesticides commonly used today.

(7) Fear no weevil \* \* \* Use Furadan \* \* \* And fear no more.

(8) Furadan Toxicity. Furadan 10 Granules have been found less hazardous than many other accepted pesticides in common use. Furadan is not readily absorbed through the skin, as shown by the dermal LD50 (10, 500mg/kg) rating. Care should be taken, however, to avoid rough handling which can powder material off the granules and create a slight hazard. Even so, a wide margin exists between the dose that will cause mild symptoms and that which will cause serious illness. The effects, also, are spontaneously reversible in a few hours and there is no cumulative toxicity.

**Thiodan:**

(1) Thiodan-safe to use.

(2) Thiodan \* \* \* has a remarkable record of safety.

(3) Thiodan controls them all — safely.

(4) Thiodan is preferred because of its moderate toxicity - not like hazardous phosphate compounds \* \* \*

(5) \* \* \* low toxicity to bees and other insect predators.

(6) Growers can expect to use Thiodan without severe damage to bees \* \* \*

(7) Easy to use \* \* \* easy to handle.

(8) Thiodan is itself classed as "moderately toxic." When used in combination with Parathion sprays, normal safe handling precautions should be followed.

**Ethion:**

(1) Ethion when used in accordance with directions, is safe to the applicator.

(2) Ethion formulations are safer to use than many other pesticides.

**Sinox:**

(1) SINOX PE is a pre-emergence spray material which is both safe and highly effective \* \* \*

**Polyram:**

(1) Polyram \* \* \* A safe, sure fungicide for dependable, consistent control of \* \* \* blight.

(2) Polyram \* \* \* It's non-hazardous and requires no special clothing or safety equipment.

(3) Polyram is safe to use \* \* \*.

PAR. 6. Through the use of statements and representations as alleged in Paragraph Five hereof, respondent has represented and is now representing, directly or by implication, that:

(1) Furadan, Thiodan, Ethion, Sinox, Polyram and other pesticide products are safe, non-toxic, hazard-free products.

(2) Thiodan is relatively more safe in all respects than all phosphate insecticide products on the market.

(3) Furadan and Ethion are relatively more safe in all respects than many or most other insecticide products on the market.

**PAR. 7. In truth and in fact:**

(1) Furadan, Thiodan, Ethion, Sinox, Polyram and other pesticide products are not safe, non-toxic, hazard-free products as represented by respondent.

(2) Thiodan is not relatively more safe in all respects than all phosphate insecticide products on the market.

(3) Furadan and Ethion are not relatively more safe in all respects than many or most other insecticide products on the market.

Therefore, the statements and representations as alleged in Paragraph Five hereof were, and are, deceptive.

PAR. 8. By making statements and representations, alone or in cooperation with others, orally or in writing, which appear in advertisements in print or broadcast media, in promotional material and by other means, about Furadan, Thiodan, Ethion, Sinox, Polyram and other pesticide products in a manner which is inconsistent with or disregards warnings, cautions, limitations and instructions for use found in labeling, respondent negates the import and purposes of and detracts from the effectiveness of such warnings, cautions, limitations or instructions.

Therefore, the advertisements, other promotional materials, acts and practices which contain the statements and representations referred to in Paragraph Eight above are unfair or deceptive.

PAR. 9. In the further course and conduct of its business as aforesaid, respondent has made statements and representations, alone or in cooperation with others, orally or in writing, which appear in advertisements in print and broadcast media, in promotional material or by other means, about Furadan, Thiodan, Ethion, Sinox, Polyram and other pesticide products without disclosing that such products are hazardous. Knowledge of the hazards associated with the use of such products would enable and encourage consumers to exercise the proper degree of care in using them.

Thus, respondent has failed to disclose material facts which, if known to consumers, would be likely to affect their consideration of whether or not to purchase, and how to properly use, such products. Therefore, advertisements, promotional materials, acts or practices, which fail to disclose the aforesaid material facts, are unfair or deceptive.

PAR. 10. Respondent has made statements and representations, alone or in cooperation with others, orally or in writing, which appear in advertisements in print or broadcast media, in promotional material, or by other means, which do not delineate the circumstances and conditions under which they are not universally accurate and do not define the objects of comparison when they are phrased in comparative terms. Such statements and representations have the capacity and tendency to mislead consumers regarding the safety or efficacy of the products.

Therefore, the advertisements, promotional material, acts or practices which contain such statements or representations are deceptive or unfair.

PAR. 11. In the course and conduct of its business as aforesaid and at

all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of insecticide products of the same general kind and nature.

PAR. 12. The use by respondent of the said deceptive or unfair advertisements, acts or practices has had, and now has, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the said statements and representations were and are true and induce them into the purchase of substantial quantities of Furadan, Thiodan, Ethion, Sinox, Polyram, and other pesticide products by reason of said erroneous and mistaken belief.

PAR. 13. The aforesaid acts or practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair or deceptive acts or practices and unfair methods of competition in commerce in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

1. Respondent FMC Corporation 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 200 E. Randolph Dr., Chicago, Ill.

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 respondent, FMC Corporation, a corporation, its successors and assigns and respondent's officers, representatives, agents and employees, directly or through any corporation, subsidiary, division, department or other device, in connection with the advertising, offering for sale, or sale or distribution of any pesticide product with precautionary labeling which contains any active pesticidal ingredient(s) presently marketed by respondent or currently being field tested by respondent and which is intended for use by custom applicators and commercial growers to protect animals or food, forage, field or fiber crops by virtue of the capacity of its active ingredient(s) to kill pests (sometimes referred to hereinafter as "such products"), in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, by print or broadcast advertising, by other promotional material, or by sales representatives' oral statements, that such products are absolutely or unqualifiedly safe, non-toxic or free of hazard for any use registered under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (hereinafter FIFRA) or any other approved use based upon evidence filed in connection with registration under FIFRA.

*Provided, however,* That for purposes of enforcing Paragraph I A of this order any advertisement, statement, claim or representation that such products may be employed for a crop or plant use registered under FIFRA, or any other approved use based upon evidence filed in connection with registration under FIFRA shall not be deemed a violation of this order; *Provided, further,* That this exception shall be effective only until such time as a trade regulation rule covering the advertising and promotion of such products subject to this order and containing terms at least as onerous as Paragraph I A of this order becomes final and effective.

##### II

With respect to representations not covered by the provisions of Section I of this order, *It is ordered,* That FMC Corporation, a

corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, department or other device, in connection with the advertising, offering for sale, or sale or distribution of such products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, by print or broadcast advertising, by other promotional material, or by sales representatives' oral statements, that such products are absolutely safe, non-toxic or free of hazard to human beings, warm-blooded animals, birds, fish, beneficial insects, or the environment.

### III

*It is further ordered,* That respondent, FMC Corporation, a corporation, its successors and assigns and respondent's officers, representatives, agents, and employees, directly or through any corporation, subsidiary, division, department or other device, in connection with the advertising, offering for sale, or sale or distribution of such products, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating or causing the dissemination of:

A. Any print advertising or print promotional material which contains any use or efficacy claim or any environmental or safety claim for any such products unless it clearly and conspicuously includes in such print advertising or print promotional material the following statement:

**STOP! ALL PESTICIDES CAN BE HARMFUL TO HEALTH AND THE ENVIRONMENT IF MISUSED. READ THE LABEL CAREFULLY AND USE ONLY AS DIRECTED.**

B. Any broadcast advertisement more than 30 seconds in length which contains any use or efficacy claim or any environmental or safety claim for any such products unless it clearly and conspicuously includes the following statement:

**ALL PESTICIDES CAN BE HARMFUL TO HEALTH AND THE ENVIRONMENT IF MISUSED. READ THE LABEL CAREFULLY AND USE ONLY AS DIRECTED.**

C. Any broadcast advertisement of 30 seconds or less in length which contains any use or efficacy claim or any environmental or safety claim for any such products unless it clearly and conspicuously includes the following statement:

**ALL PESTICIDES CAN BE HARMFUL. READ THE LABEL USE AS DIRECTED.**

*Provided,* That in television advertisements of 10 seconds or less in

length for any such products which contain no direct representations concerning product safety, the requirements of the term "clearly and conspicuously" shall in all cases be met by including the above statement in the video portion of the advertisement.

*Provided, however,* That for purposes of enforcing Paragraph III of this order any advertisement, statement, claim or representation that such products may be employed for a crop or plant use registered under FIFRA, or any other approved use based upon evidence filed in connection with registration under FIFRA shall not be deemed sufficient to require the disclosure of any statement otherwise required under the provisions of Paragraph III; *Provided, further,* That this exception shall be limited to advertisements which promote the respondent's corporate image, which only incidentally promote the sale or distribution of such products and which are published or disseminated for publication by respondent's corporate headquarters' offices in conjunction with respondent's other nonpesticide products.

## IV

Nothing in this order shall be construed to apply to scientific articles published in recognized scientific or agricultural journals or government publications, or reprints thereof, or representations (other than print advertising or other promotional material) before public or governmental forums such as public hearings, scientific meetings, or to governmental agencies, agents, or employees responsible for the regulation, testing, or dissemination of information concerning pesticide products covered by this order.

## V

*It is further ordered,* That nothing in this order shall prohibit the dissemination of product labels (as defined by Section 2(p)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended), or reproductions thereof.

## VI

*It is further ordered,* That should the Federal Trade Commission promulgate a trade regulation rule or industry guide governing the advertising or promotion of products subject to this order, then any pertinent less comprehensive or less restrictive provisions of such rule or guide shall automatically replace any comparable provisions set forth herein which are effective on the date that such rule or guide becomes final and effective.



## VII

*It is further ordered,* That the respondent forthwith distribute a copy of this order to each of the operating departments of respondent's agricultural chemical division and any other operating division engaged in the manufacture, sale, advertising, promotion or distribution of products subject to this order, and to all present and future employees of such operating divisions responsible for the advertising, promotion, distribution or sale of such products.

## VIII

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

## IX

*It is further ordered,* That respondent corporation 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 the provisions of this order.

## X

*It is further ordered,* That this order shall become effective upon service.

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IN THE MATTER OF

WILSONS HOUSE OF SUEDE, ET AL.

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

*Docket C-2737. Complaint, Oct. 14, 1975-Decision, Oct. 14, 1975*

Consent order requiring a Beverly Hills, Calif., manufacturer and retailer of suede and leather wearing apparel, among other things to cease making deceptive pricing and savings claims.

*Appearances*

For the Commission: *George J. Gregores.*

For the respondents: *Glenn M. Alperstein, Gillin, Scott & Alperstein*,  
Hollywood, Calif.

#### COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Wilsons House of Suede, a corporation, and Jerrold A. Wilson, Brian Wilson, and Jeffery Wilson, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Wilsons House of Suede is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 9844 Wilshire Blvd., Beverly Hills, Calif.

Respondents Jerrold A. Wilson, Brian Wilson, and Jeffery Wilson are individuals and 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 business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in manufacturing, advertising, offering for sale, sale and distribution of used and leather wearing apparel.

PAR. 3. In the course and conduct of their business as aforesaid, respondents have caused, and now cause, their said suede and leather wearing apparel when sold, to be shipped from their place of business in the State of California 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. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their suede and leather wearing apparel, respondents have made numerous statements and representations in advertisements in newspapers of interstate circulation and on interstate television respecting the price of their merchandise and the savings afforded purchasers thereof.

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

UP TO 50% OFF The largest selection in the world is at Wilson's! A fine collection of coats have been marked down at up to 50% off. RIGHT NOW!\* \* \* Now is the time to

feel the rich comfort that only suede or genuine leather can offer, by coming into Wilson's House of Suede, during our big 1/2 off Sale!

\* \* \* \* \*

For a limited time, Wilson's is offering \$50 off the regular price of any fur coat or jacket of your choice \* \* \* save a full \$50 over our low price by coming in during this limited "Special" Sale!

\* \* \* \* \*

WILSON'S MEMORIAL DAY SALE IS ON RIGHT NOW! And this is the right time to take advantage of our tremendous selection, marked 20% to 40% down.\* \* \* so hurry for this limited offer Sale! SPECIAL ADDED BONUS! Cut out this coupon right now and bring it in to your nearest store for a spectacular discount \$25 OFF on any long coat of your choice \* \* \* one week only!

\* \* \* \* \*

\$69.95-ONE WEEK ONLY! WILSON'S TOTAL WAREHOUSE SALE!\* \* \* And what's more, there are hundreds more fantastic values like this in our stores during our gigantic WAREHOUSE SALE!\* \* \* We carry the world's largest collection of men's and women's fine suede and leather fashions at lower prices, because we make all our own coats.

\* \* \* \* \*

FACTORY SHOWROOM SAVINGS! That's what you'll find at Wilson's House of Suede and Leather! Because we cut our coats, and sell them direct to you, eliminating the middleman profits, your coat will cost less!

\* \* \* \* \*

SALE IS NOW ON! "Last Year's Prices on This Year's Coats!" \* \* \* This is a "special purchase," made last year by Wilson's, of the finest suedes and leathers \* \* \* and is now available for creating the latest styles in coats and jackets.

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

1. Through the use of the word "SALE," and other words of similar import and meaning not set out specifically herein, that suede and leather wearing apparel could be purchased at special or reduced prices, and purchasers were thereby afforded savings from respondents' regular selling prices.

2. That purchasers of the merchandise referred to would realize a savings of the stated amount from the actual, bona fide price at which respondents offered or sold said merchandise to the public in the recent, regular course of business on a regular basis for a reasonably substantial period of time in the trade area where the representation was made.

3. That the represented reduced prices were available only during the limited period of the sale and would be returned to respondent's presale bona fide offering price or changed to some price substantially higher than the allegedly reduced price, immediately after the completion of the sale.

4. That all styles of wearing apparel pictured in an advertisement were offered at the savings indicated in that particular advertisement or at a "Sale" price.

5. That a substantial supply of suede and leather wearing apparel was available in respondent's stores throughout a stated range of savings, such as "up to 50% off" or "marked 20% to 40% down."

6. That the facility or facilities at which respondents' merchandise was being offered for sale or sold were primarily "warehouses" or "factory showrooms."

7. That all merchandise in respondents' "warehouse" was being offered at reduced prices.

8. That purchasers of suede and leather wearing apparel would realize a savings because respondents manufactured all such apparel in their own factory, or had made a special purchase of materials.

PAR. 6. In truth and in fact:

1. Respondents' merchandise was not being offered for sale at special or reduced prices. To the contrary, the price respondents regularly advertised and their so-called advertised "sale" price were substantially identical and were used to mislead prospective customers into believing there was a saving from a bona fide regular selling or offering price.

2. The purchasers of the merchandise referred to did not realize a savings of the stated amount from the actual, bona fide price at which respondents offered or sold said merchandise to the public in the recent regular course of business on a regular basis for a reasonably substantial period of time in the trade area where the representation was made.

3. Many of the represented reduced prices were not returned to respondents' presale bona fide offering prices, nor changed to some prices substantially near said "regular prices." Thus, the period during which the "reduced" prices were available on many items was not limited to the period of the sale.

4. All styles of wearing apparel pictured in various advertisements were not subject to the savings indicated in the particular advertisement, nor to a "sale" price.

5. A substantial supply of suede and leather wearing apparel was not available in respondents' stores throughout the stated range of savings.

6. The facility or facilities at which said merchandise was being offered for sale or sold were not used primarily for the storage or warehousing of merchandise used by respondents' retail business. Nor did said facilities constitute primarily a "factory showroom" or adjunct to respondents' factory for the purpose of display to retail and wholesale purchasers. Instead, respondents sold or offered their merchandise for sale in facilities regularly used for the display and sale of said merchandise at retail.

7. All merchandise in respondents' "warehouse" was not being offered at reduced prices. Instead, only a minimal number of styles was being so offered.

8. Respondents did not manufacture all suede and leather wearing apparel in their own factory, nor had they made a special purchase of materials which resulted in a lower offering price. Thus, these factors could not enable purchasers to realize a savings.

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

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

PAR. 8. The use by respondents of aforesaid false, misleading, and deceptive statements, representations, and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

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

#### DECISION AND ORDER

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

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 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 Wilsons House of Suede is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 9844 Wilshire Blvd., Beverly Hills, Calif.

Respondents Jerrold A. Wilson, Brian Wilson and Jeffery Wilson 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

##### I

*It is ordered,* That respondents Wilsons House of Suede, a corporation, its successors and assigns, and its officers, and Jerrold A. Wilson, Brian Wilson, and Jeffery Wilson, 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 the manufacturing, advertising, offering for sale, sale and distribution of suede and leather wearing apparel, or any other product or service in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any manner, the amount of savings available to purchasers of respondents' merchandise, or the amount by which the price of merchandise has been reduced, either from the price at which it has been usually and customarily sold by respondents in the recent regular course of business, or from the price from which it has been

usually and customarily sold at retail in the trade area where the representation is made, or from the price at which such merchandise has been offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

2. Misrepresenting, directly or by implication, that the sale of suede and leather wearing apparel or other merchandise at certain prices, terms or conditions is limited to specific days or periods of time.

3. Using the word "sale" or any other words of similar import and meaning in advertising or other promotional materials containing nonsale items without clearly and conspicuously revealing in immediate conjunction with said representations that nonsale items are contained therein and distinctively identifying said nonsale items.

4. Using the words "Up to 50% Off" or "Half-off Sale" or "marked down 20% to 40%" or any other words representing a range of price reductions, unless a reasonably substantial number of items of sale merchandise are available throughout said range.

5. Using the words "warehouse," "factory showroom," or any other words of similar import and meaning; or misrepresenting, in any manner, the nature or status of respondents' business, or the size, description or classification of any of respondents' physical facilities.

6. Using the words "Total Warehouse Sale" or "Warehouse Sale," or any other words of similar import and meaning; or misrepresenting, directly or by implication, that all or a substantial amount of respondents' warehouse stock is offered for sale.

7. Representing that purchasers of respondents' merchandise will realize a savings because respondents manufacture such merchandise in their own factory, or have made a special purchase of materials, or because of any other claimed unique or special method of doing business, event, or situation; unless respondents' business records and/or other information available to respondents establish and show the basis of such representations.

8. Representing, directly or by implication, through the use of terms such as "Sale," "Savings" or in any other manner, that any price is reduced from respondents' former price unless respondents' business records establish and show that such price is not an inconsequential reduction from the price at which such merchandise has been sold or offered for sale in good faith for a reasonably substantial period of time, by respondents in the recent, regular course of their business.

9. Failing to maintain adequate records for at least two years from the date of the publication of the advertisement (a) which disclose the facts upon which any savings claims, including former pricing claims, and similar representations of the type described in Paragraphs 1, 4, 7,

and 8 of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and similar representations of the type described in Paragraphs 1, 4, 7 and 8 of this order can be determined.

*It is further ordered,* That the individual respondents named herein promptly notify the Commission in the event of both (1) the discontinuance of their present business or employment and (2) 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 respondent corporation, its successors and assigns, deliver a copy of this order to cease and desist to all present and future employees of respondents engaged in the preparation, creation or placing of advertising for the offering for sale, sale or distribution of suede and leather wearing apparel and other merchandise, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

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IN THE MATTER OF

ANTELOPE SHORES, INCORPORATED, ET AL.

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

*Docket C-2738. Complaint, Oct. 14, 1975—Decision, Oct. 14, 1975*

Consent order requiring six Denison, Tex., sellers of undeveloped real estate, 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.



*Appearances*

For the Commission: *John J. Hemrick.*

For the respondents: *Charles L. Gullett, Denison, Tex.*

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that the parties named in the caption hereof and more particularly described below and sometimes referred to hereinafter as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending 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:

1. Respondents Antelope Shores, Inc., doing business as Sherwood Shores VII and VIII of Belton; and Castle Land and Livestock Company, doing business as Castle Lake Ranch; and Greenbelt, Inc., doing business as Sherwood Shores IX; and Saint's Roost, Inc. doing business as Mesa Verde Ranch; and Texoma Lakeside Village, Inc., doing business as Mill Creek Meadows, are corporations organized, existing and doing business under and by virtue of the laws of the State of Texas with their principal office and place of business located at P.O. Box 497, 200 S. Austin St., Denison, Tex.

Respondent Sherwood Properties, Inc. of Utah doing business as Sherwood Shores V, is a corporation organized, existing and doing business under and by virtue of the laws of the States of Utah and Texas, with its principal office and place of business located at P.O. Box 497, 200 S. Austin St., Denison, Tex.

Respondent George L. DeArmond is a director of the corporate respondents, and an officer of the corporate respondents except respondent Saint's Roost, Inc. doing business as Mesa Verde Ranch. He formulates, directs and controls the acts and practices of the corporate respondents including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

2. Respondents are now and for sometime last past have been engaged in the advertising, offering for sale and sale of undeveloped real estate to the public.

3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend, and for some time last past have regularly extended, 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.

4. Subsequent to July 1, 1969, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' real estate. On these contracts, hereinafter referred to as "the contract," respondents provide certain consumer credit cost information. Respondents do not provide these customers with any other consumer credit cost disclosures prior to the consummation of the "credit sale" as required by Section 226.8(a) of Regulation Z.

#### COUNT I

Alleging violations of the Truth in Lending Act, the charges of Paragraphs 1, 2, 3 and 4 hereof are incorporated by reference herein as if set forth verbatim.

5. By and through the use of the contract, respondents:

A. Fail to disclose the finance charge and the annual percentage rate above or adjacent to the place for the customer's signature as required by Section 226.8(a)(1) of Regulation Z.

B. Fail to disclose the number of payments scheduled to repay the obligation as required by Section 226.8(b)(3) of Regulation Z.

C. Fail to disclose the "total of payments" using that term as required by Section 226.8(b)(3) of Regulation Z.

D. Fail to use the term "cash down payment" as required by Section 226.8(c)(2) of Regulation Z.

E. Fail to use the terms as applicable "unpaid balance of cash price" or "unpaid balance" or "amount financed" as required by Sections 226.8(c)(3)(5) and (7) of Regulation Z.

F. Fail to disclose the "deferred payment price" using that term as required by Section 226.8(c)(8)(ii) of Regulation Z.

G. Fail to determine on the face of the contract whether the customer expects to use the property purchased from respondents as a principal residence so that it can be determined whether the customer is entitled to any of the rights provided in Section 226.9 of Regulation Z.

#### COUNT II

Alleging violations of the Truth in Lending Act, the charges of Paragraphs 1, 2, 3 and 4 hereof are incorporated by reference herein as if set forth verbatim except as to respondents Saint's Roost, Inc. doing

business as Mesa Verde Ranch and Texoma Lakeside Village, Inc. doing business as Mill Creek Meadows.

6. By and through the use of the contract, respondents, except those excluded, have failed to disclose the annual percentage rate with an accuracy at least to the nearest quarter of one percent as required by Section 226.5(b)(1) of Regulation Z.

#### COUNT III

Alleging violations of the Truth in Lending Act, the charges of Paragraphs 1, 2, 3 and 4 hereof are incorporated by reference herein as if set forth verbatim except as to respondents Castle Land and Livestock Company doing business as Castle Lake Ranch; Saint's Roost, Inc. doing business as Mesa Verde Ranch and Texoma Lakeside Village, Inc. doing business as Mill Creek Meadows.

7. By and through the use of the contract, respondents, except those excluded, have failed to use the term "cash price" as required by Section 226.8(c)(1) of Regulation Z.

#### COUNT IV

Alleging violations of the Truth in Lending Act, the charges of Paragraphs 1, 2, 3 and 4 hereof are incorporated by reference herein as if set forth verbatim except as to respondents Castle Land and Livestock Company doing business as Castle Lake Ranch; Greenbelt, Inc. doing business as Sherwood Shores IX; Sherwood Properties, Inc. of Utah doing business as Sherwood Shores V and Texoma Lakeside Village, Inc. doing business as Mill Creek Meadows.

8. In the ordinary course of their business as aforesaid, respondents, except those excluded, cause to be published advertisements of their property, as "advertisement" is defined in Regulation Z. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of their property.

Typical and illustrative of said advertisements, but not all inclusive thereof are:

A. 11.22 Acre tract — Cash Price \$3,310 or owner will finance with \$110 down payment, 10 year payment at \$38.83 per month. 8% simple interest.

B. Sherwood Shores — \$995 — Will sell for \$695. \$70 down and \$20 per month.

9. By and through the use of the advertisements set forth in Paragraph Eight hereof, respondents, except those excluded, have stated the amount of the down payment, the number of monthly installments, the period of repayment, and the simple rate of interest without also disclosing the following items in the terminology required by Section 226.8 of Regulation Z:

A. Failed to use the term "cash price" to describe the cash price of the property as required by Section 226.10(d)(2)(i) of Regulation Z.

B. Fail to use the term "cash down payment" to describe the amount of the down payment in cash as required by Section 226.10(d)(2)(ii) of Regulation Z.

C. Fail to disclose the number of installments scheduled to repay the obligation as required by Section 226.10(d)(2)(iii) of Regulation Z.

D. Fail to disclose the "annual percentage rate" using that term as required by Sections 226.10(d)(2)(iv) of Regulation Z.

E. Fail to disclose the "deferred payment price" using that term as required by Section 226.10(d)(2)(v) of Regulation Z.

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

#### DECISION AND ORDER

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

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

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

1. Respondents Antelope Shores, Incorporated doing business as

Sherwood Shores VII and VIII of Belton; Castle Land and Livestock Company doing business as Castle Lake Ranch; Greenbelt, Inc., doing business as Sherwood Shores IX; Saint's Roost, Inc., doing business as Mesa Verde Ranch, and Texoma Lakeside Village, Inc., doing business as Mill Creek Meadows, are corporations organized, existing and doing business under and by virtue of the laws of the State of Texas with their principal office and place of business located at P.O. Box 497, 200 S. Austin St., Denison, Tex.

Respondent Sherwood Properties, Inc., of Utah doing business as Sherwood Shores V, is a corporation organized, existing and doing business under and by virtue of the laws of the States of Utah and Texas, with its principal office and place of business located at P.O. Box 497, 200 S. Austin St., Denison, Tex.

Respondent George L. DeArmond is a director of the corporate respondents, and an officer of the corporate respondents except respondent Saint's Roost, Inc., doing business as Mesa Verde Ranch. He formulates, directs and controls the acts and practices of the corporate respondents including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondents.

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, Antelope Shores, Incorporated, a corporation doing business as Sherwood Shores VII and VIII of Belton; Castle Land and Livestock Company, a corporation doing business as Castle Lake Ranch; Greenbelt, Inc., a corporation doing business as Sherwood Shores IX; Saint's Roost, Inc., a corporation doing business as Mesa Verde Ranch; Sherwood Properties, Inc., of Utah, a corporation doing business as Sherwood Shores V; and Texoma Lakeside Village, Inc., a corporation doing business as Mill Creek Meadows, their successors and assigns, and their officers, and George L. DeArmond, individually and as an officer or director of said corporations, and respondents' 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 CFR §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 finance charge and the annual percentage

rate above or adjacent to the place for the customer's signature as required by Section 226.8(a)(1) of Regulation Z.

2. Failing to disclose the number of payments scheduled to repay the obligation as required by Section 226.8(b)(3) of Regulation Z.

3. Failing to disclose the "total of payments" using that term as required by Section 226.8(b)(3) of Regulation Z.

4. Failing to use the term "cash downpayment" as required by Section 226.8(c)(2) of Regulation Z.

5. Failing to use the term, or terms as applicable, "unpaid balance of cash price" or "unpaid balance" or "amount financed" as required by Sections 226.8(c)(3), (5) and (7) of Regulation Z.

6. Failing to disclose the "deferred payment price" using that term as required by Section 226.8(c)(8)(ii) of Regulation Z.

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

8. Failing to have the following notice printed in bold face type on the face of each of the respondents' contracts:

NOTICE

IF YOU EXPECT TO USE THIS PROPERTY AS YOUR PRINCIPAL RESIDENCE YOU HAVE UNTIL MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING THE DAY YOU SIGN THIS CONTRACT TO CANCEL THIS TRANSACTION. IT IS THEREFORE REQUIRED THAT YOU COMPLETE THE FOLLOWING:

I DO	I DO NOT
EXPECT TO USE THIS PROPERTY AS THE SITE OF MY PRINCIPAL RESIDENCE	

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

9. Failing to provide two copies of the notice of the right of rescission to each customer so entitled in the manner and form required by Section 226.9 of Regulation Z.

II

*It is further ordered,* That respondents Antelope Shores, Incorporated, a corporation doing business as Sherwood Shores VII and VIII of Belton; Castle Land and Livestock Company, a corporation doing business as Castle Lake Ranch; Greenbelt, Inc., a corporation doing business as Sherwood Shores IX; and Sherwood Properties, Inc., of Utah, a corporation doing business as Sherwood Shores V, their successors and assigns, and their officers, and George L. DeArmond, individually and as an officer or director of said corporations, and

respondents' 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 CFR §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. §1601, *et seq.*), do forthwith cease and desist from:

10. Failing to disclose the annual percentage rate with an accuracy of at least to the nearest quarter of one percent as required by Section 226.5(b)(1) of Regulation Z.

## III

*It is further ordered,* That respondents Antelope Shores, Incorporated, a corporation doing business as Sherwood Shores VII and VIII of Belton; and Greenbelt, Inc., a corporation doing business as Sherwood Shores IX; and Sherwood Properties, Inc., of Utah, a corporation doing business as Sherwood Shores V, their successors and assigns, and their officers, and George L. DeArmond, individually and as an officer or director of said corporations, and respondents' 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 CFR §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. §1601, *et seq.*), do forthwith cease and desist from:

11. Failing to use the term "cash price" as required by Section 226.8(c)(1) of Regulation Z.

## IV

*It is further ordered,* That respondents Antelope Shores, Incorporated, a corporation doing business as Sherwood Shores VII and VIII of Belton; and Saint's Roost, Inc., a corporation doing business as Mesa Verde Ranch, corporations, their successors and assigns, and their officers, and George L. DeArmond, individually and as an officer or director of said respondent corporations, and respondents' 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 CFR §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. §1601, *et seq.*), do forthwith cease and desist from:

12. Representing, directly or by implication, in any advertisement as "advertisement" is defined in Regulation Z, that no downpayment is required, or the amount of the downpayment or of any installment payment required (either in dollars or as a percentage), the dollar

amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it also clearly and conspicuously sets forth all of the following items in terminology prescribed under Section 226.8, as required by Section 226.10(d)(2):

- (a) the cash price;
- (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;
- (d) the amount of the finance charge expressed as an annual percentage rate; and
- (e) the deferred payment price.

*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 deliver a copy of this order to cease and desist to all present and future personnel of respondents who are engaged in any aspect of the 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 copy of this 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 this order.

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