

Complaint

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the Commission's cease and desist order. The Commission has determined that this matter is indistinguishable from the matter of *Wilbanks Carpet Specialists, Inc., et al.*, Docket 8933, inasmuch as the record presents insufficient evidence that a consumer warning is a necessary or appropriate means for the termination of the acts or practices complained of or for the prevention of their recurrence. Having declined to order a consumer warning in the *Wilbanks* matter, the Commission has concluded that the same disposition is warranted herein.

Accordingly, the initial decision issued by the judge should be modified in accordance with the foregoing views of the Commission, and, as so modified, adopted as the decision of the Commission:

It is ordered, That the initial decision issued by the administrative law judge be modified by striking therefrom the following:

Those portions of the conclusions of law which concern "consumer warning" relief (at pp. 45-47 [pp. 1112-1113 herein], *sub nom.* "THE REMEDY"); and the second "FURTHER ORDERED" paragraph of the order to cease and desist issued by the judge (at p. 57) [p. 1120 herein].

As so modified, the initial decision is hereby adopted.

IN THE MATTER OF

LAWRY'S FOODS, INC.

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

Docket C-2575. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974

Consent order requiring a Los Angeles, Calif., manufacturer and distributor of salad dressings, seasonings, and other food products, among other things to cease discriminating in paying promotional allowances among competing distributors of its products.

Appearances

For the Commission: *Paul R. Roark.*

For the respondent: *Thomas J. McDermott, Jr., Kadison, Peaelzer, Woodward & Quinn, Los Angeles, Calif.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the party named in the caption hereof, and hereinafter more fully described, has violated and is now violating the provisions of Section 2(d) of the

Clayton Act, as amended (U.S.C. Title 15, Section 13), and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Lawry's Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 568 San Fernando Road, Los Angeles, Calif.

PAR. 2. Respondent is now and has been for many years engaged in the manufacture, distribution and sale of salad dressings, seasonings and other food products to customers throughout the United States. These customers offer such merchandise for sale to the public.

PAR. 3. In the course and conduct of its business, respondent is now and has been at all times referred to herein engaged in commerce, as "commerce" is defined in the Clayton Act, as amended. Respondent ships its products or causes such products to be shipped from its factory in Los Angeles, Calif., to purchasers located in other states. Respondent's sales of its products are substantial, and in the calendar year of 1971 amounted to \$32,550,838.

PAR. 4. In the course and conduct of its business in commerce, respondent sells its products of like grade and quality, consisting of salad dressings, seasonings and other food products to purchasers who are in substantial competition with each other in the sale and distribution of such products.

PAR. 5. In the course and conduct of its business in commerce as aforesaid, respondent has paid or authorized payment of money, goods or other things of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished or agreed to be furnished by or through such customers in connection with the handling, sale or offering for sale of respondent's products and respondent has not made or offered to make such payments, allowances or consideration available on proportionally equal terms to all of its other customers competing with the customers so favored in the sale and distribution of its products.

For example, respondent has paid promotional allowances to certain customers wherein minimum purchases were required to obtain such promotional allowances. Proportionally equal promotional allowances were not made available to those competing customers who could not meet the stated minimum purchase requirements.

PAR. 6. Respondent's acts and practices as alleged in Paragraph Five above are in violation of Section 2(d) of the aforesaid Clayton Act, as amended.

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 Los Angeles Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 2(d) of the Clayton Act as amended (U.S.C. Title 15, Section 13); 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, 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 Lawry's Foods, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 568 San Fernando Road, Los Angeles, 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

It is ordered, That respondent Lawry's Foods, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the sale of salad dressings, seasonings, and other food products, in commerce as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Making or contracting to make to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any promotion or any other services or facilities furnished by or through such customer, in connection with the handling, offering for sale, or sale of said products, unless such payment or consideration is made available on proportionately equal terms to all other customers competing in the distribution of such products.

It is further ordered, That respondent shall forthwith distribute a copy of this order to all directors and officers of Lawry's Foods, Inc., and to any operating divisions if and when they are established.

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

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

IN THE MATTER OF

ODEN DISTRIBUTING CO., INC., ET AL.

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

Docket C-2576. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974

Consent order requiring an Omaha, Neb., retailer of sewing machines and other products, among other things to cease using deceptive contests and false pricing claims to sell sewing machines and other products.

Appearances

For the Commission: *F. Kelly Smith, Jr.*

For the respondents: *David S. Lathrop, Lathrop, Albracht & Dolan,*
Omaha, Neb.

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

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Commission, having reason to believe that Oden Distributing Co., Inc., a corporation, and Donald W. Oden, 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 Oden Distributing Co., Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Nebraska, with its office and principal place of business located at 4814 Dodge Street, in the city of Omaha, State of Nebraska.

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

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

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused their products, when sold, to be shipped from their place of business in the State of Nebraska to purchasers thereof located in the State of Iowa and 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 business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms, and individuals in the sale of sewing machines and other products and related services; said sewing machines and other products and services being of the same general kind and nature as those sold by respondents' competition.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products and services, the respondents have made and are now making numerous statements and representations in newspapers, direct mail advertising, promotional materials, and by other means with respect to the prices, contests, promotional programs, prizes, characteristics, and guarantees of their merchandise.

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

You have been selected at random in your area to participate in the all new

60TH ANNIVERSARY JACKPOT

It's Fun! It's Easy! Remove the Lucky Pull Tab on this letter. You may have already hit the NECCHI Jackpot GRAND PRIZE or one of many other prizes. If you have a symbol shown at the bottom of the page, you are a WINNER.

YOUR JACKPOT UNDER TAB _____ PULL TAB

EXAMPLE: If you should have 3 NECCHI'S (GRAND PRIZE) you will receive a brand new SEWING MACHINE. THIS COMPLETE PORTABLE COMES EQUIPPED TO ZIG-ZAG, SEW FORWARD AND REVERSE, MONOGRAM, MAKE BUTTON-HOLES, OVERCAST, AND DO MOST NEEDED STITCHES.

The only requirement our company makes is that you take out a 3 year service warranty and instruction policy at \$1.50 per month. * * *

* * * * *

Here is your opportunity to SAVE! SAVE! SAVE! and beat the high cost of clothing the easy, simplified NECCHI-ALCO way. Yes, with the enclosed Introductory Credit Check you can own a world famous * * * NECCHI or ALCO Sewing Machine at savings never before offered! * * *

EXAMPLE:

NEW ZIG-ZAG SEWING MACHINE	\$99.50
Less Your Credit Check	<u>50.00</u>
YOUR TOTAL COST ONLY	\$49.50

* * * * *

You are one of a very special group to receive this offer

Ask the people next door * * * * (sic)

* * * * (sic) Confirm the fact that their name is not in the group selected to receive this letter. * * * *

You are not a casual choice * * * (sic) this letter was mailed to you after careful investigation of the Omaha area, its growth rate, residents buying habits, and the market potential of our product.

Here's what we intend to do for you and why! We want to place a certain number of our newest model sewing machines in selected homes like yours and for a very good reason. A company survey has shown that owners of our machines sell an average of two units (usually by referral to friends, relatives, etc.) within three years of purchase. Thousands of dollars could be spent advertising in newspapers, T.V., radio, etc., but we want instead to pass these large amounts directly to you.

Here's how * * * (sic) a new ZIG ZAG equipped sewing machine that buttonholes, monograms, overcasts, sews reverse, darns-mends, and does most any sewing job regularly sells for \$149.95 (sic). This complete portable machine will be made available to you for a total cost of only \$44.95. A terrific direct savings to you of \$105. Budget terms available if you prefer. Remember * * * (sic) your total cost is only \$44.95.

PAR. 6. Through the use of the statements and representations set forth above and others of similar import and meaning, not specifically set out herein, separately and in connection with the oral statements and representations of their employees, agents, and representatives, respondents:

1. Represented, directly or by implication, that they have conducted bona fide contests, used analytical or scientific sampling techniques, or conducted marketing studies of the Omaha, Nebraska/Council Bluffs, Iowa, metropolitan area.

2. Represented, directly or by implication, that they offered free sewing machines or other products and services;

3. Represented, directly or by implication, that purchasers of products or services advertised were afforded savings equal to the difference between higher and lower prices claimed or listed in said statements or other representations.

PAR. 6. In truth and in fact:

1. Respondents have not conducted bona fide contests, nor have they used analytical or scientific sampling techniques or marketing studies of the Omaha, Nebraska/Council Bluffs, Iowa, metropolitan area.

2. The offered sewing machines or other products and services are not free but are offered only upon the contingent purchase of other products, services, warranties or instruction policies from respondents.

3. Purchasers of products and services were not afforded savings from the prices at which identical products and services were sold or offered for sale by respondents in the recent, regular course of their business.

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

PAR. 8. Through the use of aforesaid representations and others of similar import and meaning, not specifically set out herein, respondents have failed to disclose certain material facts. Respondents have stated that recipients of certain advertisements were eligible to receive free sewing machines when they were designated in a contest as grand prize winners or special discounts when they were designated as winners of lesser prizes; when, in fact, all or nearly all recipients of said advertisements were grand prize winners and such designation did not entitle them to a free sewing machine without purchase of additional products or services.

Respondents' failure to disclose either the percentage of winners in each contest category or the nature of contingent purchases necessary for receipt of free sewing machines or other products and services has the capacity and tendency to lead said recipients to believe they were winners of a contest which entitled them to valuable and rare prizes.

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

PAR. 9. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices, and their failure to disclose material facts, has had, and now has, a capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations are true, and into the purchase of sewing machines and other products and services from respondents by reason of said erroneous and mistaken belief.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Kansas City 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 Oden Distributing Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State

of Nebraska, with its office and principal place of business located at 4814 Dodge Street, city of Omaha, State of Nebraska.

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

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

ORDER

It is ordered, That Oden Distributing Co., Inc., a corporation, its successors and assigns, and its officers, and Donald W. Oden, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, and sale of sewing machines and other products and services in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, orally or in writing, that recipients of any advertising or promotional material were selected on the basis of analytical or scientific sampling techniques, or by use of marketing studies, or by use of any other device unless such device or method was, in fact, employed as stated.

2. Failing to maintain records and data which are open to the inspection of the Federal Trade Commission and which evidence the method used and other relevant information in support of such representations of the type dealt with in Paragraph 1 above.

3. Representing, directly or by implication, orally or in writing, that any price is the respondents' regular price for any article of merchandise or service unless said amount is the price at which such merchandise or service has been sold or offered for sale by respondents for a reasonably substantial period of time in the recent, regular course of their business and not for the purpose of establishing fictitious higher prices upon which a deceptive comparison or a "free" or similar offer might be based.

4. Representing, directly or by implication, orally or in writing, that a purchaser of respondents' merchandise or services will receive a "free" sewing machine or any other "free" merchandise, service, prize or award unless all conditions, obligations, or other prerequisites to the receipt and retention of such merchandise,

services, gifts, prizes or awards are clearly and conspicuously disclosed at the outset in close conjunction with the word "free" wherever it first appears in each advertisement or offer.

5. Representing, directly or by implication, orally or in writing, that any merchandise or service is furnished "free" or at no cost to the purchaser of advertised merchandise or services, when, in fact, the cost of such merchandise or service is regularly included in the selling price of the advertised merchandise or service.

6. Representing, directly or by implication, orally or in writing, that a "free" offer is being made in connection with the introduction of new merchandise or services offered for sale at a specified price unless the respondents expect, in good faith, to discontinue the offer after a limited time and commence selling such merchandise or service, separately, at the same price at which it was sold with a "free" offer.

7. Representing, directly or by implication, orally or in writing, that merchandise or service is being offered "free" with the sale of merchandise or service which is usually sold at a price arrived at through bargaining, rather than at a regular price, or where there may be a regular price, but where other material factors such as quantity, quality, or size are arrived at through bargaining.

8. Representing, directly or by implication, orally or in writing, that a "free" offer is available in a trade area for more than six (6) months in any twelve (12) month period. At least thirty (30) days shall elapse before another such "free" offer is made in the same trade area. No more than three (3) such "free" offers shall be made in the same area in any twelve (12) month period. In such period, respondents' sale in that area of the product or service in the amount, size or quality promoted with the "free" offer shall not exceed fifty percent (50%) of the total volume of its sales of the product or service, in the same amount, size or quality, in the area.

9. Representing, directly or by implication, orally or in writing, that a product or service is being offered as a "gift," "without charge," "bonus," or by other words or terms which tend to convey the impression to the consuming public that the article of merchandise or service is free, when the use of the term "free" in relation thereto is prohibited by the provisions of this order.

10. Representing, directly or by implication, orally or in writing, that by purchasing any merchandise or service:

- a. Customers 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 in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

b. Customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise or service in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise or service at the compared price or some higher price.

c. Customers are afforded savings amounting to the difference between respondents' stated price and a compared value price for comparable merchandise or service, unless substantial sales of like grade and quality are being made in the trade area at the compared price or higher price and unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise or service of like grade and quality.

11. Failing to maintain and produce for inspection or copying for a period of three (3) years, adequate records (a) which disclose the facts upon which any savings claims, sale claims and other similar representations as set forth in Paragraph 10 of this order are based and (b) from which the validity of any savings claims, sales claims and similar representations can be determined.

12. Representing, directly or by implication, that respondents conduct contests, unless such contests are actually conducted and advertisements or notices concerning said contests fully, clearly, and conspicuously disclose each and every of the following delineated items:

a. The total number of prizes which will be awarded in each prize category.

b. The nature of the prizes together with their value, which value must be stated as the value at which the identical or substantially similar item was sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business.

c. The approximate numerical odds of winning each such prize; provided, however, that in a promotional device in which the odds cannot be determined with reasonable accuracy, respondents shall clearly and conspicuously disclose the approxi-

mate number of individuals to whom the promotional device is being disseminated if such fact may be reasonably determined.

d. All terms, conditions and obligations with which individuals will be asked to or must comply with in order to obtain a prize.

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

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include 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 of their present and future personnel engaged in the offering for sale, or sale of memberships, services, or any other products or services, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

IN THE MATTER OF

AMERICAN ROOFING AND REMODELING CO.

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

Docket C-2577. Complaint, Oct. 16, 1974—Decision, Oct. 16, 1974

Consent order requiring a Newark, Calif., home improvement contracting firm, 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.

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*Appearances*For the Commission: *Paul D. Hodge.*For the respondent: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Richard A. Edson, trading and doing business as American Roofing and Remodeling Co., hereinafter referred to as respondent, has violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Richard A. Edson is an individual trading and doing business as American Roofing and Remodeling Co., with his principal office and place of business located at 5133 Ramsgate Drive, Newark, Calif.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution to the public of home improvement products, including, but not limited to, residential siding, and in the installation thereof.

PAR. 3. In the ordinary course and conduct of his business, as aforesaid, respondent regularly extends, and for some time last past has 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.

PAR. 4. Subsequent to July 1, 1969, respondent, in the ordinary course of business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, has caused and now is causing customers to enter into contracts for the purchase of respondent's home improvement products. On these contracts, hereinafter referred to as "the contract" respondent has provided certain consumer credit cost information, but has not provided his customers with certain other consumer credit cost disclosures.

PAR. 5. By and through the use of the contract, as set forth in Paragraph Four, respondent has failed to:

1. Disclose the date on which the finance charge begins to accrue

when different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

2. Disclose the "annual percentage rate," using that term, in credit transactions where finance charges are imposed, as required by Section 226.8(b)(2) of Regulation Z.

3. Disclose the sum of all payments required, and describe that sum as the total of payments, as required by Section 226.8(b)(3) of Regulation Z.

4. Provide a description of the type of any security interest held or to be retained or acquired by the creditor in connection with the transaction, as required by Section 226.8(b)(5) of Regulation Z.

5. Identify the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

6. Use the term "cash price," as defined in Section 226.2(i) of Regulation Z, to describe the purchase price of the transaction, as required by Section 226.8(c)(1) of Regulation Z.

7. Use the term "cash downpayment" to describe the downpayment in money made in connection with the transaction, as required by Section 226.8(c)(2) of Regulation Z.

8. Use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by Section 226.8(c)(3) of Regulation Z.

9. Disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(4) of Regulation Z.

10. Disclose the sum of the unpaid balance of cash price and all other charges and describe that sum as the unpaid balance, as required by Section 226.8(c)(5) of Regulation Z.

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

12. Disclose the "finance charge," using that term, as required by Section 226.8(c)(8)(i) of Regulation Z.

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

PAR. 6. By and through the use of the contract, as set forth in Paragraph Four, respondent retains or acquires a security interest in real property which is or is expected to be used as the principal residence of the customer. The customer thereby has the right to rescind the transaction, as provided in Section 226.9(a) of Regulation Z.

Respondent has failed, and is failing, to provide each customer, who has the right to rescind with the required notice prescribed by Section 226.9(b) of Regulation Z, as required by that Section.

PAR. 7. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the 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 Truth in Lending Act and the implementing regulation promulgated thereunder and 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, 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 Richard A. Edson is an individual trading and doing business as American Roofing and Remodeling Co., with his principal office and place of business located at 5133 Ramsgate Drive, Newark, 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

It is ordered, That respondent Richard A. Edson, an individual trading and doing business as American Roofing and Remodeling Co., or under any other name or names, and respondent's agents, representatives, and employees, successors and assigns, directly or through any corporation, subsidiary, division or other device, in connection with any extension or arrangement of consumer credit or advertisement to aid, promote, or assist directly or indirectly any arrangement or extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to disclose the date on which the finance charge begins to accrue when different from the date of the transaction, as required by Section 226.8(b)(1) of Regulation Z.

2. Failing to disclose the term "annual percentage rate," using that term, in credit transactions where finance charges are imposed, as required by Section 226.8(b)(2) of Regulation Z.

3. Failing to disclose the sum of all payments required, and describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

4. Failing to provide a description of the type of any security interest held or to be retained or acquired by the creditor in connection with the transaction, as required by Section 226.8(b)(5) of Regulation Z.

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

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

7. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the transaction, as required by Section 226.8(c)(2) of Regulation Z.

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

9. Failing to disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by Section 226.8(c)(4) of Regulation Z.

10. Failing to disclose the sum of the unpaid balance of cash price

and all other charges and describe that sum as the "unpaid balance," as required by Section 226.8(c)(5) of Regulation Z.

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

12. Failing to disclose the "finance charge," using that term, as required by Section 226.8(c)(8)(i) of Regulation Z.

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

14. Failing, in any transaction in which respondent retains or acquired a security interest in real property which is used or is expected to be used as the principal residence of the customer, to provide each customer with notice of the right to rescind in the manner and form specified in Sections 226.9(b) and 226.9(f) of Regulation Z, prior to consummation of the transaction.

15. 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, at the time and in the manner, form, and amount required by Sections 226.6, 226.8, 226.9, and 226.10 of Regulation Z.

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, incorporation, partnership, sale or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That respondent deliver a copy of this order to cease and desist to each of his operating divisions and to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

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

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IN THE MATTER OF

JACK LA LANNE MANAGEMENT CORP., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2578. Complaint, Oct. 17, 1974—Decision, Oct. 17, 1974*

Consent order requiring a chain of Jack La Lanne health spas in the New York City area, among other things to cease misrepresenting the price of memberships and the benefits and facilities available to members, and using deceptive collection methods. The order contains a provision to insure that customers sued by the spas receive adequate notice of the suits.

Appearances

For the Commission: *George E. Schulman.*

For the respondents: *Irving Scher, Weil, Gotshal & Manges, New York, N.Y.*

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 Jack La Lanne Management Corp., Jack La Lanne Health Enterprises, Inc., Canadian International Health Spa, Inc., Jack La Lanne Madison Health Spa, Inc., Jack La Lanne Executive Health Spa, Inc., Jack La Lanne Lefrak City, Inc., Jack La Lanne Kings Highway, Inc., Jack La Lanne 5 Towns Health Club, Inc., Jacques-line Health Spa, Inc., Jack La Lanne Biltmore Health Spa, Inc., Jack La Lanne Fort Lee Health Spa, Inc., Jack La Lanne 86th St. Health Spa, Inc., Jack La Lanne Fifth Avenue Health Spa, Inc., Churchill Collection Service, Inc., corporations, and Harry Schwartz, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. For the purpose of this proceeding, the following definition shall apply:

Health spa. An establishment or establishments which provide services or facilities which are purported to assist patrons to improve their physical condition or appearance through change in weight, weight

control, treatment, dieting, or exercise. The term includes establishments designated as "reducing salon," "gym," "health studio," "health club," and other terms of similar import.

PAR. 2. Respondent Jack La Lanne Management Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y.

Respondent Jack La Lanne Management Corp. advertises, offers to sell and sells health spa services or memberships to the purchasing public. Its volume of business has been, and is substantial.

PAR. 3. Respondent Jack La Lanne Health Enterprises, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y.

Respondent Canadian International Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Madison Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 551 Madison Avenue, New York, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Executive Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at Woolworth Building, 233 Broadway, New York, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Lefrak City, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 98-30 57th Avenue, Elmhurst, N.Y. It advertises,

offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Kings Highway, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 2032 Coney Island Avenue, Brooklyn, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne 5 Towns Health Club, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 961 Broadway, Woodmere, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jacqueline Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 2530 Flatbush Avenue, Brooklyn, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Biltmore Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at Madison Avenue and 43rd Street, New York, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Fort Lee Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 100 Lynwood Plaza, Fort Lee, N.J. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne 86th Street Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 144 East 86th Street, New York, N.Y. It

advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Jack La Lanne Fifth Avenue Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 53rd Street and Fifth Avenue, New York, N.Y. It advertises, offers for sale, sells and provides health spa services or memberships to the purchasing public, and requests and collects payment of accounts. Its volume of business has been, and is substantial.

Respondent Churchill Collection Service, Inc. is a corporation organized and existing under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y., and with a post office box maintained at East Elmhurst, N.Y. It ceased doing business in November, 1972.

Respondent Harry Schwartz is an individual and is an officer and principal shareholder of the corporate respondents. He formulates, directs and controls the acts and practices of the said corporate respondents, including the acts and practices hereinafter set forth. His business address is 245-24 Horace Harding Expressway, Little Neck, N.Y.

PAR. 4. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale and sale of health spa memberships of various types; the financing of the purchase by the general public of health spa services or memberships; the collection of members' accounts; and the general management and supervision of said health spas located in the States of New York and New Jersey.

In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of services or use of facilities, respondents have disseminated, and caused the dissemination of, certain advertisements by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, sending promotional materials to persons located in various States of the United States, by means of the United States mail, advertisements inserted in newspapers of interstate circulation and by television broadcasts transmitted by television stations located in the State of New York, 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 health spa memberships.

Accordingly, respondents have maintained, and do maintain a course and conduct of business in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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PAR. 5. In the course and conduct of their business as aforesaid, respondents have made certain statements and representations, orally and in writing, in their advertisements, sales promotion literature and directly through their sales personnel and other representatives, with respect to the price of said health spa memberships and the benefits and facilities available to persons who purchase memberships.

Typical of the statements and representations in said advertisements and sales promotion literature, but not all inclusive thereof are the following:

(a) Enjoy New York's Most Complete and Luxurious Health, Fitness and Relaxation Facilities

Tropical swimming pools
 Relaxing Steam Rooms
 Authentic Turkish Steam Rooms
 Hot Massaging Whirlpools
 Eucalyptus inhalator rooms
 Fully equipped broadloomed gyms
 Jogging track and jogging machines
 Special exclusive programs and equipment

- (b) Avoid a price increase! Inquire about low Phase 2 rates ending soon!
 (c) Last 2 days to reserve and AVOID A PRICE INCREASE.
 (d) Low economical Phase 2 rates expire May 27 or sooner is quota if filled.
 (e) Final Days * * * to enroll on low Summer rates.
 (f) Final 7 days or sooner if quota is reached.
 (g) FINAL DAY to enroll on low summer rates!
 (h) GRAND OPENING OFFER available at all locations to celebrate our newest spa.
 (i) Individual, personal, reducing and weight gaining programs for men and women.
 (j) LAST 2 DAYS! TO AVOID A PRICE INCREASE!
 (k) Low 1971 Price Freeze Rates End Dec. 23rd (or sooner if quota is reached at each location).
 (l) THE LOWEST PRICES EVER AGAIN!
 (m) You can shape up and trim down while you enjoy a scientifically designed program of relaxing exercise that's tailored specifically to help you reach your personal figure goal.
 (n) Low Winter Offer Ends Soon!
 (o) Limited enrollment for evening attendance still being accepted.
 (p) You can shape up fast with Jack La Lanne's exclusive 14 day slimming plan * * * in as little as 14 days you can lose up to 5" off waist, hips, legs and thighs and up to 5 to 20 pounds * * *.
 (q) Get into a new bikini, call Jack La Lanne. Find out about our 14 Day Slimming Program to shape up fast for the spring.
 (r) Chester Kober Proves that Jack La Lanne's 14 Day Slimming Plan Really Works! "I Lost 6 lbs. in 6 Visits."
 (s) 14 day slimming program * * * lose up to 5, 10 or even 20 lbs. before summer.
 (t) Cindy is one of Jack La Lanne's *professional* instructresses. She's together herself, and makes others the same way, using secrets taught by Jack La Lanne, the expert. But Cindy is not the only one that knows the secrets. All of Jack La Lanne's *professional* instructresses do * * * (The spa manager will) make an appointment for you with one of

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Jack La Lanne's *professionals*. You can discuss your problems with her. Get *professional* answers. (Emphasis added.)

Additionally, respondents utilize "after" pictures and other pictorial representations of participants who describe their achievements or success in respondents' programs.

Typical and illustrative albeit neither verbatim nor all inclusive, of said oral statements and representations made to prospective members are statements and representations which imply, directly or indirectly, that the number of memberships is limited, that the facilities are never crowded, that special price offers are about to expire, that special price offers represent significant savings, that prices will rise shortly, that members may pay on a weekly basis, that charter prices are less expensive than regular rates which will prevail upon the opening of the health spa, that the health spa is due to open on some specific date, that all members receive personal instruction and programs are altered or designed to fit the physical condition of each member, that the price is a certain number of dollars per week or lesson, and that results can be assured or predicted.

PAR. 6. By and through the use of said advertisements and promotional materials, and others of similar import and meaning but not expressly set out herein, and by the use of said contract provisions and sales methods and statements, and by oral statements and representations made by salesmen, agents and representatives of the respondent health spa, respondents have represented and are now representing directly or by implication that:

1. The prices of many programs and services which are being offered are discount or special prices or that charter members are receiving a special price which will not be made available for other health spa members after the opening of the new health spa.

2. The prices or terms of many of the programs offered are available only for a limited period of time or to a limited number of people.

3. Respondents' programs do not involve memberships or long-term contractual obligations, and patrons can purchase respondents' services on a per week basis.

4. The results which are depicted in "after" photographs, and other pictorial representations contained in advertisements, and employed as part of the oral sales presentation, will be achieved by any person participating in respondents' program.

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

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6. In fourteen (14) days, or some similarly specified short period of time or number of visits, it is possible for every member to lose five (5) to twenty (20) pounds or to attain other significant changes in body size, configuration or weight.

7. All of the different types of equipment and facilities advertised are available at every one of respondents' health spas.

8. Respondents' salons use reducing methods which are scientifically designed and are administered by professionally trained personnel.

9. Personal instruction for all members is offered and available at all times.

10. Respondents' exercise program is personally designed for each individual's particular physical condition and, if necessary, planned exercises are provided to be performed at home.

11. There is a limit on the number of memberships which are available for sale at each of the health spas so that the facilities would not be overcrowded.

12. Respondents sell monthly or weekly programs, and programs extending for a similarly limited period of time.

13. The prices of memberships and services which are being offered are special prices available only for a limited period of time before a price increase.

14. Respondents "guarantee" that persons who undertake their programs, services, treatments, or exercises will experience certain changes in body size, configuration or weight.

15. Health spas for which respondents sell charter memberships will open on specified dates.

PAR. 7. In truth and in fact:

1. The prices of programs and services which are being offered are not discount prices, or special prices, and the prices at which charter memberships are sold are not special prices nor are they limited to charter members. They are the usual and customary prices charged for respondents' programs and services, and they have been substantially the same for an extended period of time.

2. The prices and terms of many of the programs offered are not available only for a limited time or to a limited number of people.

3. Ordinarily respondents' patrons are required to sign a contract obligating them to a lengthy program of services and payments. Individual sessions cannot be purchased from respondents.

4. The results depicted in "after" photographs and other pictorial representations contained in advertising and employed as part of the oral sales presentation will not be achieved by every person participating in respondents' program.

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

6. It is not possible for every person who might become a member of respondents' health spas to achieve a specified reduction in weight or other specified changes in body size or configuration in a stated period of time.

7. All of the different types of equipment and facilities advertised are not available at every one of respondents' health spas.

8. Respondents' methods of weight reduction have neither been scientifically designed nor administered by professionally trained personnel.

9. Instruction is not offered or made available on a personal basis to all members at all times.

10. Respondents' exercise program is basically the same for all members regardless of personal physical condition and no exercises are prepared or planned to meet particular physical conditions or for use in the home.

11. In the main there is no limit on the number of memberships available for sale at each of respondents' health spas, and prospective members have not been turned away at any time because memberships are oversubscribed.

12. Respondent does not sell monthly or weekly programs, fourteen day programs or programs for a similarly limited period of time. Its regular membership is customarily for a period of one year, although other lengths of time have, on occasion, been sold.

13. The prices at which memberships and services are sold are not special prices nor are they available for only a limited time before a price increase. They are the usual and customary prices charged by respondent for memberships and services, and they have been substantially the same for an extended period of time.

14. Respondents' "guarantee" that persons who undertake their programs, services, treatments, or exercises will experience certain changes in body size, configuration or weight is subject to conditions which usually make it unenforceable and of no value to the member. Money is never refunded; rather, patrons who are able to enforce the guarantee merely receive an extended use of the facilities.

15. None of the health spas for which charter memberships were sold opened at the time stated; in fact, some opened months later and charter members who had relied on the specified date were denied refunds and the right to cancel.

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

PAR. 8. In the course and conduct of its business as aforesaid, respondent Churchill Collection Service, Inc., represented to members of the health spas through the use of letters sent to said members through United States mails and by telephone conversations that the accounts of such members with the health spas had been turned over to Churchill for collection purposes. Churchill represented itself to be a separate entity and its officers, agents and employees alleged that they had no knowledge of any complaints of defects in the operation of the health spas. In many instances, Churchill referred complaining members back to the health spa, and the health spa often referred the same complaining members back to Churchill for a supposed resolution of their complaint.

PAR. 9. In truth and in fact, Churchill Collection Service, Inc. was created as a business entity by respondent Harry Schwartz. Churchill was located in the main office of the health spa at 245-24 Horace Harding Expressway, Little Neck, N.Y., and Churchill was operated by the officers, agents and employees of the respondents at that location.

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

The foregoing acts, practices, contractual provisions, understandings and oral representations are all to the prejudice and injury of the public, and constitute unfair methods of competition and unfair acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

PAR. 10. Respondents deny prospective customers the opportunity to reflect upon the value of health spa services or membership. As a consequence, some such customers never use, or shortly thereafter cease to use, respondents' health spa facilities and services. Therefore, respondents' failure to permit customers to visit and use said facilities and services on a trial basis after the contract is signed with right of cancellation regardless of whether said customers visit or use said facilities and services on a trial basis, is an unfair act or practice.

Respondents have in some cases obtained default judgment against customers who have not received sufficient notice of the institution of legal proceedings. Respondents' failure to give customers sufficient notice of the institution of legal proceedings constitutes an unfair act or practice.

PAR. 11. In the course and conduct of their business as aforesaid and at all times mentioned herein, respondents have been and now are in substantial competition in commerce with corporations, firms and individuals engaged in the same general kind and nature of business as that engaged in by the respondents.

PAR. 12. The use by the respondents of the aforesaid false, mislead-

ing and deceptive statements, representations, acts and practices and their failure to disclose material facts have had, and do now have, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said advertisements and representations were and are true and complete, and into the purchase of substantial numbers of respondents' health spa memberships by reason of said erroneous and mistaken beliefs, and into the payment of certain monies to respondents which otherwise may have been disputed.

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

DECISION AND ORDER

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

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

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

1. Respondent Jack La Lanne Management Corp. is a corporation organized, existing and doing business under and by virtue of the laws

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of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y.

Respondent Jack La Lanne Health Enterprises, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y.

Respondent Canadian International Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y.

Respondent Jack La Lanne Madison Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 551 Madison Avenue, New York, N.Y.

Respondent Jack La Lanne Executive Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at Woolworth Building, 233 Broadway, New York, N.Y.

Respondent Jack La Lanne Lefrak City, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 98-30 57th Avenue, Elmhurst, N.Y.

Respondent Jack La Lanne Kings Highway, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 2032 Coney Island Avenue, Brooklyn, N.Y.

Respondent Jack La Lanne 5 Towns Health Club, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 961 Broadway, Woodmere, N.Y.

Respondent Jacqueline Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 2530 Flatbush Avenue, Brooklyn, N.Y.

Respondent Jack La Lanne Biltmore Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at Madison Avenue and 43rd Street, New York, N.Y.

Respondent Jack La Lanne Fort Lee Health Spa, 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 principal place of business located at 100 Lynwood Plaza, Fort Lee, N.J.

Respondent Jack La Lanne 86th Street Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 144 East 86th Street, New York, N.Y.

Respondent Jack La Lanne Fifth Avenue Health Spa, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 53rd Street and Fifth Avenue, New York, N.Y.

Respondent Churchill Collection Service, Inc. is a corporation organized and existing under and by virtue of the laws of the State of New York with its principal office and principal place of business located at 245-24 Horace Harding Expressway, Little Neck, N.Y., and with a post office box maintained at East Elmhurst, N.Y.

Respondent Harry Schwartz is an officer and principal shareholder of the corporate respondents. He formulates, directs and controls the acts and practices of the said corporations. His business address is 245-24 Horace Harding Expressway, Little Neck, N.Y.

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 Jack La Lanne Management Corp., Jack La Lanne Health Enterprises, Inc., Canadian International Health Spa, Inc., Jack La Lanne Madison Health Spa, Inc., Jack La Lanne Executive Health Spa, Inc., Jack La Lanne Lefrak City, Inc., Jack La Lanne Kings Highway, Inc., Jack La Lanne 5 Towns Health Club, Inc., Jacqueline Health Spa, Inc., Jack La Lanne Biltmore Health Spa, Inc., Jack La Lanne Fort Lee Health Spa, Inc., Jack La Lanne 86th St. Health Spa, Inc., Jack La Lanne Fifth Avenue Health Spa, Inc., Churchill Collection Service, Inc., corporations, their successors and assigns, and their officers, and Harry Schwartz, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, franchise, or other device, in connection with the advertising, offering for sale, or sale of health spa services or memberships, hereinafter sometimes referred to as "membership services," in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

(a) that any price advertised or charged for membership services is reduced from a previous price or the usual and customary price unless such price represents a reduction from the price at which similar membership services were offered for sale for a reasonably substantial period of time in the recent, regular course of business;

(b) that any savings are afforded in the purchase of membership services from respondents' regular price unless the price at which the membership services are offered constitutes a reduction of not less than five percent from the price at which such membership services have been usually and customarily offered by respondents in the recent, regular course of their business.

or misrepresenting, in any manner, the price at which membership services are offered.

2. Representing, orally or in writing, directly or by implication, that an increase in price will occur, unless:

(a) the amount and the effective date of said increase have been determined by respondents;

(b) the effective date of said increase is disclosed in close proximity or in immediate conjunction with any representation to each person to whom such representation is made or in each advertisement, brochure or other promotional literature where such representation appears;

(c) the increase takes effect on the previously determined date in the previously determined amount and prevails for all sales of the membership services to which it applies for a period of not less than thirty days.

This paragraph shall apply to representations made in connection with the advertising, offering for sale or sale of membership services for health spa facilities which have not yet begun operations as well as to other such representations made by respondents.

3. Representing, orally or in writing, directly or by implication, that any membership service is available at a certain amount or for a certain period of time unless the membership service is actually available at that amount or for that period of time.

4. Failing to post in each room or office or other place where membership services are sold or offered for sale, a price list, being of sufficient size and posted in such a manner that it can be easily observed and read by potential purchasers of membership services, clearly and conspicuously disclosing;

(a) each type of membership service offered for sale;

- (b) the duration of each type of membership service;
- (c) any limitations in respect of any offer of membership service;
- (d) the regular price, any sale price, any special offer or inducement such as "one month free" or "entire summer free" which in effect decreases the price charged for membership services, and any price intended to take effect in the future pursuant to Paragraph 2, when such price increase has been advertised or any representation has been made in respect thereof.

5. Representing, orally or in writing, directly or by implication, that there is any limitation on the number of memberships available for sale at any health spa facility or any limit on the number of members who may use the facilities, unless a reasonable limit has been determined by respondents, or in any way misrepresenting the number of memberships for sale or the number of people who will be using the facilities.

6. Representing, orally or in writing, directly or by implication, that any offer of sale of membership services or any other offer or inducement is limited to a specific time period unless such is the fact and the expiration date of said offer is disclosed along with the information required by Paragraph 2 of this order, if applicable, or that the offer expires on the same day as it is made unless such offer is made on the last day of a period previously disclosed under this paragraph or Paragraph 2 to expire on that day.

7. Falsely disparaging, in any manner, any offer or advertisement of membership services.

8. Representing, orally or in writing, directly or by implication, that exercise programs, instruction, or equipment are unique or exclusive unless such is the fact.

9. Representing, orally or in writing, directly or by implication, that any exercise program or program of nutritional guidance is designed personally for the purchaser of membership services unless such program has been or will be developed or prepared for that particular purchaser.

10. Representing, orally or in writing, directly or by implication, that services, programs, equipment, or instruction are available at respondents' locations if such services, programs, equipment, or instruction are not available at all of respondents' locations unless:

- (a) when the representation is made in a television or radio advertisement, it is disclosed in the advertisement that some services, programs, equipment, or instruction are not available at all locations;

(b) when the representation is made in a newspaper, magazine, or other print advertisement, the locations at which such services, programs, equipment, or instruction are or are not available are disclosed;

(c) when the representation is made at one location, the services, programs, equipment or instruction available at that location are disclosed;

or representing that any facilities or membership services are available to both men and women at all times a health spa is open, unless such is the fact, and failing to disclose before the consummation of any contract any restrictions on use of the facilities or membership services by men or women.

11. Representing orally or in writing, directly or by implication, that any change in body size, configuration, or weight is guaranteed, unless:

(a) any results guaranteed are conditioned solely upon reasonably regular attendance at the health spa facilities, and adherence to a diet, if one is suggested or required;

(b) the nature and extent of such guarantee, any conditions thereto, the manner in which the guarantor will perform, and the identity of the guarantor are clearly and conspicuously disclosed; and

(c) the results to be guaranteed are clearly and conspicuously disclosed in writing either in contract or along with the guarantee.

12. Representing, orally or in writing, directly or by implication, that respondents' programs are effective in reducing or changing body weight or size unless respondents disclose, in immediate conjunction with any such claim, that said programs include and require for effectiveness a diet or program of nutritional guidance.

13. Representing, orally or in writing, directly or by implication, that all members or prospective members will in fact obtain specific reductions or changes in weight or body size, or other changes in body configuration, in a specific period of time.

14. Misrepresenting, in any manner, orally or in writing, directly or by implication, the qualifications, education or training of instructors.

15. Use of "success" statements, comparison photographs, "before and after" photographs or similar depictions, statements or representations (all of which are referred to in this paragraph by the term "representations") unless:

(a) the person or persons shown actually used respondents' facilities and obtained the represented results at respondents' facilities;

(b) the "after" representation was created while the subject or subjects were actually participating in a program or course of treatments at respondents' facilities, or accurately reflects the person's appearance at that time;

(c) the "before and after" representations are as nearly the same as possible in pose, style of clothing, facial expression, camera angle, lighting and all other conditions;

(d) a disclosure is made in conjunction with any such representation that not every purchaser of respondents' membership services can or will achieve the results represented or implied by the representation.

16. Failing, in connection with the sale or offering for sale of health spa membership services, to:

(a) Furnish the buyer with a fully completed copy of the contract pertaining to the sale at the time of its execution which shows the date of the transaction, the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer and in bold face type of a minimum size of ten points, the following statement:

NOTICE TO THE BUYER: DO NOT SIGN THIS CONTRACT BEFORE READING THE PROVISIONS UNDER THE CAPTION "CANCELLATION AND REFUNDS".

(b) Disclose, on the same page as the customer's signature line in the contract pertaining to the sale, under the caption "CANCELLATION AND REFUNDS," which caption shall be printed in bold face type of a minimum size of ten points, the following cancellation and refund provisions:

You are permitted to visit and use the facilities of Jack La Lanne within three business days after the date of this contract, on a trial basis. If, within those three days, and regardless of whether you make any visits, you decide that you want to cancel this contract, you may do so by notifying Jack La Lanne on the form provided you, or by any other writing mailed or delivered to Jack La Lanne at the address shown on the contract. If you so cancel, any payments made by you under the contract will be refunded, and any evidence of indebtedness executed by you will be cancelled by Jack La Lanne or other arrangements will be made to relieve you of any further obligation to pay the same, except that Jack La Lanne may retain as compensation a sum not in excess of \$5.00 for each day on which you visited and used its facilities.

(c) Provide the buyer with a copy of a note or any other instrument of indebtedness executed by him or on his behalf.

(d) Furnish each buyer, at the time he signs the contract, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall set forth the date and identification of the transaction, the name and address of the seller, language sufficient to give notice of the buyer's intention to cancel the transaction, and a space for the buyer's signature.

(e) Inform each buyer orally, immediately prior to the time he signs the contract, of his cancellation rights as set forth in (b).

(f) Honor any notice of cancellation received or mailed within three (3) business days after the date of the contract, and within 10 business days after the receipt of such notice, (1) refund any payments due the buyer, and (2) cancel and return any evidence of indebtedness executed by the buyer, or take any action necessary or appropriate to terminate the buyer's obligation to pay any sum in excess of that due under the applicable cancellation and refund provision in (b).

17. Misrepresenting in any manner, directly or by implication:

(a) that any of respondents or their successors or assigns are holders in due course of any notes, contracts or other documents executed by respondents' customers.

(b) that a member's account has been turned over to an attorney or an independent organization engaged in the business of collecting past-due accounts.

18. Failing to print in 18 point bold face type at the top of any paper which includes a contract, a title which includes the word "CONTRACT."

19. Obtaining from the customer release of, or agreement to language which purports to release, respondent from liability for causes of action arising out of customer's use of respondents' services, facilities, or exercise equipment, when said release or purported release would not be legally operative in the state of contracting.

20. Representing that a health spa facility will open on a specific date, unless such representation is also made in writing in each and every contract signed by a customer to whom such representation is made; failing to disclose, clearly and conspicuously, to all such customers that if the health spa facility does not open on the specified date, the customer may choose between (1) extension of the contract so that the full time period for which the customer contracted does not begin to run until the health spa facility is open, and the right to use any of respondents' health spa facilities in the

meantime, or (2) cancellation of the contract with a refund in the amount to which the customer would be entitled if he or she cancelled pursuant to Paragraph 16 of this order; and failing to extend the contract, or refund the appropriate amount of money, within 10 business days of receipt of written notification of the customer's choice.

21. Commencing any legal action in any court to collect any amount alleged to be due to respondents unless:

(a) the suit or action is commenced in the county in which the defendant resides or in which the contract was executed; and

(b) a summons and/or complaint are served pursuant to the applicable provisions of State law and a copy is sent, by registered or certified mail, return receipt requested, to the last known address of the defendant; *Provided, That*, if the summons and/or complaint are returned as undeliverable or if the defendant has moved, respondents shall request the United States Postal Service to provide the forwarding address of the defendant, and if the Postal Service provides same, shall send said summons and/or complaint to that address by registered or certified mail, return receipt requested.

22. In connection with any default judgment:

(a) Levying on or otherwise attempting to enforce any default judgment unless the defendant is sent within ten days of the entry of judgment a letter setting forth his rights under applicable state law and this order;

(b) Levying on or otherwise attempting to enforce any default judgment unless sixty days have passed from the date of entry of judgment;

(c) Levying on or otherwise attempting to enforce any default judgment unless each defendant against whom a default judgment is entered, is notified that he may have the default set aside at his request by stipulation by the respondents and receive a trial on the suit brought by respondents, if, within forty days after the entry of a default judgment and after receipt of the notification provided for in Subparagraph (a) above, he notifies respondents by certified or registered mail that he desires to enter into a stipulation with respondents to reopen the default;

(d) Failing to consent and stipulate to the reopening of any default judgment obtained by respondents within sixty days after the entry of judgment, upon receipt by respondents of a

request by a defendant to reopen such judgment pursuant to this paragraph or state law:

(e) Failing to send the notice required by this paragraph by certified or registered mail, return receipt requested, to the last known address of the defendant; *Provided*, That, if the notice is returned as undeliverable, or if the defendant has moved, respondents shall request the United States Postal Service to provide the forwarding address of the defendant, and if the Postal Service provides same, shall send said notice to that address, by certified or registered mail, return receipt requested.

Nothing in this paragraph shall require respondents to stipulate to reopen any default judgment more than once in each case.

23. Including in any contract any confession of judgment or any waiver of any rights to which the buyer is entitled under this order, or misrepresenting, orally or in writing, directly or by implication, the buyer's right to cancel the contract pursuant to this order.

It is further ordered, That respondents maintain at all times, complete records relative to the manner and form of their compliance with the terms and provisions of this order, such records to include:

(1) all advertising copy, films, voice and video tapes, and correspondence with advertising agencies;

(2) all brochures, forms, notices, booklets, disclosures, and promotional material used in respondents' business;

(3) all contracts, notes, agreements, and forms offered for execution by or actually executed by members;

(4) all correspondence, including notices of cancellations and complaints, received from or sent to consumers;

(5) all correspondence, notes, or evidence of indebtedness sent to or received from banks or other extenders or arrangers of consumer credit;

(6) all correspondence and copies of agreements with any franchisor, franchisee, successor, lessee, lessor, person or firm with whom respondents maintain such a business relationship relative to the conduct of their health spa business;

(7) records of each member's attendance, weight and measurements, if relevant to a guarantee or representation of results to be attained;

(8) any records required to be maintained under other provisions of this order.

After entry of this order, all such records shall be retained for a period of not less than three years from the date of their creation or last use, whichever is longer.

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

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

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

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

IN THE MATTER OF

MULDOON LOCKERS, INC., TRADING AS BOB'S MULDOON
LOCKERS, ET AL.

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

Docket C-2579. Complaint, Oct. 22, 1974—Decision, Oct. 22, 1974

Consent order requiring an Anchorage, Alaska, retailer of meat and meat products, 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: *Dean A. Fournier.*

For the respondents: *Jeffrey H. Roth, Jensen & Harris, Anchorage, Alaska.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Muldoon Lockers, Inc., a corporation doing business as Bob's Muldoon Lockers, and Bob R. Buchta, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Muldoon Lockers, Inc., doing business as Bob's Muldoon Lockers, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Alaska, with its principal office and place of business located at 301 Muldoon Road, Anchorage, Alaska.

Respondent Bob R. Buchta is an individual and officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, and 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 and sale of meat and meat products to the public in metropolitan Anchorage, Alaska.

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

PAR. 4. Subsequent to July 1, 1969, respondents have caused to be published advertisements (as "advertisement" is defined in Regulation Z) to aid, promote, or assist directly or indirectly respondents' consumer credit sales of meat and meat products. Certain of these advertisements have stated the period of repayment and that no downpayment is required, without also stating, as required by Section 226.10(d)(2) of

Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:

1. the cash price;
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;
4. the amount of the finance charge expressed as an annual percentage rate; and
5. the deferred payment price.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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 Muldoon Lockers, Inc., doing business as Bob's Muldoon Lockers, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Alaska, with its office and principal place of business located at 301 Muldoon Road, Anchorage, Alaska.

Respondent Bob R. Buchta is an individual and an officer of said corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, and his address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents Muldoon Lockers, Inc., a corporation doing business as Bob's Muldoon Lockers, and Bob R. Buchta, individually and as an officer of said corporation, and respondents' successors, assigns, 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 any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" 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. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- 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.

2. 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

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

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

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

IN THE MATTER OF

LYNNWOOD FREEZER MEATS, INC., ET AL.

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

Docket C-2580. Complaint, Oct. 22, 1974—Decision, Oct. 22, 1974

Consent order requiring a Lynnwood, Wash., retailer of meat and meat products, 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: *Dean A. Fournier and Michael A. Katz.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Lynnwood Freezer Meats, Inc., a corporation, and James G. Hill, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Lynnwood Freezer Meats, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 17711 Highway 99, Lynnwood, Wash.

Respondent James G. Hill is an individual and an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, and 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 and sale of meat and meat products to the public in the Seattle-Everett metropolitan area, in the State of Washington.

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

PAR. 4. Subsequent to July 1, 1969, respondents have caused to be published advertisements (as "advertisement" is defined in Regulation Z) to aid, promote, or assist directly or indirectly respondents' consumer credit sales of meat and meat products. Certain of these advertisements have stated the period of repayment and/or that no downpayment is required, without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:

1. the cash price;
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;
4. the amount of the finance charge expressed as an annual percentage rate; and
5. the deferred payment price.

PAR. 5. Subsequent to July 1, 1969, and to further aid, promote or assist directly or indirectly their credit sales of meat and meat products, respondents have caused to be published certain other advertisements (as "advertisement" is defined in Regulation Z) which have stated that specific installment amounts can be arranged on a weekly basis in connection with such credit sales. In fact, however, respondents did not and do not usually and customarily arrange installments in the amounts stated, nor in any amounts whatever for weekly periods. Therefore, respondents have failed to comply with the provisions of Section 226.10(a)(1) of Regulation Z.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption

hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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 Lynnwood Freezer Meats, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 17711 Highway 99, Lynnwood, Wash.

Respondent James G. Hill is an individual and an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Lynnwood Freezer Meats, Inc., a corporation, and its officers, and James G. Hill, individually and as an officer of said corporation, and respondents' successors, assigns, 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 any advertise-

ment to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" 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. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- 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.

2. Representing in any such advertisement, directly or by implication, that a specific amount of credit or installment amount can be arranged unless respondents usually and customarily arrange or make available credit amounts or installments for that period or in that amount, as required by Section 226.10(a)(1) 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence

of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

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

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

IN THE MATTER OF

CENTURY 21 HOMES, INC., ET AL.

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

Docket C-2581. Complaint, Oct. 22, 1974—Decision, Oct. 22, 1974

Consent order requiring a Portland, Ore., firm engaged in the construction, development and sale of residential real property, 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: *Dean A. Fournier.*

For the respondents: *Austin T. Smith, Ralston, Smith & Sullivan,*
Los Angeles, Calif.

COMPLAINT

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

violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Century 21 Homes, Inc., Centurion Properties, Inc. and Century 21 Properties, Inc. are corporations organized, existing and doing business under and by virtue of the laws of the State of Oregon, with their principal office and place of business located at 4547 Southwest Scholls Ferry Road, Portland, Ore. Centurion Properties, Inc. and Century 21 Properties, Inc. are wholly-owned subsidiaries of Century 21 Homes, Inc.

Respondent David L. Oringdulph is an individual and an officer of each of said corporations. Respondent Ralph E. Fish is an individual and an officer of Centurion Properties, Inc. Their address is the same as that of the corporate respondents.

Respondent Philip G. Mullard is an individual and a former officer of Century 21 Properties, Inc. His present address is 1750 Southwest Skyline Boulevard, Portland, Ore.

Respondent Century 21 Development is a joint venture of Century 21 Homes, Inc. and of Amfac Mortgage Corporation, an Oregon corporation wholly owned by Amfac, Inc., a Hawaii corporation. Said joint venture exists and does business in the State of Oregon, under the laws of such state. Respondent John F. Weiser is an individual and the general manager of Century 21 Development. His address, and the principal office and place of business of said joint venture, is the same as that of the aforementioned corporate respondents.

Respondents Weiser, Oringdulph, and Fish formulate, direct and control the policies, acts and practices of the corporate respondents and of the joint venture, including the acts and practices hereinafter set forth. Respondent Mullard, while an officer of Century 21 Properties, Inc., participated in the formulation, direction and control of such acts and practices.

The aforementioned respondents have cooperated and acted together in bringing about and carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the construction, development and sale of residential real property to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents have caused to be published various advertisements, as "advertisement" is defined in Section 226.2 of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promul-

gated by the Board of Governors of the Federal Reserve System. These advertisements have aided, promoted or assisted directly or indirectly the extension of consumer credit (as "consumer credit" is defined in Regulation Z) in connection with respondents' sales of residential real property.

PAR. 4. Subsequent to July 1, 1969, certain of the advertisements referred to in Paragraph Three above have:

1. Stated a rate of finance charge without expressing the rate of the finance charge as an "annual percentage rate," using that term, as required by Section 226.10(d)(1) of Regulation Z.

2. Stated the period of repayment and the amount of the downpayment required or that no downpayment is required, without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:

- 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;
- d. the amount of the finance charge expressed as an annual percentage rate; and
- e. except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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. Respondents Century 21 Homes, Inc., Centurion Properties, Inc. and Century 21 Properties, Inc. are corporations organized, existing and doing business under and by virtue of the laws of the state of Oregon, with their office and principal place of business located at 4547 Southwest Scholls Ferry Road, Portland, Ore.

Respondent David L. Oringdulph is an individual and an officer of each of said corporations. Respondent Ralph E. Fish is an individual and an officer of Centurion Properties, Inc. Their address is the same as that of the corporate respondents.

Respondent Philip G. Mullard is an individual and a former officer of Century 21 Properties, Inc. His present address is 1750 Southwest Skyline Boulevard, Portland, Ore.

Respondent Century 21 Development is a joint venture in which Century 21 Homes, Inc. is a participant. Said joint venture exists and does business in the state of Oregon, under the laws of such state. Respondent John F. Weiser is an individual and the general manager of Century 21 Development. His address, and the principal office and place of business of said joint venture, is the same as that of the corporate respondents.

Respondents Weiser, Oringdulph, and Fish formulate, direct and control the policies, acts and practices of the corporate respondents and of the joint venture. Respondent Mullard participated and cooperated in the formulation, direction and control of such acts and practices.

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 Century 21 Homes, Inc., Centurion Properties, Inc., and Century 21 Properties, Inc., corporations, and their officers, and David L. Oringdulph, Ralph E. Fish and Philip G. Mullard, individually and as officers and former officers of said corporations, and Century 21 Development, a joint venture, and John F. Weiser, individually and as general manager of Century 21 Development, and respondents' successors, assigns, 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 any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Stating, in any such advertisement, the rate of any finance charge unless the rate of the finance charge is expressed as an "annual percentage rate," using that term, as required by Section 226.10(d)(1) of Regulation Z.
2. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:
 - 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. except in the case of the sale of a dwelling or a loan secured by a first lien on a dwelling to purchase that dwelling, the deferred payment price or the sum of the payments, as applicable.
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, at the time and in the manner, form

and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in Century 21 Development or in a corporate respondent, such as dissolution, termination, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in such respondents as may affect compliance obligations arising out of the order.

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

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

IN THE MATTER OF

NORLIC IMPORT COMPANY, INC., ET AL.

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

Docket C-2583. Complaint, Oct. 22, 1974 — Decision, Oct. 22, 1974

Consent order requiring a New York City importer and seller of wool fabrics, among other things to cease misbranding and falsely guaranteeing its wool products and misrepresenting the fiber content of its goods. Further, respondent is required to bond its imported wool products for twice their value, with the bond subject to forfeiture should applicable legal requirements not be complied with.

Appearances

For the Commission: *Jerry R. McDonald.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Norlic Import Company, Inc., a corporation, and Norman Lichtenstein, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, 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 Norlic Import Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1290 Avenue of the Americas, New York, N. Y.

Individual respondent Norman Lichtenstein is an officer of Norlic Import Company, Inc. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

Respondents are engaged in the importation and sale of wool products including but not limited to wool fabrics.

PAR. 2. Respondents, now and for some time last past, have imported for introduction into commerce, introduced into commerce, transported, distributed, delivered for shipment, shipped, offered for sale, and sold in commerce as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain wool fabrics stamped, tagged, labeled, or otherwise identified by respondents as "55% polyester, 45% wool," whereas, in truth and in fact, said products contained substantially different fibers and amounts of fibers than represented.

PAR. 4. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4 (a)(2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the rules and regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were wool products, namely, wool fabrics, with labels on or affixed thereto, which failed to disclose the percentage of the total fiber weight of the said wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more, and (5) the aggregate of all other fibers.

PAR. 5. Respondent's wool products described in "Paragraph Four" above were imported by the respondent into the United States and, as particularized in said paragraph, were not stamped, tagged, labeled or otherwise identified in accordance with the provisions of the Wool Products Labeling Act of 1939. The invoices of said imported wool products required by the Tariff Act of 1930 failed to set forth the information with respect to said wool products required under the provisions of the Wool Products Labeling Act of 1939, to wit, the percentage of the total fiber weight of the said wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more, and (5) the aggregate of all other fibers. The respon-

dent did falsify the consignee's declaration provided for in said Tariff Act of 1930 insofar as it related to the above items of information enumerated in this paragraph in violation of Section 8 of the Wool Products Labeling Act of 1939 and Section 5 of the Federal Trade Commission Act.

PAR. 6. Respondents furnished false guarantees with respect to certain of their wool products by falsely representing in writing that respondents had a continuing guarantee on file with the Federal Trade Commission when respondents in furnishing such guarantees had reason to believe that the wool products so falsely guaranteed would be introduced, sold, transported, and distributed in commerce, in violation of Section 9(b) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder.

PAR. 7. The acts and practices of respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

PAR. 8. Respondents are now and for some time last past have been engaged in the importation, offering for sale, sale, and distribution of certain products, namely fabrics. In the course and conduct of their business as aforesaid, respondents now cause and for some time last past, have caused their said products, when sold, to be shipped from their place of business in the State of New York to purchasers 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. 9. Respondents in the course and conduct of their business have made statements on invoices to their customers, misrepresenting the fiber content of certain of their products.

Among such misrepresentations, but not limited thereto, were statements setting forth the fiber content thereof as "55% polyester, 45% wool" whereas, in truth and in fact, said products contained substantially different fibers and amounts of fibers than represented.

PAR. 10. The acts and practices set forth in "Paragraph Nine" have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof.

PAR. 11. The aforesaid acts and practices of the respondents as herein alleged in Paragraph Nine were, and are, all to the prejudice and injury of the public, and constituted, and now constitute, unfair and

deceptive acts or practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of 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 Norlic Import Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1290 Avenue of the Americas, New York, N.Y.

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

Respondents are engaged in the importation and sale of wool products including but not limited to wool fabrics.

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 Norlic Import Company, Inc., a corporation, its successors and assigns, and its officers, and Norman Lichtenstein, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the importation for introduction, into commerce or the offering for sale, sale, transportation, distribution, delivery for shipment, or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Norlic Import Company, Inc., a corporation, its successors and assigns, and its officers, and Norman Lichtenstein, individually and as an officer of Norlic Import Company, Inc., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from:

1. Furnishing a false guarantee that any wool product is not misbranded under the provisions of the Wool Products Labeling Act of 1939.

2. Importing or participating in the importation of wool products into the United States except upon filing bond with the Secretary of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Norlic Import Company, Inc., a corporation, and its officers, and Norman Lichtenstein, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporation or other device, in connection with the advertising, offering for sale, sale or distribution of fabrics or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the amount of constituent fibers contained

in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

It is further ordered, That respondents notify, by delivery of a copy of this order by registered mail, each of their customers that purchased the wool products which gave rise to this complaint of the fact that such products were misbranded.

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

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondents' current business and address, 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 corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

IN THE MATTER OF

AUTHORIZED TV, INC., ET AL.

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

Docket C-2584. Complaint, Oct. 22, 1974 — Decision, Oct. 22, 1974

Consent order requiring Seattle, Wash., retailers of television sets, record players and stereophonic components, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Complaint

Appearances

For the Commission: *Dean A. Fournier.*
 For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Authorized TV, Inc., a corporation doing business as Schoenfeld's Muntz TV and as Stereo Mart, and Alvin E. Schoenfeld, individually and as an officer of said corporation, and Frank A. Besancon, an individual doing business as TV Mart North, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Authorized TV, Inc., doing business as Schoenfeld's Muntz TV and as Stereo Mart, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 6429 Empire Way South, Seattle, Wash.

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

Respondent Frank A. Besancon is an individual trading and doing business as TV Mart North. His principal office and place of business is located at 13760 Aurora Avenue North, Seattle, Wash.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, and sale of television sets, record players and stereophonic components and supplies to the public at their respective retail premises in metropolitan Seattle. Respondent Schoenfeld and the corporate respondent engage in further such activities in metropolitan Tacoma, Wash., while respondent Besancon engages in further such activities in metropolitan Everett, Wash.

PAR. 3. In the ordinary course and conduct of their respective businesses, the respondents regularly engage in credit sales and arrange for the extension of consumer credit, as "credit sale," "arrange for the

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extension of credit," and "consumer credit" are defined in Section 226.2 of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondents have caused to be published, in various media, advertisements (as "advertisement" is defined in Regulation Z) to aid, promote, or assist directly or indirectly respondents' consumer credit sales of television sets, record players and stereophonic components and supplies. Certain of these advertisements prepared jointly by respondents Besancon and Schoenfeld, usually identifying their retail premises as a four-store chain under the name TV Mart and Stereo Mart, have:

1. Stated a rate of finance charge without expressing the rate of the finance charge as an "annual percentage rate," using that term, as required by Section 226.10(d)(1) of Regulation Z.
2. Stated the dollar amounts of finance charges and installment payments, and/or the amount of downpayment required and the period of repayment, without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:
 - a. the cash price;
 - b. the amount of the downpayment required or that no downpayment is required, as applicable;
 - c. the amount of the finance charge expressed as an annual percentage rate; and
 - d. the deferred payment price.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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 Authorized TV, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 6429 Empire Way South, Seattle, Wash.

Respondent Alvin E. Schoenfeld is an individual and an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

Respondent Frank A. Besancon is an individual trading and doing business as TV Mart North. His office and principal place of business is located at 13760 Aurora Avenue North, Seattle, Wash.

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

ORDER

It is ordered, That respondents Authorized TV, Inc., a corporation doing business as Schoenfeld's Muntz TV and as Stereo Mart, or under any other name or names, and its officers, and Alvin E. Schoenfeld, individually and as an officer of said corporation, and Frank A. Besancon, an individual doing business as TV Mart North, or under any other name or names, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with any extension or arrange-

ment for the extension of consumer credit, or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Stating, in any such advertisement, the rate of any finance charge unless the rate of the finance charge is expressed as an "annual percentage rate," using that term, as required by Section 226.10 (d)(1) of Regulation Z.

2. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- 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.

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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence

of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

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

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

IN THE MATTER OF

CENTRAL PONTIAC, INC., ET AL.

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

Docket C-2585. Complaint, Oct. 22, 1974 — Decision, Oct. 22, 1974

Consent order requiring a Seattle, Wash., retailer of new and used automobiles, 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: *Dean A. Fournier* and *Michael A. Katz*.

For the respondents: *Gary F. Linden*, of *Helsell, Paul, Fetterman, Todd & Hokanson*, Seattle, Wash.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Central Pontiac, Inc., a corporation, and Henry J. Rahe, individually and as an officer of said corporation, hereinafter referred to as respondents,

have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Central Pontiac, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the state of Washington, with its principal office and place of business located at Broadway and East Pine Street, Seattle, Wash.

Respondent Henry J. Rahe is an individual and the chief executive officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale and sale of new and used cars to the public in metropolitan Seattle, Wash.

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

PAR. 4. Subsequent to July 1, 1969, respondents have caused to be published, in various media, advertisements (as "advertisement" is defined in Regulation Z) to aid, promote, or assist directly or indirectly respondents' consumer credit sales of new and used cars. Certain of these advertisements have stated the period of repayment without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6 (a) of Regulation Z, all of the following:

1. the cash price;
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;
4. the amount of the finance charge expressed as an annual percentage rate; and
5. the deferred payment price.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regu-

lation Z constitute violations of that Act, and pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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 Central Pontiac, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at Broadway and East Pine Street, Seattle, Wash.

Respondent Henry J. Rahe is an individual and an officer of the corporate respondent. 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 Central Pontiac, Inc., a corporation, and its officers, and Henry J. Rahe, individually and as an officer of said corporation, and respondents' successors, assigns, 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 any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" 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. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- 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.

2. 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all personnel of respondents engaged in the consummation of any extension of consumer credit or in any substantial aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, to all agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and to all persons and agencies who become so engaged during the two-year period following the effective date of this order,

and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

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

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment, and/or of his affiliation with any other business which extends, arranges or advertises consumer credit, in the event of such discontinuance or affiliation within ten (10) years after the effective date of this order. Such notice shall include the respondent's current business address and a statement as to the nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

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

IN THE MATTER OF

C. ITOH & CO. (AMERICA) INC.

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

Docket C-2586. Complaint, Oct. 22, 1974 — Decision, Oct. 22, 1974

Consent order requiring a New York City importer and distributor of fabrics, among other things to cease misbranding and falsely labeling its products and misrepresenting the fiber content of its goods. Further, respondent is required to bond its imported wool products for twice their value, with the bond subject to forfeiture should applicable legal requirements not be complied with.

Appearances

For the Commission: *Jerry R. McDonald.*

For the respondent: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, 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 C. Itoh & Co. (America) Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, and the Textile Fiber Products Identification Act, and it now appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent C. Itoh & Co. (America) Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. The respondent corporation maintains its main offices and principal place of business at 270 Park Avenue, New York, N.Y.

Respondent is engaged in the business of importing fabrics into the United States and distributing such fabrics in commerce.

PAR. 2. Respondent is now and for some time last past 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, and in the importation into the United States, of textile fiber products; 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 as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised or otherwise identified as to the name or amount of the constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were fabrics which contained substantially different amounts and types of fibers than those represented.

PAR. 4. Certain of said textile fiber products were misbranded by respondent in that they were not stamped, tagged, labeled, or otherwise

identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form as prescribed by the rules and regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were fabrics with labels affixed thereto which failed to disclose the true percentages of such fibers by weight.

PAR. 5. 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 methods of competition and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

PAR. 6. Respondent, now and for some time last past, has imported for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 7. Certain of said wool products were misbranded by respondent within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain wool fabrics stamped, tagged, labeled, or otherwise identified by respondents as "70% polyester, 30% reprocessed wool" whereas, in truth and in fact, said products contained substantially different fibers and amounts of fibers than represented.

PAR. 8. Certain of said wool products were further misbranded by respondent in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the rules and regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were wool products, namely wool fabrics, with labels on or affixed thereto, which failed to disclose the percentage of the total fiber weight of the said wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more, and (5) the aggregate of all other fibers.

PAR. 9. Respondent's wool products described in "Paragraph Eight" above were imported by the respondent into the United States and, as particularized in said paragraph, were not stamped, tagged, labeled, or otherwise identified in accordance with the provisions of the Wool Products Labeling Act of 1939. The invoices of said imported wool products required by the Tariff Act of 1930, failed to set forth the information with respect to said wool products required under the provisions of the Wool Products Labeling Act of 1939, to wit, the percentage of the total fiber weight of the said wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more, and (5) the aggregate of all other fibers. The respondent did falsify the consignee's declaration provided for in said Tariff Act of 1930 insofar as it related to the above items of information enumerated in this paragraph, in violation of Section 8 of the Wool Products Labeling Act of 1939 and Section 5 of the Federal Trade Commission Act.

PAR. 10. The acts and practices of the respondent as herein alleged in Paragraphs Seven, Eight, and Nine were, and are, in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices, in commerce, within the meaning of the Federal Trade Commission Act.

PAR. 11. Respondent is now and for some time last past has been engaged in the importation, offering for sale, sale, and distribution of certain products, namely fabrics. In the course and conduct of its business as aforesaid, respondent now causes and for some time last past, has caused its said products, when sold, to be shipped from its place of business in the State of New York to purchasers located in various other States of the United States, and 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. 12. In the course and conduct of its business, respondent has misrepresented to its customers the character and amount of the constituent fibers contained in its products through falsely and deceptively stamping, tagging, labeling and otherwise identifying said products.

Among such products, but not limited thereto, were fabrics labeled as "70% acrylic, 25% cotton, 5% linen" whereas, in truth and in fact, such products contained substantially different fibers and amounts of fibers than represented including wool.

PAR. 13. The aforesaid acts and practices of respondent as herein alleged in paragraph twelve were and are, all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the New York 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, the Wool Products Labeling Act of 1939, the Textile Fiber Products Identification 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 Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of 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 C. Itoh & Co. (America) Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York with its principal place of business located at 270 Park Avenue, New York, N.Y.

Respondent is engaged in the importation and sale of wool and textile fabrics.

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

ORDER

It is ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division or any other device, in connection with the introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; 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, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

It is further ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.
2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from importing or participating in the importation of wool products into the United States except upon filing bond with the Secretary

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of the Treasury in a sum double the value of said wool products and any duty thereon, conditioned upon compliance with the provisions of the Wool Products Labeling Act of 1939.

It is further ordered, That respondent, C. Itoh & Co. (America) Inc., a corporation, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of fabrics or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the amount of constituent fibers contained in such products through stamping, tagging, labeling, advertising, or otherwise identifying such products as to the character and amount of constituent fibers contained therein.

It is further ordered, That respondent notify, by delivery of a copy of this order by registered mail, each of its customers that purchased the products which gave rise to this complaint of the fact that such products were misbranded.

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 in 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 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 contained herein.

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IN THE MATTER OF

4 WHEEL COUNTRY, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS*Docket C-2587. Complaint, Oct. 23, 1974 — Decision, Oct. 23, 1974*

Consent order requiring a Yakima, Wash., retailer of new and used mobile homes, travel trailers, campers and other motor vehicles, among other things to cease violating the Truth in Lending Act by failing to disclose to customers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act. Further, respondent must cease representing that credit insurance is mandatory in order to obtain credit and filling out contracts in such a manner as to obtain customer's signature requesting said insurance without full disclosure of what the customer is signing.

*Appearances*For the Commission: *Dean A. Fournier.*For the respondents: *Douglas D. Peters, Felthous, Peters & Schmalz,*
Selah, Wash.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that 4 Wheel Country, Inc., a corporation, and Harvey G. Ferguson, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent 4 Wheel Country, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 2401 South First Street, Yakima, Wash.

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

PAR. 2. Respondents are now and for some time last past have been engaged in the offering for sale, and retail sale of new and used mobile homes, travel trailers, campers and other motor vehicles to the public.

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

PAR. 4. Subsequent to July 1, 1969, respondents, in the ordinary course of business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing customers to execute a binding order, hereinafter referred to as the "Order Contract," and subsequently to execute a conditional sales contract, hereinafter referred to as the "Sales Contract." Respondents do not provide these customers with a copy of the Order Contract, nor with any other consumer credit cost disclosures except those set out on the Sales Contract.

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

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

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

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

4. Fail to disclose the sum of all charges required by Section 226.4 of Regulation Z to be included therein, and to describe that sum as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

5. Fail to disclose the annual percentage rate, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

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

7. Fail to disclose the amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

8. Fail to identify the amount or the method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z.

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

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

11. Fail to furnish to the customer, before the transaction is consummated, a duplicate of the instrument or other statement containing the disclosures prescribed by Section 226.8 of Regulation Z, as required by Section 226.8(a) of Regulation Z.

PAR. 6. By and through their use of the aforesaid Sales Contract, respondents in some instances have failed to include in the finance charge certain premiums or other charges for Vendor's Single Interest insurance protecting the creditor against the customer's default or other credit loss, when subrogation rights against the customer have not been waived by the insurer in accordance with Section 226.4(a)(7) of Regulation Z.

PAR. 7. In a substantial number of instances subsequent to July 1, 1969, in the ordinary course of their business as aforesaid, respondents have charged and are now charging customers for credit life, accident, health and/or disability insurance written in connection with their credit sales.

Typical and illustrative, but not all inclusive, of respondents' means and methods in bringing about such insurance charges on their customers, are the following:

1. During the initial discussion of credit terms with the customer, respondents quote a monthly repayment figure which includes charges for credit life, accident, health and/or disability insurance.

2. Respondents in some instances advise the prospective customer that credit life, accident, health and/or disability insurance is required as a condition of the extension of credit.

3. Prior to presenting the Sales Contract to the customer, respondents automatically include in the "amount financed," as typewritten on such contract, a charge or premium for credit life, accident, health and/or disability insurance; and, unless the customer specifically objects, such insurance coverage becomes part of the credit transaction.

4. Without the permission or authority of the customer, respondents place the date and an "X" on the line for the customer's signature immediately beneath the statement on the Sales Contract, "I desire to

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purchase through seller the type of insurance for which the premium costs have been set forth above.”

5. The Sales Contract, filled out as indicated above, is presented to the customer for two signatures, with oral instructions to sign next to the “X’s” placed thereon, but without explaining to the customer that one of the signatures is requested in order to exercise an option for insurance coverage not required of him.

PAR. 8. By and through the means and methods described in Paragraph Seven, and others of similar import and consequence, but not specifically set forth herein, respondents obtain and have obtained customers’ signatures on insurance authorizations through practices which operate, directly or indirectly, to defeat the elective language of such authorization by obscuring from customers’ knowledge about the option, by representing to customers that both signatures are necessary to consummate the extension of credit, and by discouraging the declination of the coverage when it is questioned. These practices have the effect of preventing substantial numbers of customers from exercising an independent, voluntary choice of whether or not to obtain credit life, accident, health and/or disability insurance.

Therefore, respondents, in a substantial number of instances, have induced their customers to incur charges for credit life, accident, health and/or disability insurance without said customers making a knowing, affirmative election to have such insurance and, thereby, respondents have effectively eliminated the option and have not obtained from customers a “specific dated and separately signed affirmative written indication of [the customer’s] desire” for such insurance coverage as prescribed by Section 226.4(a)(5) of Regulation Z, in spite of the existence of language to the contrary in the Sales Contract.

PAR. 9. By and through the acts and practices described in Paragraphs Seven and Eight hereof, respondents have failed to include in the finance charge the charges or premiums for credit life, accident, health and/or disability insurance when a specific dated and separately signed affirmative written indication of desire for such insurance has not been obtained as prescribed by Section 226.4(a)(5)(ii) of Regulation Z, and/or when respondents have required such insurance within the meaning of Section 226.4(a)(5)(i) of Regulation Z. Respondents have thereby:

1. Failed to determine and disclose accurately the finance charge as required by Sections 226.4 and 226.8(c)(8)(i) of Regulation Z; and
2. Failed to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent as required by Sections 226.5(b) and 226.8(b)(2) of Regulation Z.

PAR. 10. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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 4 Wheel Country, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 2401 South First Street, Yakima, Wash.

Respondent Harvey G. Ferguson is an individual and an officer of said corporation. He formulates, directs and controls the policies, acts and practices of the corporation, and his address is the same as that of the 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 4 Wheel Country, Inc., a corporation, and its officers, and Harvey G. Ferguson, individually and as an officer of said corporation, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601, *et. seq.*), do forthwith cease and desist from:

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

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

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

4. Failing to disclose the sum of all charges required by Section 226.4 of Regulation Z to be included therein, and to describe that sum as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

5. Failing to compute and disclose the annual percentage rate accurately to the nearest quarter of one percent, as required by Sections 226.5(b) and 226.8(b)(2) of Regulation Z.

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

7. Failing to disclose the number, amounts and due dates or periods of payments scheduled to repay the indebtedness, and the sum of such payments, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

8. Failing to identify the amount or the method of computing the amount of any default, delinquency or similar charge payable in the event of late payments, as required by Section 226.8(b)(4) of Regulation Z.

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

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

11. Failing to furnish to the customer, before the transaction is consummated, a duplicate of the instrument or other statement containing the disclosures prescribed by Section 226.8 of Regulation Z, as required by Section 226.8(a) of Regulation Z.

12. Failing to itemize and include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any and all charges or premiums for Vendor's Single Interest insurance unless all subrogation rights against the customer have been effectively waived by the insurer in accordance with Section 226.4(a)(7) of Regulation Z.

13. Failing to itemize and include in the finance charge, for purposes of disclosure of the finance charge and computation of the annual percentage rate, any and all charges or premiums for credit life, accident, health or disability insurance, unless respondents can demonstrate that they have:

(a) Refrained from including the cost of such insurance in the "amount financed" and in all other amounts affected by the election or declination of insurance, as such amounts are set forth on the sales contract and any document containing credit cost disclosures, until respondents have completed the actions prescribed by Subparagraphs (b) and (c), below, and have secured the customer's signature on the statement there provided.

(b) Quoted to the customer, whether in person, by telephone, or otherwise, installment payment amounts exclusive of the charges or premiums for such insurance.

(c) Read and presented to the customer the following statement, printed clearly and conspicuously in 12-point or larger type on one side of a single sheet of paper:

"Credit life, accident, health and/or disability insurance are entirely optional. You are NOT REQUIRED to purchase such personal insurance in order to obtain credit through our company, and your voluntary decision in this regard will not affect the granting of credit to you.

Your cost for such insurance, if you choose to purchase it, will be:

[itemize, as applicable]

I have read this statement to the customer.

(Sales Representative)

(Date and Time)

I ACKNOWLEDGE THAT THIS STATEMENT WAS READ TO ME at the date and time indicated. In light of the costs shown above, my voluntary choice is to:

Not purchase any such personal insurance.

Purchase credit life insurance.

Purchase [specify type(s)] insurance.

(Signature of Consumer)

(Date and Time)

14. Making any marks or otherwise instructing a consumer as to signing or dating any document respecting an election of optional insurance, prior to a clear, voluntary exercise of the consumer's free and independent choice of such insurance.

15. Misrepresenting, orally or otherwise, directly or by implication, that credit life, accident, health and/or disability insurance coverage is required as a condition of obtaining credit from or through respondents.

16. Discouraging, by misrepresentation, oral or otherwise, directly or by implication, the declination of optional or voluntary credit life, accident, health and/or disability insurance.

17. 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, and that respondents secure from each such person a signed statement acknowledging receipt of said order.

It is further ordered, That respondents prominently display the following notice in two or more locations, including that portion of respondents' business premises most frequented by prospective customers,

and including also each area where customers normally sign consumer credit documents or other binding instruments; *Provided, however,* That such notices shall be considered prominently displayed only if so positioned as to be easily observed and read by the intended individuals:

NOTICE TO CREDIT CUSTOMERS

IF THE DEALER IS FINANCING OR ARRANGING THE FINANCING OF YOUR PURCHASE, YOU ARE ENTITLED TO CONSUMER CREDIT COST DISCLOSURES AS REQUIRED BY THE FEDERAL TRUTH IN LENDING ACT. THESE MUST BE PROVIDED TO YOU IN WRITING BEFORE YOU ARE ASKED TO SIGN ANY DOCUMENT OR OTHER PAPERS WHICH WOULD BIND YOU TO SUCH A PURCHASE.

This notice required by order of the Federal Trade Commission.

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

IN THE MATTER OF

H. ALLEN McKINNEY TRADING AS S & H MOBILE HOMES,
ETC.

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

Docket C-2588. Complaint, Oct. 23, 1974 — Decision, Oct. 23, 1974

Consent order requiring a Missoula, Mont., retailer of new and used mobile homes and travel trailers 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: *Dean A. Fournier.*

For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that H. Allen McKinney, an individual doing business as S & H Mobile Homes and as S & H Mobile Homes of Missoula, hereinafter referred to as respondent, has violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent H. Allen McKinney is an individual trading and doing business as S & H Mobile Homes and as S & H Mobile Homes of Missoula. His principal office and place of business is located at Route 2, Missoula, Mont.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, and sale of new and used mobile homes and travel trailers to the public in metropolitan Missoula, Helena and Bozeman, Mont.

PAR. 3. In the ordinary course and conduct of his business as aforesaid, respondent regularly engages in credit sales and arranges for the extension of consumer credit, as "credit sale," "arrange for the extension of credit," and "consumer credit" are defined in Section 226.2 of

Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondent has caused to be published, in various media, advertisements (as "advertisement" is defined in Regulation Z) to aid, promote, or assist directly or indirectly respondent's consumer credit sales of mobile homes and travel trailers. Certain of these advertisements have stated the period of repayment or the dollar amount of an installment payment or finance charge, and/or that no downpayment is required, without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following.

1. the cash price;
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;
4. the amount of the finance charge expressed as an annual percentage rate; and
5. the deferred payment price.

PAR. 5. Pursuant to Section 103(q) of the Truth in Lending Act, respondent's aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act, and pursuant to Section 108 thereof, respondent has thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge 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, now in further conformity with the procedures prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent H. Allen McKinney is an individual trading and doing business as S & H Mobile Homes and as S & H Mobile Homes of Missoula. His office and principal place of business is located at Route 2, Missoula, Mont.

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

ORDER

It is ordered, That respondent H. Allen McKinney, an individual trading and doing business as S & H Mobile Homes, S & H Mobile Homes of Missoula, or under any other name or names, and respondent's successors, assigns, 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 any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" 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. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- 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.

2. 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondent, and that respondent secure from each such person and agency a signed statement acknowledging receipt of said order.

It is further ordered, That respondent 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 respondent 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 manner and form in which he has complied with this order.

IN THE MATTER OF

AMERICAN IDEAL HOMES, INC., ET AL.

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

Docket C-2589. Complaint, Oct. 23, 1974 — Decision, Oct. 23, 1974

Consent order requiring a Great Falls, Mont., retailer of new and used mobile homes and travel trailers, 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: *Dean A. Fournier.*

For the respondents: *Larsen & Gliko, Great Falls, Mont.*

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that American Ideal Homes, Inc. a corporation, and John E. Boles and Arnold F. Kruse, individually and as officers of said corporation, and George H. Boomer, individually and as sales manager of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent American Ideal Homes, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Montana, with its principal office and place of business located at 3006 - 10th Avenue South, Great Falls, Mont.

Respondents John E. Boles and Arnold F. Kruse are individuals and officers of the corporate respondent. They formulate, direct, and control the policies, acts, and practices of the corporate respondent, including the acts and practices hereinafter set forth. Respondent Kruse's address is the same as that of the corporate respondent, while respondent Boles' address is 2944 North Montana Avenue, Helena, Mont.

Respondent George H. Boomer is an individual and the sales manager of the corporate respondent. He cooperates and participates with the other individual respondents in formulating and effectuating the policies, 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, and sale of new and used mobile homes and travel trailers to the public in metropolitan Great Falls and Helena, Mont.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly engage in credit sales and arrange for the extension of consumer credit, as "credit sale," "arrange for the extension of credit," and "consumer credit" are defined in Section 226.2

of Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondents have caused to be published, in various media, advertisements (as "advertisement" is defined in Regulation Z) to aid, promote, or assist directly or indirectly respondents' consumer credit sales of mobile homes and travel trailers. Certain of these advertisements have stated the period of repayment without also stating, as required by Section 226.10(d)(2) of Regulation Z, in terminology prescribed under Section 226.8 of Regulation Z, and in the manner and form prescribed under Section 226.6(a) of Regulation Z, all of the following:

1. the cash price;
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;
4. the amount of the finance charge expressed as an annual percentage rate; and
5. the deferred payment price.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of 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 American Ideal Homes, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Montana, with its office and principal place of business located at 3006 - 10th Avenue South, Great Falls, Mont.

Respondents John E. Boles and Arnold F. Kruse are individuals and officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of said corporation. Respondent Kruse's address is the same as that of said corporation. Respondent Boles' address is 2944 North Montana Avenue, Helena, Mont.

Respondent George H. Boomer is an individual and the sales manager of the corporate respondent. He cooperates and participates with respondents Kruse and Boles in formulating and effectuating the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents American Ideal Homes, Inc., a corporation, and its officers, and John E. Boles and Arnold F. Kruse, individually and as officers of said corporation, and George H. Boomer, individually and as sales manager of said corporation, and respondents' successors, assigns, 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 any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" 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. Representing in any such advertisement, directly or by implication, the amount of the downpayment required or that no

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

- 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.

2. 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, at the time and in the manner, form and amount required by Sections 226.6, 226.7, 226.8, 226.9 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of the preparation, creation or placing of advertising, to all persons engaged in reviewing the legal sufficiency of advertising, and to all present and future agencies engaged in preparation, creation or placing of advertising on behalf of respondents, and that respondents secure from each such person and agency a signed statement acknowledging receipt of said order.

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

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

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

IN THE MATTER OF
FROZEN FOOD FORUM, INC., ET AL.

ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF SECTION 2(C) OF
THE CLAYTON ACT

Docket 8890. Complaint, June 12, 1972 — Decision, Oct. 29, 1974

Order dismissing complaint against an Atlanta, Ga., buying group composed of 72 distributors of grocery products, which alleged respondents had violated Section 2(c) of the Clayton Act by receiving illegal brokerage payments.

Appearances

For the Commission: *L. P. Parker, Joel S. Thwaites, Ronald C. Cougill and Charles C. Murphy, Jr.*

For the respondents: *Arnall, Golden & Gregory, Atlanta, Ga., and Chickering & Gregory, San Francisco, Calif.*

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof, and hereinafter more particularly described, have been and are violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (15 U.S.C. Section 13) hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Frozen Food Forum, Inc., sometimes hereinafter referred to as respondent FFF, is a corporation organized in 1954 and existing under the laws of the State of Delaware with its home office and principal place of business at the Fulton Federal Building, 11 Pryor Street, S.W., Atlanta, Ga. Respondent FFF was in 1967 and 1968 and is now owned by some 72 stockholder-members, each of which is a separate corporate or other entity engaged in business as a distributor of grocery products which are sold to institutional users of such products in various parts of the United States.

PAR. 2. Respondents Richard M. Page, 1405 Jefferson Highway, New Orleans, La.; Julius Levitt, 777 West Whitehall Street, Atlanta, Ga.; and Jabie S. Hardin, 1186 Airways Boulevard, Memphis, Tenn., all were officers, directors and members of the Executive and Buyers Committee of respondent FFF in 1967 and 1968 and other years and in these capacities, they and each of them has exercised supervision, direction and control of the operations of respondent FFF, while at the same time, each of these individual respondents was also an officer of one of the individual stockholder-members of respondent FFF which are named as respondents herein.

PAR. 3. Respondent Winton Sales Company, sometimes hereinafter referred to as respondent Winton, 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 at 3379 Peachtree Road, N.E., Atlanta, Ga.. Respondent Winton handled purchases of grocery products for respondent FFF and its stockholder-members from 1954 and continuing through 1967 and 1968 to the present time.

PAR. 4. Respondent Stewart-Tucker, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its home office and place of business at 3000 Sand Hill Road, Menlo Park, Calif. Respondent Stewart-Tucker, Inc. in 1966, 1967 and a part of 1968 handled purchases of grocery products for respondent FFF and its stockholder-members.

Effective Apr. 30, 1968, respondent Stewart-Tucker, Inc. sold its FFF business to respondent Howard B. Carper, who had been employed by respondent Stewart-Tucker, Inc. as its Atlanta office manager handling FFF purchases. Beginning May 1, 1968 and continuing to the present date, respondent Stewart-Tucker, Inc. has continued to handle purchases of grocery products for other buying groups of institutional food distributors.

PAR. 5. Respondent Carper Sales Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada with its home office and principal place of business at 120 West Wieuca Road, N.E., Atlanta, Ga. Respondent Howard B. Carper owns and controls this corporation. In 1967 and until Apr. 30, 1968, respondent Howard B. Carper was an employee of respondent Stewart-Tucker, Inc., and in this capacity he was active in handling purchases of grocery products for respondent FFF and its stockholder-members.

Effective May 1, 1968, respondent Howard B. Carper acquired from respondent Stewart-Tucker, Inc. its business of handling purchases of grocery products for respondent FFF and its stockholder-members and

since that date, respondents Carper Sales Co., Inc. and Howard B. Carper have handled purchases of grocery products for respondent FFF and its stockholder-members. These respondents will sometimes be referred to collectively herein as Carper.

PAR. 6. Each of the following named respondents in 1967 and 1968 and continuing to the present time was a corporation organized, operating and doing business under the laws of the state listed and with its principal office and place of business at the address listed and in 1967 and 1968 each was and at the present time is a stockholder-member of respondent FFF and each in 1967 and 1968 had at least one of its officers named as a director of respondent FFF and each was engaged in business as a distributor of grocery products to the institutional trade.

Respondent Name	State of Incorporation	Principal Office and Place of Business
Arrow Food Distributors, Inc.	Delaware	1405 Jefferson Highway New Orleans, La.
Hardin's, Inc.	Tennessee	1186 Airways Boulevard Memphis, Tenn.
Capitol Fish Company	Georgia	771 Whitehall Street Atlanta, Ga.
Gordon Food Service, Inc.	Michigan	333 50th Street Grand Rapids, Mich.
L. M. Sandler and Sons, Inc.	Virginia	1600 Hodgeman Road Norfolk, Va
Tenneva Frozen Foods, Inc.	Virginia	950 Fairview Street Bristol, Va.
Bob Blanke Sales Company, Inc.	Alabama	1545 Holton Street Florence, Ala.
Marin Products Company, Inc.	California	55 Frosty Lane, Ignacio San Rafael, Calif.
Saunders Food Distributors, Inc.	Delaware	604 South Palafox Street Pensacola, Fla.
Rotelle, Inc.	Pennsylvania	Route 309, Bethlehem Pike Spring House, Pa.
Frostex Foods, Inc.	Texas	1179-A Springdale Road Austin, Tex.
Artic Frozen Foods, Inc.	—	2600 N.E. 6th Street Amarillo, Tex.

PAR. 7. At all times since 1954, and to the present date, respondent FFF has owned and controlled the use of various proprietary labels, including "Frosty Acres," "Frosty Seas" and "Garden Delight" and it has by itself and through its agents, including respondents Page, Levitt, Hardin, Winton, Stewart-Tucker, Inc., and Carper, contracted and

agreed with suppliers of grocery products to pack such products under the said proprietary labels for sale by the suppliers to its stockholder-members.

Sales of grocery products bearing FFF proprietary labels by suppliers to FFF stockholder-members since 1954 and to the present time have been substantial. For example, in the fiscal year ending Apr. 30, 1968, such sales are estimated at not less than \$20 million and they are estimated at similar amounts for other years.

PAR. 8. Corporate respondent FFF, individual respondents Page, Levitt, Hardin and corporate respondents Winton and Stewart-Tucker, Inc., and respondent Carper and each of the corporate respondents named in Paragraph Six hereof, have been and now are engaged in commerce, as "commerce" is defined in the Clayton Act in that they and each of them has caused and is causing grocery products to be purchased and shipped from sellers located in different states in stockholder-members of FFF located in other states, including those stockholder-members who are named in Paragraph Six hereof and there has been and is now a constant current of commerce in such products, and all of the said respondents have been and are instrumentalities in the stream of interstate commerce.

Respondent stockholder-members whose names are listed in Paragraph Six hereof are also engaged in commerce, as "commerce" is defined in the Clayton Act, in that they purchase through respondents FFF, Winton, Stewart-Tucker, Inc., and Carper grocery products from various supplier-sellers located in states other than the states where such respondent stockholder-members are located and they receive shipments of such products into the states where such respondent stockholder-members' places of business are located and they resell such products to institutional food users in various states and there is now and has been a constant current of commerce in such products.

COUNT I

Alleging violation by respondent Winton Sales Company of Section 2(c) of the Clayton Act, as amended.

PAR. 9. The allegations of Paragraphs One through Eight of this complaint are incorporated in this count by reference as if fully set forth verbatim.

PAR. 10. In the course and conduct of its business as outlined in Paragraphs One through Eight hereof, respondent Winton Sales Company has received or accepted from suppliers of grocery products something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection with the sale or

purchase of goods, wares, or merchandise, in which sales or purchases respondent Winton Sales Company was, in fact, the agent, representative or other intermediary of the buyers of such products, or was subject to the direct or indirect control of the buyers of such products, who did not pay or grant such compensation.

Therefore, the acts of respondent Winton Sales Company as described herein are unlawful within the intent and meaning of Section 2(c) of the Clayton Act, as amended.

COUNT II

Alleging violation by respondent Stewart-Tucker, Inc. of Section 2(c) of the Clayton Act, as amended.

PAR. 11. The allegations of the Paragraphs One through Eight of this complaint are incorporated in this count by reference as if fully set forth verbatim.

PAR. 12. In the course and conduct of its business as outlined in Paragraphs One through Eight hereof, respondent Stewart-Tucker, Inc. has received or accepted from suppliers of grocery products something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection with the sale or purchase of goods, wares, or merchandise, in which sales or purchases respondent Stewart-Tucker, Inc. was, in fact, the agent, representative or other intermediary of the buyers of such products, or was subject to the direct or indirect control of the buyers of such products, who did not pay or grant such compensation.

Therefore, the acts of respondent Stewart-Tucker, Inc. as described herein are unlawful within the intent and meaning of Section 2(c) of the Clayton Act, as amended.

COUNT III

Alleging violation by respondents Carper Sales Co., Inc., and Howard B. Carper of Section 2(c) of the Clayton Act, as amended.

PAR. 13. The allegations of Paragraphs One through Eight of this complaint are incorporated in this count by reference as if fully set forth verbatim.

PAR. 14. In the course and conduct of their business as outlined in Paragraphs One through Eight hereof, respondents Carper Sales, Co., Inc., and Howard B. Carper have received or accepted from suppliers of grocery products something of value as a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection with the sale or purchase of goods, wares, or merchandise, in which sales or purchases respondents Carper Sales Co., Inc., and How-

ard B. Carper were, in fact, the agent, representative or other intermediary of the buyers of such products, or were subject to the direct or indirect control of the buyers of such products, who did not pay or grant such compensation.

Therefore, the acts of respondents Carper Sales Co., Inc., and Howard B. Carper as described herein are unlawful within the intent and meaning of Section 2(c) of the Clayton Act, as amended.

COUNT IV

Alleging violations by respondents FFF, Page, Levitt, Hardin and the stockholder-members listed as respondents in Paragraph Six of this complaint of Section 2(c) of the Clayton Act, as amended.

PAR. 15. The allegations of Paragraphs One through Eight of this complaint are incorporated in this count by reference as if fully set forth verbatim.

PAR. 16. In the course and conduct of their business, respondents FFF, Page, Levitt, Hardin and the respondent stockholder-members of FFF listed in Paragraph Six hereof have received and are now receiving something of value, namely valuable brokerage services from respondents Winton and Carper and have received valuable brokerage services from respondent Stewart-Tucker, Inc., in connection with purchases of grocery products by stockholder-members of FFF, without paying directly or indirectly any brokerage, commission or other compensation to respondents Winton, Stewart-Tucker, Inc., or Carper. At the same time, respondent Stewart-Tucker, Inc. has and respondents Winton and Carper have and are now collecting and receiving directly and indirectly commissions or other compensation from sellers in connection with purchases of grocery products by stockholder-members of FFF when, in fact, respondent Stewart-Tucker, Inc. was and respondents Winton and Carper were and are now the agents, representatives or other intermediaries of respondents FFF, Page, Levitt, Hardin and the stockholder-members of FFF listed in Paragraph Six of this complaint and were acting, in fact, for or in behalf of the respondents FFF, Page, Levitt, Hardin and the stockholder-members of FFF, including but not confined in those listed in Paragraph Six hereof, and respondent Stewart-Tucker, Inc. was and respondents Winton and Carper have been or are now subject to the direct or indirect control of the said respondents in effecting these transactions.

The aforesaid acts and practices of respondents FFF, Page, Levitt, Hardin and the stockholder-members of FFF listed in Paragraph Six hereof, and each of them, in receiving or accepting something of value, namely the services of respondents Winton, Stewart-Tucker, Inc. and

Carper as a commission, brokerage or other compensation or any allowance or discount in lieu thereof from sellers are in violation of Subsection (c) of Section 2 of the Clayton Act, as amended.

ORDER

The Commission, on Aug. 5, 1974 [p. 221 herein], ordered complaint counsel to file a brief limited to the question "whether in view of the unavailability of evidence this proceeding should be dismissed," and granted respondents the right to file a reply brief limited to the same question.

Complaint counsel recommend that the proceeding be dismissed on the ground that the evidence upon which complaint counsel must rely to prove the allegations of the complaint is too remote in point of time to support an order to cease and desist.

Respondents, in their answering brief, take the position that either the complaint should be dismissed with prejudice or, in the alternative, they should be granted compulsory process to discover the circumstances of the Commission's order dated Aug. 15, 1968, which denied respondents' motion to quash 1968 investigative subpoenas *duces tecum*.

Because the Commission believes that to allow respondents discovery of past and present Commissioners and staff would be disruptive of the agency's function, the Commission has determined to not grant respondents discovery. The effect of this action is to deprive complaint counsel of documents updating respondents' 1968 submissions. These submissions relate to events occurring long before 1968. As a consequence, complaint counsel, in the trial of this matter, would be required to rely upon evidence that is not sufficiently current to sustain the allegations in the complaint. The Commission has, therefore, determined that said complaint in this matter will be dismissed.

Respondents' request that the Commission dismiss the complaint with prejudice is denied. Respondents' request for oral argument is also denied.

It is ordered, That the complaint be, and it hereby is, dismissed without prejudice to the right of the Commission to issue a new complaint or to take such further action or other action against the respondents at any time in the future.