concrete products within respondent's present or future marketing area for portland cement or which purchased in excess of 10,000 barrels of portland cement in any of the five (5) years preceding the merger.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to respondent Oklahoma Land and Cattle Company.

It is further ordered, That the hearing examiner's initial decision, as modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That respondent OKC Corp. shall, within sixty (60) days from the date of service of this order and every sixty (60) days thereafter until divestiture is fully effected, submit to the Commission a detailed written report of its actions, plans, and progress in complying with the divestiture provisions of this order, and fulfilling its objectives. All reports shall include, among other things that will be from time to time required, a summary of all contracts and negotiations with potential purchasers of the stock, assets, properties, rights or privileges to be divested under this order, the identity of all such potential purchasers, and copy of all written communications from and to such potential purchasers.

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

Commissioner MacIntyre did not participate. Commissioner Dennison did not participate for the reason oral argument was heard prior to his taking oath as Commissioner.

IN THE MATTER OF

MURRAY GLICK DOING BUSINESS AS RAYNARD WATCH COMPANY

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

Docket C-1811. Complaint, Oct. 21, 1970—Decision, Oct. 21, 1970

Consent order requiring a New York City individual engaged in the watch repair business to cease misrepresenting that his repair work is fully guaranteed, that his charge includes insurance, making charges higher than the amounts specified in the guarantee, and placing in the hands of others means to deceive the consuming public.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Murray Glick, an individual doing business as Raynard Watch Company, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Murray Glick is an individual doing business as Raynard Watch Company. Respondent's office and principal place of business is located at 37 West 47th Street, New York, New York.

PAR. 2. Respondent is engaged in the watch repair business. In the course and conduct of his business, respondent has entered into agreements with retail sellers of watches. Under these agreements, the sellers furnish watch purchasers with a "service certificate" designating respondent as the sellers' authorized repair service. The "service certificate" is a written guarantee which provides that respondent will, for a stated handling charge and for a stated period of time, make watch repairs necessitated by defects in workmanship or materials.

PAR. 3. Respondent causes his "service certificates" to be disseminated to watch purchasers in the U.S. Virgin Islands and, through the U.S. mails, has received for repair numerous watches owned by persons located in various States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business as aforesaid, respondent has caused the dissemination of a "service certificate" containing various statements and representations of which the following are typical:

This SWISS MOVEMENT is guaranteed against defective workmanship and materials for a period of one year from date of purchase.

Any SWISS MOVEMENT watch developing defects during this period, will be repaired, provided it is returned to us, with $1.75 to cover cost of handling.

Do not return to store where purchased, but direct to us for adjustment by skilled factory experts.

. . . fill in this guarantee and mail it back together with your watch, enclosing $1.75 to cover handling, shipping, postage, insurance, etc. (Please allow 4 to 6 weeks for your repair to be returned (including travel time.).)

PAR. 5. By and through the use of the statements and representations quoted in Paragraph Four, and others of similar import and

meaning not specifically set forth herein, respondent represents, directly or by implication:

1. That respondent will make watch repairs in accordance with the terms of his guarantee;

2. That such repairs will be made by skilled factory experts;

3. That the only charge for such repairs is $1.75;

4. That the $1.75 charge includes the cost of insurance on the watch; and

5. That a watch will be repaired and returned within four to six weeks of its receipt by respondent.

PAR. 6. In truth and in fact:

1. Respondent has in many cases been unable or unwilling to make watch repairs in accordance with the terms of his guarantee;

2. Repairs are not made by skilled factory experts, but by respondent himself who has no factory and whose business is watch repair as opposed to watchmaking;

3. The $1.75 charge is not the only charge for repairs; in many cases, respondent makes additional charges for parts and labor although such parts and labor are covered by the terms of the guarantee;

4. The $1.75 charge does not include the cost of insurance on the watch; in many cases, respondent returns watches to their owners by uninsured parcel post; and

5. Respondent does not generally repair and return a watch within four to six weeks; on the contrary, respondent usually takes several times longer and in many cases has taken several months to repair and return a watch to its owner.

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

PAR. 7. By and through the use of the aforesaid statements, representations, and practices respondent places in the hands of retailers the means and instrumentalities by and through which such retailers may mislead the public as to the manner in which respondent meets obligations under the terms of his guarantee.

PAR. 8. In the course and conduct of his business as aforesaid, and at all times mentioned herein, respondent has been in substantial competition in commerce with corporations, firms, and individuals in the sale of services of the same general kind and type as those provided by respondent.

PAR. 9. The use by respondent of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the mistaken and erroneous belief that said statements and representations were, and are, true and into the purchase of substantial quantities of watches and of respondent's repair services, by reason of said mistaken and erroneous belief.

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

DECISION AND ORDER

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

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in said 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 having placed said agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Murray Glick is an individual doing business as Raynard Watch Company. The office and principal place of business

of Raynard Watch Company is located at 37 West 47th Street, New York, New York.

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

ORDER

It is ordered, That respondent Murray Glick, an individual doing business as Raynard Watch Company, or under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, or sale of watch repair services or the dissemination by any means of guarantees on watches or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

   a. That a product is guaranteed when any provision of the guarantee is not fully complied with;

   b. That repair work will be performed by skilled factory experts or otherwise misrepresenting in any manner the nature and scope of respondent's business;

   c. That a charge for repair work includes the cost of insurance or any other item of cost, when such insurance or other item of cost is not provided;

   d. That repair work will be performed within a stated period of time, when such is not the case.

2. Making a charge for repair work which is more than the amount specified for such work under the terms of a guarantee.

3. Placing in the hands of retailers or others the means and instrumentalities by and through which they may deceive or mislead the purchasing public as to the things hereinabove prohibited.

It is further ordered, That respondent shall deliver a copy of this order to cease and desist to all corporations, firms, or individuals who now or in the future are parties to any agreement under which respondent performs repair work for their customers.

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

IN THE MATTER OF

MARS, INCORPORATED

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

Docket C-1812. Complaint, Oct. 22, 1970—Decision, Oct. 22, 1970

Consent order requiring a Hackettstown, N.J., candy manufacturer to cease using any advertisement which misrepresents that its "Milky Way" milk chocolate bar will have a nutritional value equivalent to that of the ingredients used in its preparation or that said candy bar can or should be substituted for milk or milk products.

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

PARAGRAPH 1. Respondent Mars, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at High Street, Hackettstown, New Jersey.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and distribution of a candy designated "Milky Way" milk chocolate bar which comes within the classification of a "food," as said term is defined in the Federal Trade Commission Act.

PAR. 3. Respondent causes the said product, when sold, to be transported from its place of business in one State of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said product in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertise-

ments concerning the said product by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in magazines and other advertising media, and by means of television broadcasts transmitted by television stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products; and has disseminated, and caused the dissemination of, advertisements concerning said product by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the representations contained in said advertisements disseminated as hereinabove set forth is a fanciful visual representation of a glass of milk "magically" changing into a "Milky Way" milk cholocate bar.

PAR. 6. Through the use of said advertisements respondent has represented directly and by implication that said candy has a nutritional value equivalent to a glass of milk; that said candy can or should be substituted for milk or milk products in the diet by reason of the use of milk or milk products as ingredients in said candy; that said candy has a nutritional value equivalent to that of the ingredients used in its preparation.

PAR. 7. In truth and in fact "Milky Way" milk chocolate bar does not have a nutritional value equivalent to a glass of milk; said candy cannot and should not be substituted for milk or milk products in the diet by reason of the use of milk or milk products as ingredients in said candy; said candy does not have a nutritional value equivalent to that of the ingredients used in its preparation.

Therefore, the advertisements referred to in Paragraph Five were and are misleading in material respects and constituted, and now constitutes, "false advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted, and now constitute, unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Decision and Order

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices 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 thirty (30) days a comment having been received which has been duly considered by the Commission, 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 Mars, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at High Street, Hackettstown, New Jersey.

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 Mars, Incorporated, a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other devise, in connection with the offering for sale, sale or distribution of "Milky Way" milk chocolate bar, or any other candy preparation of similar composition or possessing

substantially similar properties, do forthwith cease and desist from directly or indirectly:

I. Disseminating, or causing the dissemination or any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which:

1. Represents directly or by implication:

(a) That the said candy, at the time it is consumed, will have a nutritional value equivalent to that of the ingredients used in its preparation, or that the specific nutritional value of any ingredient remains available in the candy at the time it is consumed.

(b) That the said candy can or should be substituted for milk or milk products in the diet by reason of the use of milk or milk products as ingredients in said candy.

2. Misrepresents:

(a) The quantity or quality of whole milk or milk products used as an ingredient in said candy;

(b) The nutritional value of said candy in any manner whatsoever.

II. Disseminating, or causing the dissemination of any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations or misrepresentations prohibited in Paragraph I hereof.

III. It is understood by Mars, Incorporated, that truthful and nondeceptive statements of the actual nutritive value when consumed of the "Milky Way" milk chocolate bar, or any other candy preparation of similar composition or possessing substantially similar properties, would not be prohibited by this agreement.

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

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

It is further ordered, That the 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

POOL CITY, INC., ET AL.

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

Docket C-1813. Complaint, Oct. 26, 1970—Decision, Oct. 26, 1970

Consent order requiring a Chevy Chase, Md., corporation engaged in the construction and sale of residential swimming pools to cease violating the Truth in Lending Act by failing to disclose in terminology prescribed by Regulation Z the annual percentage rate, all charges included in the deferred payment price, the number of payments required, and all applicable disclosures required; and also to cease making statements that there is no charge for credit unless it states the cash price, the amount of downpayment, the number, amount, and due date of the payments, the finance charge in annual percentage rate, and the deferred payment charge.

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 Pool City, Inc., a corporation, and Norman Schulman, 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 Pool City, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 5454 Wisconsin Avenue, Chevy Chase, Maryland.

Respondent Norman Schulman is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, including the acts and practices herein-

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

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

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

PAR. 4. Subsequent to July 1, 1969, in the ordinary course of their aforesaid business, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' goods and services. Respondents have furnished customers with disclosure statements, hereinafter referred to as "the statement," containing certain consumer credit cost disclosures. Respondents do not provide to customers on any document other than the statement the credit cost disclosures which are required to be made by Section 226.8 of Regulation Z.

By and through use of the statement, respondents:

1. Fail to disclose the "annual percentage rate" acurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

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

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

PAR. 5. Subsequent to July 1, 1969, in the ordinary course of their business, respondents have caused to be published advertisements for their goods and services, as "advertisement" is defined in Regulation Z. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services. Through these advertisements, respondents by representing "No Cash Needed," state indirectly that no downpayment is required in connection with a consumer credit transaction, without also stating all of the following terms, in terminology pre-

scribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

1. The cash price,

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

3. The amount of the finance charge expressed as an annual percentage rate; and

4. The deferred payment price.

PAR. 6. Pursuant to Section 105 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 respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Truth in Lending Act and the implementing Regulation promulgated thereunder; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

(1) Respondent Pool City, Inc., is a corporation organized, exist-

ing and doing business under and by virtue of the laws of the State of Maryland, with its offices and principal place of business located at 5454 Wisconsin Avenue, Chevy Chase, Maryland.

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

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

ORDER

It is ordered, That respondents Pool City, Inc., a corporation, and its officers, and Norman Schulman, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate 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 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing, in any consumer credit transaction, to disclose the annual percentage rate accurately to the nearest quarter of one percent, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

2. Failing, in any consumer credit transaction, to disclose accurately 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.

3. Failing, in any consumer credit transaction, to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

4. Failing, in any consumer credit transaction, to make all applicable disclosures required to be made by Section 226.8 of Regulation Z, in the form and manner prescribed therein.

5. Stating, in any advertisement, 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 it states

all of the following items 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.

6. Failing, in any advertisement, to make all disclosures in the manner, form and amount required by Section 226.10 of Regulation Z.

It is further ordered, That a copy of this order to cease and desist be delivered to all present and future personnel of respondents engaged in the consummation of any consumer credit transaction or any aspect of preparation, creation, or placing of advertising, and failing to 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 the corporate respondent, such as dissolution, assignment, or sale resultant in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That 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

CENTURY BRICK CORPORATION OF AMERICA, ET AL.

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

Docket C-1814. Complaint, Oct. 27, 1970—Decision, Oct. 27, 1970

Consent order requiring five affiliated Erie, Pa., distributors of simulated brick facing and seamless floor-covering material to cease misrepresenting that

investors in respondents' dealerships would get exclusive territories or be paid if territory was shared, that visits or training at respondents' home office would be paid for by respondents, that a refund would be granted in case dealership discontinued, that taping machines and other equipment would be furnished free, that a dealer needs no prior skill, knowledge or training, that dealer will be furnished free sale literature or that products will be delivered to dealer's job site, and that respondents' products have been approved by an agency of the Federal Government.

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 Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America, corporations, and Colman J. Seman, David C. Seman, and Frederick P. Seman, individually and as officers or directors 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. Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America are corporations organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with their principal offices and places of business formerly located at 4506 West 12th Street, in the city of Erie, State of Pennsylvania.

Respondents Colman J. Seman, David C. Seman, and Frederick P. Seman are individuals and are officers and/or directors of the corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their addresses are as follows: Colman J. Seman and Frederick P. Seman, 802 Wedgewood Drive, Erie, Pennsylvania; and David C. Seman, 640 Brown Avenue, Erie, Pennsylvania.

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

PAR. 2. Respondents for some time last past have been engaged in the advertising, offering for sale, sale, and distribution of simulated brick facing to franchised dealers for resale to the public under

the trade name of "Century Brick." Also the said individual respondents for some time last past have been engaged in the advertising, offering for sale, sale, and distribution of seamless floor-covering material to franchised dealers for resale to the public under the trade name of "Magnalux Seamless Flooring."

PAR. 3. 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 Pennsylvania to purchasers thereof located in various other States of the United States other than the State of origination, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, respondents have operated, and continue to operate, a sales plan to market their products by establishing franchised dealerships. Leads to prospective franchised dealers, hereinafter called dealers, are obtained by local and national advertising. Once the name of a prospective dealer is obtained, respondents send a salesman to call on him and attempt to sell him a franchised dealership, hereinafter called a dealership. If a sale is made, respondents send another representative to instruct the new dealer in organizing the business. When this is complete, respondents furnish the dealer with their product materials.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of the dealerships for their products, by and through oral statements and representations of respondents, or their salesmen and representatives, and by means of advertising and other written and printed material, respondents represent, and have represented, directly and by implication, to prospective purchasers of these dealerships, that:

1. That dealership consisted of an exclusive franchise to sell respondents' products within a designated territory and that the owner of such dealership would receive payment from the respondents if additional dealers were permitted to do business within said designated territory.

2. The respondents would pay all expenses for the dealer or an employee of his to visit and receive training at the respondents' home offices.

3. The dealer would receive a refund from the respondents of all or a portion of the dealership fee, if said dealer decided not to continue in the dealership.

4. Other persons were interested in the particular territory and, therefore, the prospective dealer must make a decision on the dealership immediately.

5. A representative of the respondents would be sent to the new dealer's territory to assist him in hiring and training employees, securing job orders, establishing contacts and credit at local banks and otherwise setting up a fully-operating business.

6. The respondents would provide, free of charge, the taping machines used in the installation of respondents' products.

7. The respondents would provide dealers with sales leads obtained through national advertising.

8. The respondents would provide the dealer with a list of names and addresses of other active dealers.

9. The dealer needed no skill, knowledge, or prior training to operate a successful dealership.

10. The respondents would furnish advice and assistance to the dealer, whenever the need arose.

11. The respondents were building warehouses at various locations, operating or maintaining a marble-crushing plant, and marketing prefabricated homes.

12. The dealers would be provided with free sales literature or literature which would not cost a dealer more than $10 per thousand.

13. The respondents' products would be delivered to the dealer's job site at a stated cost.

14. The respondents' products were approved by the Federal Housing Administration and the General Services Administration.

15. The respondents had many successful dealers with earnings ranging from $20,000 per year to over $50,000 per year.

16. The dealers would be supplied with the respondents' products within a reasonable time after they were ordered.

PAR. 6. In truth and in fact:

1. The dealership did not consist of an exclusive franchise to sell respondents' products within a designated territory and a dealer would not receive any payment from respondents if additional dealers were permitted to do business within such territory.

2. Any expenses that were paid for a dealer or his employees to visit and receive training at the respondents' home office were included in the franchise fee which was paid by the dealer.

3. The dealer did not receive any refund of his dealership fee from the respondents, if he discontinued his dealership.

4. In some cases, there were no other persons interested in the

particular territory and the prospective dealer had no reason to hasten his decision on whether to purchase the dealership.

5. In certain instances the respondents' representatives did not assist the dealer in hiring and training employees, securing job orders, establishing contacts and credit at local banks, and setting up his business.

6. The respondents did not provide dealers with free taping machines.

7. The respondents provided dealers with few, if any, leads obtained through national advertising.

8. The respondents did not provide dealers with the names and addresses of other active dealers.

9. The dealers or authorized representatives of same needed skill, knowledge, and/or prior training in the application of the product to operate a successful dealership.

10. The respondents did not furnish advice and assistance to dealers, whenever the need arose.

11. The respondents were never building warehouses at various locations, operating a marble-crushing plant, or marketing prefabricated homes.

12. The dealers did not receive free sales literature from the respondents and what they did receive cost in excess of $10 per thousand.

13. The respondents' products were, in many cases, delivered to the dealer's job site substantially in excess of the stated cost which was represented to him.

14. The respondents' products are not and were never approved by the Federal Housing Administration, the General Services Administration, or an agency or branch of the United States Government.

15. The respondents have few, if any successful dealers with earnings ranging from $20,000 per year to over $50,000 per year.

16. In many cases, the dealers had to wait long periods of time for the respondents' products to be delivered after they were ordered.

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

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

PAR. 8. The use by respondents of the aforesaid false, misleading, and deceptive statements and representations in connection with the

recruitment of franchised dealers to sell their products had had, and now has, the capacity and tendency to mislead prospective franchised dealers into the erroneous and mistaken belief that such statements and representations were, and are, true and to induce a substantial number of them to respond to such advertisements, statements, and representations, and to enter into franchise dealership agreements with respondents and to expend substantial sums of money in reliance on said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair 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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, now in further conformity with the procedure prescribed in Section

* Excluding David C. Seman who is not named in the order hereinafter set forth.

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 Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America are corporations organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with their principal offices and place of business formerly located at 4506 West 12th Street, in the city of Erie, State of Pennsylvania.

Respondents Colman J. Seman, and Fredrick P. Seman are individuals and are officers and/or directors of the corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is 802 Wedgewood Drive, Erie, Pennsylvania.

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

ORDER

It is ordered, That the respondents, Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America, corporations, and their officers and directors, and Colman J. Seman and Fredrick P. Seman, individually and as officers or directors of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of simulated brick facing, seamless floor-covering material, or any other product, or any franchise, license, or dealership with respect thereto, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that persons investing in respondents' franchises, dealerships, or other products will be granted an exclusive territory in which to locate and sell products purchased from respondents unless respondents provide in all contracts or purchase agreements with dealers, franchisees, or purchasers of respondents' products, to whom such exclusive territories have been granted, a description of the size and limits

of the territories, and a statement that no other investor, dealer, franchisee, or purchaser of the same products will be granted the same territory or any part thereof and respondents in all instances abide by such provisions.

2. Representing, directly or by implication, that a dealer will receive payment from respondents if additional dealers are permitted to do business within his designated territory, unless such payments are actually made by respondents.

3. Representing, directly or by implication, that any expenses, other than those actually paid by the respondents, for the dealer or his employee to visit and receive training at the respondents' home office or any other place will be paid by the respondents.

4. Representing, directly or by implication, that a dealer will receive any refund of the dealership fee or initial investment from the respondents if the dealer decides not to continue in said dealership, unless such refunds are actually made by the respondents.

5. Falsely representing, directly or by implication, that a representative of the respondents will be sent to assist a new dealer in the hiring and training of employees, securing job orders, establishing contacts and credit at local banks, or to assist or perform any other function or service not actually performed and readily available to such dealers.

6. Representing, directly or by implication, that respondents will provide, free of charge, the taping machines used in the installation of respondents' products, unless such is actually provided on the represented terms and conditions; misrepresenting, in any manner, the machinery, equipment, or supplies furnished or made available to dealers or franchisees or the cost thereof.

7. Representing, directly or by implication, that respondents will provide dealers with sales leads obtained through national advertising or any other means, unless respondents are able to provide to each dealer a significant number of bona fide prospective buyers for respondents' products.

8. Representing, directly or by implication, that respondents will provide the dealer with the names and addresses of other active dealers or that respondents have many successful dealers, unless respondents have current information establishing the success of such dealers and provide such names and addresses as promised.

9. Representing, directly or by implication, that a dealer needs no skill, knowledge, or prior training, or experience to operate a

successful dealership, unless the prospective dealer is fully apprised of all facts and responsibilities of operating such a dealership.

10. Misrepresenting, in any manner, the assistance furnished or made available to the dealer.

11. Falsely representing that respondents are building warehouses at various locations, operating or maintaining a marble-crushing plant or manufacturing and marketing prefabricated homes; or misrepresenting, in any manner, the size or kind of respondents' business organization.

12. Representing, directly or by implication, that respondents will provide dealers with free sales literature, when in fact such sales literature is not free; or misrepresenting, in any manner, the cost of sales literature to dealers.

13. Representing, directly or by implication, that respondents' products will be delivered to the dealer's job site at any cost other than the actual one.

14. Falsely representing, directly or by implication, that respondents' products are approved by the Federal Housing Administration, the General Services Administration, or any agency of the United States Government; or misrepresenting, in any manner, the acceptance or approval of respondents' products.

15. Representing that dealers will earn any stated amount; or representing, in any manner, the past earnings of dealers, unless in fact, the past earnings represented are those of a substantial number of dealers and accurately reflect the average earnings of these dealers under circumstances similar to those of the dealer to whom the representation is made.

16. Representing, directly or by implication, that dealers will be supplied with respondents' products within a reasonable time after they are ordered, unless such is actually the fact.

17. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' product dealerships and failing to secure from each such salesman or other persons a signed statement acknowledging receipt of said order.

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

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in a 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 a 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

UNIQUE INDUSTRIES, INC., ET AL.

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

Docket C-1815. Complaint, Nov. 2, 1970—Decision, Nov. 2, 1970

Consent order requiring a Philadelphia, Pa., seller of novelty items and party favors to cease selling or distributing wood chip leis unless they are within the applicable flammability standards of the Flammable Fabrics Act.

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 Unique Industries, Inc., a corporation, and Everett Novak, individually and as an officer of said corporation, hereinafter referred to as respondents have violated the provisions of said Act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Paragraph 1. Respondent Unique Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania. Respondent Everett Novak is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporation.

Respondents are engaged in the sale of novelty items such as party favors, including wearing apparel in the form of wood chip leis, with their office and principal place of business located at Torresdale Avenue and Orchard Street, Philadelphia, Pennsylvania.

Par. 2. Respondents are now and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of

wood chip leis, in commerce. Said wood chip leis are shipped and sold in commerce by the respondents. The aforesaid wood chip leis are shipped from respondents' place of business in the State of Pennsylvania to customers located in various other States of the United States. Respondents maintained, and at all times mentioned, have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. The respondents have sold products (wood chip leis) which exhibited characteristics of rapid and intense burning so as to render such products dangerous and unsafe for use by individuals.

PAR. 4. The sale and distribution of the aforesaid wood chip leis has had and now has the tendency and capacity to lead the purchasing public into the erroneous assumption that the said wood chip leis had been treated so as to make them safe for ordinary use. In truth and in fact the said leis have not been so treated.

PAR. 5. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act.

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 exe-

cuted consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Unique Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at Torresdale Avenue and Orchard Street, Philadelphia, Pennsylvania.

Respondent Everett Novak is an official of said corporation. He formulates, directs, and controls the acts, practices and policies of said corporation. His office is the same as that of the said corporate respondent.

ORDER

It is ordered, That respondents Unique Industries, Inc., a corporation, and its officers, and Everett Novak, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from the advertising, offering for sale, sale or distribution of wood chip leis in commerce, as "commerce" is defined in the Federal Trade Commission Act, unless and until said wood chip leis or wood chip products are flameproofed to such an extent that they will not ignite, burn or glow.

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

It is further ordered, That the respondents herein either process the fabrics which gave rise to this complaint and any wearing apparel made from said fabrics so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said fabrics or any wearing apparel made therefrom.

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product or related material which gave

rise to the complaint (1) the number of such products in inventory, (2) any action taken and any further actions proposed to be taken to notify customers of the flammability of such products and of the results of such actions, (3) any disposition of such products since December 15, 1969, and (4) any action taken or proposed to be taken to flameproof or destroy such products and the results of such action.

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

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

It is further ordered, That the 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

SAMUEL SHINDLER TRADING AS BUGLE TOY MFG. CO.

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

Docket C-1816. Complaint, Nov. 2, 1970—Decision, Nov. 2, 1970

Consent order requiring a Pawtucket, R.I., distributor of various party products including paper hula skirts to bring such skirts within the applicable flammability standards of the Flammable Fabrics Act or destroy said skirts.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Samuel Shindler, an individual trading as Bugle Toy Mfg. Co., hereinafter referred to as respondent, has violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect there-

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

PARAGRAPH 1. Respondent Samuel Shindler is an individual trading as Bugle Toy Mfg. Co.

Respondent is engaged in the manufacture, sale and distribution of various party products including, but not limited to, paper hula skirts with his office and principal place of business located at 179 Conant Street, Pawtucket, Rhode Island.

PAR. 2. Respondent is now and for some time last past has been engaged in the manufacture for sale, the sale and offering for sale, in commerce, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products; and has manufactured for sale, sold, and offered for sale, products made of fabrics or related materials which have been shipped or received in commerce, as the terms "commerce," "products," "fabrics" and "related materials" are defined in the Flammable Fabrics Act, as amended, which products and fabrics or related materials failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were paper hula skirts.

PAR. 3. The aforesaid acts and practices of respondent were and are in violation of the Flammable Fabrics Act, as amended, 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 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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by

the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Samuel Shindler is an individual trading as Bugle Toy Mfg. Co.

Respondent is engaged in the manufacture, sale and distribution of various party products including, but not limited to, paper hula skirts, with his office and principal place of business located at 179 Conant Street, Pawtucket, Rhode Island.

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

ORDER

It is ordered, That respondent Samuel Shindler, individually and trading as Bugle Toy Mfg. Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material, fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission an interim special report in writing setting forth the respondent's intentions as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since January 16, 1970. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of paper, silk, cotton, rayon, acetate and nylon, acetate and rayon, or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That the respondent herein either process the hula skirts which gave rise to this complaint so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said hula skirts.

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

IN THE MATTER OF

GENERAL NUTRITION CORPORATION
TRADING AS
NATURAL SALES COMPANY, ET AL.

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

Docket C-1517. Complaint, Apr. 4, 1969—Decision, Nov. 4, 1970

Order modifying a previous consent order dated April 4, 1969, 75 F.T.C. 529, which prohibited a drug company from making certain claims for the nutritional significance of vitamin and mineral ingredients.

ORDER MODIFYING CEASE AND DESIST ORDER

The respondents having made no response to the Commission's order to show cause dated July 1, 1970 on or before the thirtieth day after service thereof,

It is ordered, That Paragraph 2 of the Commission's order dated April 4, 1969 [75 F.T.C. 529], be, and it hereby is, modified to read as follows:

Paragraph 2. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement of a product which is advertised or promoted for sale by reason of its vitamin and/or mineral content, which lists, or otherwise refers to as an ingredient, except in the name of such product, any ingredient, the need for which in human nutrition has not been established, or any ingredient whose presence in the preparation is without nutritional significance, unless the advertisement also discloses clearly and conspicuously, in immediate or close proximity, and with equal prominence, that the presence of such ingredient in such preparation is without nutritional significance; nor shall any representation be made that the need for such an ingredient in such product for human nutrition has been established.

For the purposes of enforcement of this paragraph, any regulation by the Food and Drug Administration, in full force and effect, which affirmatively permits claims for nutritional significance of a vitamin or mineral in a specified amount in a product labeled for use as a food supplement, will be accepted as evidence that the presence of that amount of the specified nutrient has nutritional significance.

In the Matter of

ALLEN V. SMITH, INC.

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

Docket 6877. Complaint, Aug. 23, 1957—Decision, Nov. 5, 1970

Order reopening decision of Commission dated Jan. 22, 1958, 54 F.T.C. 967, requiring a packer of dried fruit products to cease discriminating in price, rescinding the order and dismissing the complaint.

Order and Decision Reopening Proceeding, Rescinding Order and Dismissing Complaint

The Commission having issued its order to cease and desist against respondent on January 22, 1958 [54 F.T.C. 967]; and having issued on September 1, 1970, its order to show cause why this proceeding

should not be reopened for the purpose of rescinding its said order to cease and desist and dismissing its complaint; and having served its said order to show cause upon the respondent; and

The Commission being of the opinion that the order to show cause raises no substantial issue of fact requiring resolution; and

The Commission for the reasons set forth in its order to show cause being of the opinion that the public interest will best be served by reopening the proceeding herein, rescinding its order to cease and desist, and dismissing its complaint,

It is ordered, That this matter be, and it hereby is, reopened as to the respondent named herein.

It is further ordered, That the Commission's order to cease and desist issued January 22, 1958 [54 F.T.C. 967], be, and it hereby is, rescinded as to respondent Allen V. Smith, Inc., and that the complaint as to such respondent be, and it hereby is, dismissed.

IN THE MATTER OF

WASHINGTON CAREERS, INC., TRADING AS JULIET GIBSON CAREER COLLEGE AND FINISHING SCHOOL, ET AL.

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

Docket C-1817. Complaint, Nov. 5, 1970—Decision, Nov. 5, 1970

Consent order requiring a Washington, D.C., school of fashion merchandising, professional modeling and secretarial skills to cease misrepresenting that it is affiliated with the Juliet Gibson Corporation or any nationwide chain, misrepresenting its placement and tutoring facilities, failing to disclose additional obligations connected with is courses; misrepresenting that its courses qualify students to be airline hostesses, and misrepresenting that its curriculum or methods of instruction are on the college level.

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 Washington Careers, Inc., a corporation, trading as Juliet Gibson Career College and Finishing School, and Richard A. Parrott and R. Wade Murphree, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act,

and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Washington Careers, Inc., which trades as Juliet Gibson Career College and Finishing School, is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business formerly located at 1025 Fifteenth Street, N.W., Washington, D.C.

Respondent Richard A. Parrott and R. Wade Murphree are individuals and are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. The address of Richard A. Parrott is 4921 Seminary Road, Alexandria, Virginia, and the address of R. Wade Murphree is 4607 South Four Mile Run Drive, Arlington, Virginia.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the operation of a school offering courses of instruction in fashion merchandising, public relations, professional modeling and secretarial skills to the public.

PAR. 3. In the course and conduct of their aforesaid business, and for the purpose of inducing enrollment in their school, respondents from their offices in the District of Columbia solicit, and for some time last past have solicited, students by means of advertising brochures mailed to persons located in the District of Columbia and in various other States of the United States; and respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing enrollment in their course of instruction, by and through oral statements of respondents or their salesmen, brochures and other written material, respondents have represented, directly or by implication, to prospective students, that:

1. Respondents are associated or are affiliated with, or are a franchisee of Juliet Gibson Corporation.

2. Respondents are a part of a nationwide chain which operates career schools in major cities around the United States.

3. Respondents' school is an accredited institution.

4. Respondents' classrooms would be located in a building then under construction and the classrooms would be like or similar to classrooms pictured in photographs shown prospective students.

5. Respondents provide a placement service which places a significant number of students or graduates in positions for which they have been trained by respondents.

6. Respondents provide individual tutoring upon request to those students having difficulty with their class work.

7. It is urgent that prospective students enroll immediately in order to obtain a place in respondents' forthcoming class.

8. A student may enroll in any one of the courses of instruction offered by respondents without limitation and without incurring additional obligations.

9. Those subjects taught by respondents which correspond in title to subjects taught in colleges are equivalent to college level subjects.

10. The curriculum of respondents' public relations course includes instruction in conversational Spanish as well as French and the curriculum of respondents' professional modeling course includes training through practical exercise in fencing and modern dance.

11. Respondents offer a course of instruction that qualifies students to be airline stewardesses.

PAR. 5. In truth and in fact:

1. The respondents are not associated or affiliated with, nor are they a franchisee of Juliet Gibson Corporation.

2. The respondents are not a part of a nationwide chain which operates career schools in major cities around the United States.

3. The respondents' school was not an accredited institution at the time the representation was made.

4. The respondents' classrooms are not and have not been located in the building that was under construction at the time the representations were made and the classrooms are not like or similar to classrooms pictured in photographs shown prospective students. Respondents' classrooms are located in a building that had been constructed a significant number of years prior to the time the representation was made and the classrooms are located in rooms formerly used by business offices which have been renovated for use as classrooms.

5. The respondents have not provided a placement service which places a significant number of students or graduates in positions for which they have been trained by respondents.

6. The respondents have not provided individual tutoring upon request of those students having difficulty with their class work.

7. It was not urgent that prospective students enroll immediately in order to obtain a place in that respondents had vacancies in their

class and continued to enroll students in the class even after the class had commenced.

8. A student may not enroll in any one of the courses of instruction offered by respondents without limitation or without incurring additional obligations. In order to enroll in the professional modeling course offered by respondents, a student must also enroll in one of the other courses of instruction which respondents offer.

9. Some of the subjects taught by respondents which correspond in title to subjects taught in colleges are not equivalent to college level subjects.

10. The curriculum of respondents' public relations course does not include instruction in conversational Spanish and the curriculum of respondents' professional modeling course does not include training through practical exercise in fencing or modern dance.

11. Respondents do not offer a course of instruction that qualifies their students to be airline stewardesses.

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

PAR. 6. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of courses of instruction in fashion merchandising, public relations, professional modeling and secretarial skills of the same general kind and nature as those offered and sold by respondents.

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

PAR. 8. 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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with

violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondents Richard A. Parrott and R. Wade Murphree are former officers of Washington Careers, Inc., a corporation. They formulated, directed and controlled the policies, acts and practices of said corporation. The address of Richard A. Parrott is 4921 Seminary Road, Alexandria, Virginia and the address of R. Wade Murphree is 4067 South Four Mile Run Drive, Arlington, Virginia.

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

ORDER

It is ordered, That respondents Richard A. Parrott, and R. Wade Murphree individually and their agents, representatives and employees in connection with the advertising, offering for sale, sale or distribution of any course of instruction or any other service or product, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that respondents are associated or affiliated with, or are a franchisee of Juliet Gibson Corporation; or misrepresenting, in any manner, respond-

* Excluding Washington Careers, Inc., which is not named in the order hereinafter set forth.

ents' trade or business connections, associations, affiliations or identity.

2. Representing, directly or by implication, that respondents are a part of a national corporation, or that they are a part of a nationwide chain which operates career schools in major cities in the United States; or misrepresenting, in any manner, the size, scope, or extent of respondents' business.

3. Representing, directly or by implication, that respondents' school or respondents' courses have been accredited, unless such is the fact.

4. Misrepresenting, in any manner, the building or facilities which respondents have or made available for student use.

5. Representing, directly or by implication, that respondents provide a placement service which places a significant number of students or graduates in positions for which they have been trained unless such is the fact; or misrepresenting, in any manner, their capabilities or facilities for assisting students or graduates in finding employment, or the assistance actually afforded students or graduates in obtaining employment.

6. Representing, directly or by implication, availability of jobs or the positions available to graduates of respondents' school as the result of the training afforded the students by respondents unless such is the fact.

7. Representing, directly or by implication, that individual tutoring will be provided to those students having difficulty with their classwork upon request unless such is the fact; or misrepresenting, in any manner, the assistance provided students during their enrollment at respondents' school.

8. Representing, directly or by implication that there is any urgency or need for haste in enrolling in any class unless such is the fact; or that enrollment in any class will not be permitted after a class has commenced, unless respondents refuse in every instance to allow enrollment after commencement of a class.

9. Advertising or soliciting enrollment in any course of instruction when there is any limitation or additional obligation imposed or attempted to be imposed upon enrollment in that course without clearly disclosing such limitation or additional obligation in any advertisement and during any solicitation.

10. Representing, directly or by implication, that the subjects taught by respondents are equivalent to college level subjects, unless such is the fact; or misrepresenting, in any manner, the level of training afforded students through any subject or course

of instruction, or the comparability of any subject or course of instruction given by respondents with any other school.

11. Representing, directly or by implication, that students will receive instruction in conversational Spanish or that students will receive training through practical exercise in fencing or modern dance unless such is the fact; or misrepresenting, in any other manner, the curriculum, subjects, method of instruction or training that students receive.

12. Representing, directly or by implication, that respondents offer courses of instruction which qualify students to be airline stewardesses; or misrepresenting in any manner, the position or positions which a student will be qualified for as the result of attending any course which respondents offer.

13. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' courses or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said 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

BENJAMIN GREENBERG

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

Docket C-1818. Complaint, Nov. 17, 1970—Decision, Nov. 17, 1970

Consent order requiring a New York City manufacturer and wholesaler of furs to cease misbranding or deceptively invoicing his fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Benjamin Greenberg, an individual trading as Benjamin Greenberg, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to

the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Benjamin Greenberg is an individual trading as Benjamin Greenberg.

Respondent is a manufacturer and wholesaler of fur products with his office and principal place of business located at 150 West 30th Street, New York, New York.

PAR. 2. Respondent is now and for some time last past has been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and has manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

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

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur products was dyed, when such was the fact.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed to disclose that the fur contained in the fur products was dyed, when such was the fact.

PAR. 5. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

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

hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection, Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Fur Products Labeling 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 has reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Benjamin Greenberg is an individual trading as Benjamin Greenberg with his office and principal place of business located at 150 West 30th Street, New York, New York.

Respondent is a manufacturer and wholesaler of fur products.

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 Benjamin Greenberg, individually and trading as Benjamin Greenberg or under any other trade name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as

the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding any fur product by failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Falsely or deceptively invoicing any fur product by failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

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

IN THE MATTER OF

NORMAN RAYE FURS, INC., ET AL.

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

Docket C-1819. Complaint, Nov. 17, 1970—Decision, Nov. 17, 1970

Consent order requiring a New York City manufacturer of furs to cease and desist from misbranding, falsely invoicing and deceptively guaranteeing its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Norman Raye Furs, Inc., a corporation, and Norman Rosenberg, 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 Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Norman Raye Furs, Inc., is a corpora-

tion organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Norman Rosenberg is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the proposed respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 236 West 30th Street, New York, New York.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

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

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

2. To show the country of origin of imported furs contained in fur products.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed, dyed, tip-dyed or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 7. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the fur products so falsely guarantied would be introduced, sold, transported and distributed in commerce, in violation of Rule 48(c) of said Rules and Regulations under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 8. The aforesaid acts and practices of respondents as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection, Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Fur 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 has reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public

record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Norman Raye Furs, 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 236 West 30th Street, New York, New York.

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

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

ORDER

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

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information re-

quired to be disclosed by each of the subsections of Section 5(a)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondents Norman Raye Furs, Inc., a corporation, and its officers, and Norman Rosenberg, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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

It is further ordered, That the 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

MARCUS HALICZER DOING BUSINESS AS NOVELTEX PAPER PRODUCTS CO.

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

Docket C-1820. Complaint, Nov. 17, 1970—Decision, Nov. 17, 1970

Consent order requiring a New York City individual engaged in the manufacture and distribution of disposable paper face masks to cease violating the Flammable Fabrics Act by distributing such paper face masks.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the

authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Marcus Haliczer individually and doing business as Noveltex Paper Products Co. hereinafter referred to as respondent, has violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Marcus Haliczer is an individual doing business as Noveltex Paper Products Co., with his office and principal place of business located 2346 Amsterdam Avenue, New York, New York.

The respondent is engaged in the manufacture, sale and distribution of wearing apparel, including but not limited to disposable paper face masks.

PAR. 2. Respondent is now and for some time last past has been engaged in the manufacture for sale, the sale or offering for sale, in commerce, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products; and has manufactured for sale, sold, and offered for sale products made of fabrics or related materials which have been shipped and received in commerce as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which products and fabrics failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were disposable face masks.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protec-

tion, Division of Textiles and Furs, proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agrement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Marcus Haliczer is an individual trading under the name of Noveltex Paper Products Co.

Respondent is engaged in the business of manufacturing, selling and distributing disposable paper face masks, with his office and principal place of business located at 2346 Amsterdam Avenue, New York, New York.

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

ORDER

It is ordered, That respondent Marcus Haliczer, individually and trading as Noveltex Paper Products Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or re-

lated material which has been shipped and received in commerce, as "commerce," "product," "fabric" or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material, fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

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

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

It is further ordered, That the respondent herein shall, within ten (10) days after service upon him of this order, file with the Commission an interim special report in writing setting forth the respondent's intentions as to compliance with this order. This interim report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken and any further actions proposed to be taken to notify customers of the flammability of such product and effect recall of such products from said customers, and of the results of such action, (3) any disposition of such product since April 1970, and (4) any action taken or proposed to be taken to flameproof or destroy such products and the results of such action. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or combinations thereof in a weight of two ounces or less per square yard, or having a raised fiber surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That the respondent shall maintain complete and adequate records concerning all products subject to the Flammable Fabrics Act, as amended, which are sold or distributed by him.

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

IN THE MATTER OF

SAUNDERS, SILVER & WEISS, INC., ET AL.

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

Docket C-1821. Complaint, Nov. 17, 1970—Decision, Nov. 17, 1970

Consent order requiring a Philadelphia, Pa., manufacturer and distributor of furs to cease misbranding, deceptively invoicing and falsely guaranteeing its fur products.

COMPLAINT

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

PARAGRAPH 1. Respondent Saunders, Silver & Weiss, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania.

Respondents Morton Saunders and Seymour Silver are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the corporate respondent including those hereinafter set forth.

Respondents are manufacturers, wholesalers and retailers of fur products with their office and principal place of business located at 1211 Chestnut Street, Philadelphia, Pennsylvania.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

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

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored when such was the fact.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed, dyed, tip-dyed or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 7. Respondents furnished false guaranties that certain of their fur products were not misbranded, falsely invoiced or falsely advertised when respondents in furnishing such guaranties had reason to believe that fur products so falsely guarantied would be introduced, sold, transported or distributed in commerce, in violation of Section 10(b) of the Fur Products Labeling Act.

PAR. 8. The aforesaid acts and practices of respondents as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

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

hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection, Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Fur 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 has reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Saunders, Silver & Weiss, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at 1211 Chestnut Street, Philadelphia, Pennsylvania.

Respondents Morton Saunders and Seymour Silver are officers of the said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their 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 Saunders, Silver & Weiss, Inc., a corporation, and its officers and Morton Saunders and Seymour Silver, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or

offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

B. Falsely or deceptively invoicing any fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That Saunders, Silver & Weiss, Inc., a corporation, and its officers, and Morton Saunders and Seymour Silver, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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

It is further ordered, That the 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 BRAKE SHOE COMPANY*

MODIFIED ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT

Docket 8622. Complaint, May 12, 1964—Decision, Nov. 27, 1970

Order modifying a divestiture order dated April 10, 1968, 73 F.T.C. 610, pursuant to a decision of the Court of Appeals, Sixth Circuit, 420 2d 928 (8 S.&D. 1077), which required the omission of "or sale" of sintered metal friction material from the original order.

FINAL ORDER

The Commission issued its divestiture order in this matter on April 10, 1968 [73 F.T.C. 610]; the Court of Appeals for the Sixth Circuit modified and, as so modified, affirmed the divestiture order on January 8, 1970 [8 S.&D. 1077]; and the Supreme Court denied petition for writ of certiorari on October 19, 1970;

It is therefore ordered, That the divestiture order issued by the Commission be, and it hereby is, modified to read in full as follows:

It is ordered, That respondent, American Brake Shoe Company (now known as "Abex Corporation"), shall, within six months from the date of service upon it of this order, divest itself absolutely and in good faith to a purchaser or purchasers approved by the Federal Trade Commission, of all stock and of all right, title and interest in all assets, properties, rights and privileges, acquired by respondent as a result of its acquisition of the stock and assets of The S. K. Wellman Company, so as to restore that which formerly made up the Wellman Company as a viable competitive entity in the friction materials and sintered metal friction materials industries in the United States.

It is further ordered, That respondent shall not sell or transfer the aforesaid stock or assets, directly or indirectly, to anyone who at the time of divestiture is a stockholder, officer, director, employee, or agent of or otherwise directly or indirectly connected with or under the control or influence of respondent.

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*Now known as Abex Corporation.

It is further ordered, That pending divestiture, respondent shall not make any changes nor permit any deterioration in any of the plants, machinery, buildings, equipment or other property or assets of the former Wellman Company which may impair present rated capacity or their market value, unless such capacity or value is restored prior to divestiture.

It is further ordered, That for a period of ten (10) years from the date of issuance of this order, respondent shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, the whole or any part of the stock, share capital, or assets of any corporation engaged in commerce and in the production of sintered metal friction material.

It is further ordered, That the hearing examiner's initial decision, as modified and supplemented by the findings and conclusions embodied in the accompanying opinion, be, and it hereby is, adopted as the decision of the Commission.

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 provisions in the order set forth herein.

Chairman Kirkpatrick and Commissioner Dennison did not participate for the reason oral argument was heard and the opinion and original order were issued prior to their appointment to the Commission.

IN THE MATTER OF

HIRAOKA NEW YORK, INC.

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

Docket C-1822. Complaint, Nov. 27, 1970—Decision, Nov. 27, 1970

Consent order requiring a New York City importer and distributor of foreign transistorized radios to cease misrepresenting the number of transistors and "Solid State" devices in its radios.

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 Hiraoka New York,

Inc., a corporation, hereinafter referred to as respondent, has engaged in acts and practices contrary to the Commission's Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers (16 CFR 414) and by this and other means have violated the provisions of the Federal Trade Commission 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 Hiraoka New York, 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 1225 Broadway, New York, New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in importing transistorized radios from foreign manufacturers and distributing these radios to wholesale and retail purchasers for resale to the purchasing public.

PAR. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused, its products to be imported into the United States and, when sold, to be shipped from its place of business in the State of New York to purchasers thereof 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. 4. In the course and conduct of its business, respondent makes representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of transistors contained in the radios imported and distributed by it in the United States in the manner above described.

PAR. 5. In the course and conduct of its business, respondent makes representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of "Solid State" devices contained in the radios imported and distributed by it and thereby represent, directly or by implication, that a particular set so described contains that number of transistors.

PAR. 6. In representing the number of transistors or "Solid State" devices contained in its radios, respondent has included in the count, transistors that do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals.

PAR. 7. On May 14, 1968, after due notice and hearing, the Com-

mission promulgated its Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), effective December 10, 1968. On the basis of its findings, as set out in the "Accompanying Statement of Basis and Purpose" of the said Trade Regulation Rule, the Commission determined that it constitutes an unfair method of competition and an unfair and deceptive act or practice to:

Represent, directly or by implication, that any radio set contains a specified number of transistors when one or more of such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parrallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals.

PAR. 8. Notice is hereby given that the presentation of evidence in the course of a hearing in this proceeding may be required to dispose of the issues that may arise as a result of the allegations contained in Paragraphs One through Seven herein, and that if the issues presented as a result of the allegations contained in those paragraphs should be resolved in substantiation of such allegations, then the above Trade Regulation Rule is relevant to the alleged practices of the respondent. Therefore, the respondent is given further notice that he may present evidence, according to Section 1.12(c) of the Commission's Procedures and Rules of Practice, to show that the above Trade Regulation Rule is not applicable to the alleged acts or practices of respondent. And if the Commission should find that the above Rule is applicable to the alleged acts or practices of the respondent, then it will proceed to make its findings, conclusions, and final order in this proceeding on the basis of that Rule. A copy of the Rule and Accompanying Statement of Basis and Purpose, marked Appendix A,* is attached hereto and made a part of this pleading.

PAR. 9. The aforesaid methods of competition and acts and practices of respondent, as alleged in Paragraph Eight hereof, were and are contrary to the provisions and requirements of the Commission's Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), and thereby constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in

*Appendix A was omitted in printing. Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers, effective December 10, 1968, appears in Title 16 of the Code of Federal Regulations Section 414.

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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hiraoka New York, 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 1225 Broadway, New York, New York.

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

ORDER

It is ordered, That respondent Hiraoka New York, Inc., a corporation, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets, including transceivers, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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1. Representing, directly or by implication, through the use of the terms transistor or "Solid State" or any other word or phrase that any radio set contains a specified number of transistors when one or more such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals: *Provided, however*, That nothing herein shall be construed to prohibit in connection with a statement as to the actual transistor count (computed without inclusion of transistors which do not perform the functions of detection, amplification and reception of radio signals), a further statement to the effect that the sets in addition contain one or more transistors acting as diodes or performing auxiliary or other functions when such is the fact.

2. Misrepresenting, in any manner, the number of transistors or other components in respondent's products or the functions of any such component.

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

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

It is further ordered, That the respondent 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

U. S. INDUSTRIES, INC.

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

Docket C-1823. Complaint, Nov. 27, 1970—Decision, Nov. 27, 1970

Consent order requiring a New York City manufacturer and distributor of transistorized radios to cease misrepresenting the number of transistors and "Solid State" devices in its radios.

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 U. S. Industries, Inc., a corporation, hereinafter referred to as respondent, has engaged in acts and practices contrary to the Commission's Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers (16 CFR 414) and by this and other means has violated the provisions of the Federal Trade Commission 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 charge in that respect as follows:

Paragraph 1. Respondent U. S. Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 250 Park Avenue, New York, New York.

Par. 2. Respondent is now, and for some time last past has been, engaged in the manufacturing of transistorized radios and distributing these radios to wholesale and retail purchasers for resale to the purchasing public.

Par. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused, its products, when sold, to be shipped from its place of business in the State of New York to purchasers thereof 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. 4. In the course and conduct of its business, respondent makes representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of transistors contained in the radios manufactured and distributed by it in the United States in the manner above described.

Par. 5. In the course and conduct of its business, respondent makes representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of "Solid State" devices contained in the radios manufactured and distributed by it and thereby represents, directly or by implication, that a particular set so described contains that number of transistors.

Par. 6. In representing the number of transistors or "Solid State" devices contained in its radios, respondent has included in the count, transistors that do not perform the recognized and customary func-

tions of radio set transistors in the detection, amplification and reception of radio signals.

PAR. 7. On May 14, 1968, after due notice and hearing, the Commission promulgated its Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), effective December 10, 1968. On the basis of its findings, as set out in the "Accompanying Statement of Basis and Purpose" of the said Trade Regulation Rule, the Commission determined that it constitutes an unfair method of competition and an unfair and deceptive act or practice to:

Represent, directly or by implication, that any radio set contains a specified number of transistors when one or more of such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals.

PAR. 8. Notice is hereby given that the presentation of evidence in the course of a hearing in this proceeding may be required to dispose of the issues that may arise as a result of the allegations contained in Paragraphs One through Seven herein, and that if the issues presented as a result of the allegations contained in those Paragraphs should be resolved in substantiation of such allegations, then the above Trade Regulation Rule is relevant to the alleged practices of the respondent. Therefore, the respondent is given further notice that it may present evidence, according to Section 1.12 (c) of the Commission's Procedures and Rules of Practice, to show that the above Trade Regulation Rule is not applicable to the alleged acts or practices of respondent. And if the Commission should find that the above Rule is applicable to the alleged acts or practices of the respondent, then it will proceed to make its findings, conclusions, and final order in this proceeding on the basis of that Rule. A copy of the Rule and Accompanying Statement of Basis and Purpose, marked Appendix A,* is attached hereto and made a part of this pleading.

PAR. 9. The aforesaid methods of competition and acts and practices of respondent, as alleged in Paragraph Eight hereof, were and are contrary to the provisions and requirements of the Commission's

* Appendix A was omitted in printing. Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers, effective December 10, 1968, appears in Title 16 of the Code of Federal Regulations Section 414.

Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), and thereby constituted, and now constitute, unfair methods of competition in commerce 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent U.S. Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 250 Park Avenue, New York, New York.

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

ORDER

It is ordered, That respondent U.S. Industries, Inc., a corporation, and its officers, agents, representatives and employees, directly or

through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets, including transceivers, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, through the use of the terms transistor or "Solid State" or any other word or phrase that any radio set contains a specified number of transistors when one or more such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals: *Provided, however*, That nothing herein shall be construed to prohibit in connection with a statement as to the actual transistor count (computed without inclusion of transistors which do not perform the functions of detection, amplification and reception of radio signals), a further statement to the effect that the sets in addition contain one or more transistors acting as diodes or performing auxiliary or other functions when such is the fact.

2. Misrepresenting, in any manner, the number of transistors or other components in respondent's products or the functions of any such component.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions engaged in the manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets and transceivers.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent relating to operating divisions or subsidiaries engaged in the manufacture, advertising, offering for sale, sale, or distribution of radio receiving sets, including transceivers 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 when any such change may affect compliance obligations arising out of this 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

TRANS-AIRE ELECTRONICS, INC.

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

Docket C-1824. Complaint, Nov. 27, 1970—Decision, Nov. 27, 1970

Consent order requiring a New Hyde Park, N.Y., importer and distributor of foreign transistorized radios to cease misrepresenting the number of transistors or "Solid State" devices in the radios which it sells.

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 Trans-Aire Electronics, Inc., a corporation, hereinafter referred to as respondent, has engaged in acts and practices contrary to the Commission's Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers (16 CFR 414) and by this and other means has violated the provisions of the Federal Trade Commission 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 charge in that respect as follows:

PARAGRAPH 1. Respondent Trans-Aire Electronics, 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 85 Denton Avenue, New Hyde Park, New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in importing transistorized radios from foreign manufacturers and distributing these radios to wholesale and retail purchasers for resale to the purchasing public.

PAR. 3. Respondent wholly owns Trans-World Electronics, Ltd., a subsidiary corporation, organized, existing and doing business under and by virtue of the laws of Hong Kong with its office and principal place of business located in Hong Kong. Trans-World Electronics, Ltd. manufactures transistorized radios and exports its own radios and those manufactured by other foreign manufacturers to importers in the United States for ultimate sale and distribution to the purchasing public.

PAR. 4. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused, its products to be imported into the United States and, when sold, to be shipped from its place of business in the State of New York to purchasers thereof 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. 5. In the course and conduct of its business, respondent and its said subsidiary make representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of transistors contained in the radios exported as aforesaid and imported and distributed by them in the United States in the manner above described.

PAR. 6. In the course and conduct of its business, respondent and its subsidiary make representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of "Solid State" or "Solid State Devices" contained in the radios exported, imported, and distributed by them and thereby represent, directly or by implication, that a particular set so described contains that number of transistors.

PAR. 7. In representing the number of transistors, "Solid State" or "Solid State Devices" contained in their radios, respondent and its subsidiary have included in the count, transistors that do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals.

PAR. 8. On May 14, 1968, after due notice and hearing, the Commission promulgated its Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), effective December 10, 1968. On the basis of its findings, as set out in the "Accompanying Statement of Basis and Purpose" of the said Trade Regulation Rule, the Commission determined that it constitutes an unfair method of competition and an unfair and deceptive act or practice to:

Represent, directly or by implication, that any radio set contains a specified number of transistors when one or more of such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals.

PAR. 9. Notice is hereby given that the presentation of evidence in the course of a hearing in this proceeding may be required to dispose of the issues that may arise as a result of the allegations contained in Paragraphs One through Eight herein, and that if the issues presented as a result of the allegations contained in those paragraphs should be resolved in substantiation of such allegations, then the above Trade Regulation Rule is relevant to the alleged practices of the respondent. Therefore, the respondent is given further notice that it may present evidence, according to Section 1.12(c) of the Commission's Procedures and Rules of Practice, to show that the above Trade Regulation Rule is not applicable to the alleged acts or practices of respondent. And if the Commission should find that the above Rule is applicable to the alleged acts or practices of the respondent, then it will proceed to make its findings, or conclusions, and final order in this proceeding on the basis of that Rule. A copy of the Rule and Accompanying Statement of Basis and Purpose, marked Appendix A,* is attached hereto and made a part of this pleading.

PAR. 10. The aforesaid methods of competition and acts and practices of respondent and its subsidiary, as alleged in Paragraph Nine hereof, were and are contrary to the provisions and requirements of the Commission's Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), and thereby constituted, and now constitute, unfair methods of competition in commerce 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the afore-

* Appendix A was omitted in printing. Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers, effective December 10, 1968, appears in Title 16 of the Code of Federal Regulations Section 414.

said 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 thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Trans-Aire Electronics, 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 85 Denton Avenue, New Hyde Park, New York.

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

ORDER

It is ordered, That respondent Trans-Aire Electronics, Inc., a corporation, and its subsidiary corporation, officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets, including transceivers, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, through the use of the terms transistor or "Solid State" or any other word or phrase that any radio set contains a specified number of transistors when one or more such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals: *Provided, however*, That nothing herein shall be construed to prohibit in connection with a statement as to the actual transistor count (computed without inclusion of transis-

tors which do not perform the functions of detection, amplification and reception of radio signals), a further statement to the effect that the sets in addition contain one or more transistors acting as diodes or performing auxiliary or other functions when such is the fact.

2. Misrepresenting, in any manner, the number of transistors or other components in respondent's products or the functions of any such component.

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:

(a) Respondent deliver, by registered mail, a copy of this order to each of its present and future subsidiaries;

(b) Respondent provide each such subsidiary with a returnable form clearly stating its intention to conform its business practices to the requirements of this order;

(c) Respondent institute a program of continuing surveillance adequate to inform itself whether the business practices of each of its subsidiaries conform to the requirements of this order.

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 this 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

NUVOX ELECTRONICS CORPORATION, ET AL.

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

Docket C-1825. Complaint, Nov. 27, 1970—Decision, Nov. 27, 1970

Consent order requiring a New York City importer and distributor of foreign transistorized radios to cease misrepresenting the number of transistors or "Solid State" devices in the radios which it sells.

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 Nuvox Electronics Corporation, a corporation, and Edmond S. Sassoon, individually and as an officer of said corporation, hereinafter referred to as respondents, have engaged in acts and practices contrary to the Commission's Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers (16 CFR 414) and by this and other means have violated the provisions of the Federal Trade Commission 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 Nuvox Electronics Corporation 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 150 Fifth Avenue, New York, New York.

Respondent Edmond S. Sassoon is an individual and 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 importing transistorized radios from foreign manufacturers and distributing these radios to wholesale and retail purchasers for resale to the purchasing 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 to be imported into the United States and, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, respondents make representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of transistors contained in the radios imported and distributed by them in the United States in the manner above described.

Par. 5. In the course and conduct of their business, respondents make representations in advertisements and other promotional materials and on labels attached to the radios concerning the number of "Solid State" devices contained in the radios imported and distributed by them and thereby represent, directly or by implication, that a particular set so described contains that number of transistors.

Par. 6. In representing the number of transistors or "Solid State" devices contained in their radios, respondents have included in the count, transistors that do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals.

Par. 7. On May 14, 1968, after due notice and hearing, the Commission promulgated its Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), effective December 10, 1968. On the basis of its findings, as set out in the "Accompanying Statement of Basis and Purpose" of the said Trade Regulation Rule, the Commission determined that it constitutes an unfair method of competition and an unfair and deceptive act or practice to:

Represent, directly or by implication, that any radio set contains a specified number of transistors when one or more of such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals.

Par. 8. Notice is hereby given that the presentation of evidence in the course of a hearing in this proceeding may be required to dispose of the issues that may arise as a result of the allegations contained in Paragraphs One through Seven herein, and that if the issues presented as a result of the allegations contained in those Paragraphs should be resolved in substantiation of such allegations, then the above Trade Regulation Rule is relevant to the alleged practices of the respondents. Therefore, the respondents are given further notice that they may present evidence, according to Section 1.12(c) of the Commission's Procedures and Rules of Practice, to show that the above Trade Regulation Rule is not applicable to the alleged acts or practices of respondents. And if the Commission should find that the above Rule is applicable to the alleged acts or practices of the respondents, then it will proceed to make its findings, conclusions, and final order in this proceeding on the basis of

that Rule. A copy of the Rule and Accompanying Statement of Basis and Purpose, marked Appendix A,* is attached hereto and made a part of this pleading.

PAR. 9. The aforesaid methods of competition and acts and practices of respondents, as alleged in Paragraph Eight hereof, were and are contrary to the provisions and requirements of the Commission's Trade Regulation Rule relating to Deception as to Transistor Count of Radio Receiving Sets, Including Transceivers (16 CFR 414), and thereby 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 Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Nuvox Electronics Corporation is a corporation or-

* Appendix A was omitted in printing. Trade Regulation Rule relating to Deception as to Transistor Count in Radio Receiving Sets, Including Transceivers, effective December 10, 1968, appears in Title 16 of the Code of Federal Regulations Section 414.

ganized, 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 150 Fifth Avenue, New York, New York.

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

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

ORDER

It is ordered, That respondent Nuvox Electronics Corporation, a corporation, and its officers, and Edmond S. Sassoon, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of radio receiving sets, including transceivers, or any other product, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, through the use of the terms transistor or "Solid State" or any other word or phrase that any radio set contains a specified number of transistors when one or more such transistors: (1) are dummy transistors; (2) do not perform the recognized and customary functions of radio set transistors in the detection, amplification and reception of radio signals; or (3) are used in parallel or cascade applications which do not improve the performance capabilities of such sets in the reception, detection and amplification of radio signals: *Provided, however*, That nothing herein shall be construed to prohibit in connection with a statement as to the actual transistor count (computed without inclusion of transistors which do not perform the functions of detection, amplification and reception of radio signals), a further statement to the effect that the sets in addition contain one or more transistors acting as diodes or performing auxiliary or other functions when such is the fact.

2. Misrepresenting, in any manner, the number of transistors or other components in respondents' products or the functions of any such component.

It is further ordered, That the respondent corporation shall forth-

with distribute a copy of this order to each of its operating divisions.

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

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

IN THE MATTER OF

CHEMICAL ASSOCIATES, INC., ET AL.

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

Docket C-1826. Complaint, Nov. 27, 1970—Decision, Nov. 27, 1970***

Consent order requiring a Houston, Tex., distributor of cleaning compounds, polishes, shine kits and related products to cease fixing resale prices for its products, imposing customer, advertising and sales outlet restrictions on its distributors, discriminating in price between competing resellers, and participating in any successive recruitment of other participants in any multilevel marketing scheme; respondents are also required to affirmatively grant customers the right to determine their own resale prices.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (Title 15, U.S.C., Section 41 *et seq.*) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the parties listed in the caption hereof and more particularly described and referred to hereinafter as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act and Section 2(a) of the Clayton Act, as amended, and it

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* Consolidated complaint *In the Matter of Chemical Associates, Inc., et al.*, Docket No. C-1826 and *In the Matter of William O. Menefee et al.*, Docket No. C-1827, p. 1517 herein.

** Reported as amended by Commission's order of February 18, 1971, by amending Part III, paragraph number 1, of the order.

appearing to the Commission that a proceeding by it in respect thereto would be in the interest of the public, hereby issues its complaint, stating its charges as follows:

PARAGRAPH 1. Respondent Chemical Associates, Inc., is a corporation organized on or about September 1964, and is existing and doing business under and by virtue of the laws of the State of Texas. Respondent Chemical Associates, Inc., maintains its home office and principal place of business at 1530 West Belt North Drive, Houston, Texas. On or about February 1965, respondents formed HomCare, Inc., as a subsidiary of Chemical Associates, Inc., which was also existing and doing business under and by virtue of the laws of the State of Texas. Subsequently, as of September 1, 1967, HomCare, Inc., was liquidated into its parent company, Chemical Associates, Inc., and is now the HomCare Division of Chemical Associates, Inc.

PAR. 2. Respondent John R. Frey is president of respondent Chemical Associates, and was one of its founders, and together with others instituted the marketing plan and distribution policies of said corporation. Respondent John R. Frey, together with others, has been and is responsible for establishing, supervising, directing and controlling the business activities and practices of corporate respondent Chemical Associates, Inc. Mr. Frey's office address is the same as that of said corporation.

Respondent William O. Menefee is chairman of the board of respondent Chemical Associates, and was one of its founders, and together with others instituted the marketing plan and distribution policies of said corporation. Respondent William O. Menefee, together with others, has been and is responsible for establishing, supervising, directing and controlling the business activities and practices of corporate respondent Chemical Associates, Inc. Mr. Menefee's office address is the same as that of said corporation.

Respondent Donald L. Shriver is vice president Central Region of respondent Chemical Associates, and was one of its founders, and together with others instituted the marketing plan and distribution policies of said corporation. Respondent Donald L. Shriver, together with others, has been and is responsible for establishing, supervising, directing and controlling the business activities and practices of corporate respondent Chemical Associates, Inc. Mr. Shriver's office address is the same as that of said corporation.

Respondent William J. Southwell is vice president Eastern Region of respondent Chemical Associates, Inc., and was one of its founders, and together with others instituted the marketing plan

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and distribution policies of said corporation. Respondent William J. Southwell, together with others, has been and is responsible for establishing supervising, directing, and controlling the business activities and practices of corporate respondent Chemical Associates, Inc. Mr. Southwell's office address is the same as that of said corporation.

PAR. 3. Respondents are engaged in the purchase, distribution, offering for sale and sale of cleaning compounds, polishes, shine kits, air fresheners and related products, under the trademarks and names Swipe, Somthin' Else, HLD, Shineze, Swipe A-Shine and Sure Thing. The volume of sales of such products by respondent Chemical Associates, Inc., is currently in excess of 3 million dollars per annum. As of October 1966, the retail sales level was running at the rate of 24 million dollars per year.

PAR. 4. In the course and conduct of its business of distributing its products, the respondents ship or cause such products to be shipped from the State in which they are warehoused to distributors located throughout the United States who engage in resale to other distributors and to members of the general public. There are at the present time well over 8,000 distributors of their products, and there is now and has been for several years last past a constant substantial and increasing flow of such products in "commerce" as that term is defined in the Federal Trade Commission Act and in the Clayton Act.

PAR. 5. Except to the extent that actual and potential competition has been lessened, hampered, restricted and restrained by reason of the practices hereinafter alleged, respondents' distributors and dealers, in the course and conduct of their business in distributing, offering for sale, and selling of Chemical Associates' products are in substantial competition in commerce with one another, and corporate respondent and their distributors are in substantial competition in commerce with other firms or persons engaged in the manufacture or distribution of similar products.

PAR. 6. Respondents have formulated a distribution system involving distributors at wholesale and retail levels and they have published their marketing plan or distribution policies which are set forth in respondents' price lists, discount schedules, marketing manuals, sales bulletins, order forms, application and agreement forms, pamphlets and other materials and literature. To effectuate and carry out the aforesaid distribution system, policies or plan, respondents, together with their distributors, have entered into certain contracts, agreements, combinations and understandings pursuant to the acceptance by the distributors of said marketing plan and have adopted, placed in effect, and carried out, by various methods and

means, the marketing plan to hinder, frustrate, restrain, suppress and eliminate competition in the offering for sale, distribution and sale of cleaning compounds, polishes, shine kits, air fresheners and associated products.

PAR. 7. Corporate respondent's marketing plan is a distribution network which allows a potential distributor to enter at any one of four levels, *i.e.*, supervisor-distributor, key consultant, senior consultant and consultant. All distributors are independest contractors and all are permitted to, and do, sell or attempt to sell at retail. Except for the consultant, all also sell, or attempt to sell, at wholesale to other distributors who have been either recruited by them into the organization, or have been recruited by their own recruits. All distributors also attempt to recruit other persons into respondents' marketing plan and are themselves in a position to reach a higher level by both recruiting sufficient numbers of other distributors or by selling products in sufficient quantitites, or by a combination of the two. The advantages of the higher levels are described in Paragraph Eight, part (6) hereof.

Distributors of respondents' products are recruited by the corporate respondent at periodic and regular "opportunity meetings," which are run by local distributors under the direct supervision and control of corporate respondent. At these meetings, little time is spent by corporate respondent in explaining the product, but a great deal of time is spent explaining the pyramid distribution concept of their marketing plan, and how member distributors can vastly increase their earnings by "multiplication," a term used to describe a virtually endless chain of recruiting other distributors who are in turn required to buy products either from the distributor who recruited them or from respondent company. The amount of product and the price required to be purchased by the prospective purchaser desiring to join in the marketing plan is determined according to which of the four levels is chosen; the higher the level, the lower the cost per unit, and the greater the number of units required to be purchased, and the greater the aggregate investment required. For example, entrants at the supervisor-distributor level are required to pay $5,280 for merchandise, $450 for sales aids, and $750 for outright payments to other distributors involved in the recruitment process.

In addition to the price differential received on each unit of the product sold to a lower level distributor, each distributor also receives a sum of money from each new distributor he recruits, varying in amounts according to the level chosen by the new distributor,

with the higher amount paid by the higher level recruitee. This fee is ostensibly compensation for the group responsible for bringing the new distributor into the program to replace the people he in turn would have introduced had he joined the program at a lower level. These fees are paid by the recruited distributors as consideration for the right to recruit their own distributors and share in the fees required in turn of all of their recruits. Similarly, the recruited distributors agree to purchase greater numbers of units of respondents' products in consideration for the right to recruit other distributors and reap the added profits of supplying a larger pyramid or organization below them and thereby share in the profits of all sales to these distributors. In both instances the distributor is induced to continue a chain, the participants of which rely upon their faith in inducing others to join the marketing plan, thereby realizing both the return on their investment and expectant profits.

PAR. 8. Pursuant to, and in furtherance and effectuation of, the aforesaid agreements and planned common course of action, respondents have done and performed and are doing and performing the following:

(1) Respondent Chemical Associates, Inc., its agents and officials, have advised all distributors that failure to adhere to the marketing plan is the basis for cancellation of their distributorship, and all distributors have actually or impliedly agreed to abide by all rules and regulations established by Chemical Associates in furtherance of the marketing plan, and to all subsequent changes.

(2) Respondent Chemical Associates, Inc., has entered into contracts, agreements, combinations or understandings with each of its distributors whereby said distributors agree to maintain the resale prices established and set forth by respondent corporation, notwithstanding that some of such distributors are located in States which do not have fair trade laws.

(3) Respondent Chemical Associates, Inc., has entered into contracts, agreements, combinations or understandings with each of its distributors whereby said distributors agree to maintain the discounts, overrides, rebates, bonus schedules, finder's fees and release fees, between and among all other distributors, as established and set forth by respondent corporation.

(4) Respondent Chemical Associates, Inc., has entered into contracts, agreements, combinations or understandings with each of its distributors whereby said distributors agree to refrain from selling across the counter in any retail establishment.

(5) Respondent Chemical Associates, Inc., has entered into contracts, agreements and combinations with each of its distributors wherey said distributors:

(a) agree to refrain from displaying Swipe or HomCare product signs in any retail establishment; and

(b) agree that only the supervisor-distributor level of distributors may advertise in the yellow or white pages of the telephone directory; and

(c) agree that all forms of advertising will be submitted in writing to the respondent corporation for its approval.

(6) Discriminating in price, directly and indirectly, between different purchasers of its products of like grade and quality by selling said products at higher prices to some purchasers than it sells said products to other purchasers, many of whom have been and now are in competition with the purchasers paying the higher prices. More specifically, the supervisor-distributor purchases his products directly from respondent corporation at approximately a:

(a) 26.7 percent discount as compared with the cost to a key consultant;

(b) 37.1 percent discount as compared with the cost to a senior consultant; and

(c) 45 percent discount as compared with the cost to a consultant. Additionally, respondent corporation agrees to pay the supervisor-distributor an amount equal to 2 percent of the sales volume (at the retail value fixed by respondents) when one of the distributors recruited by said distributor works up or buys in and becomes a supervisor-distributor himself. Thereafter, although both supervisor-distributors buy from respondent corporation, only the first will receive the 2 percent override from respondent corporation.

Additionally, respondent corporation agrees to pay the supervisor-distributor an amount equal to 1 percent of the sales volume (at the retail value fixed by respondents) when one of the distributors recruited by a supervisor-distributor who has been recruited by said distributor becomes a supervisor-distributor himself. Thereafter, although all three supervisor-distributors buy from respondent corporation, the first will receive the 2 percent overrirde on the volume of the second and the 1 percent override on the volume of the third, the second will receive the 2 percent override on the volume of the third, and the third will receive no override unless and until he in turn can recruit a supervisor-distributor.

There are over 1,700 supervisor-distributors in the program.

(b) The key consultant, who purchases his products indirectly from respondent corporation, and directly from a supervisor-distributor, purchases at approximately a 14.3 percent discount as compared with the cost to a senior consultant, and a 25 percent discount as compared with the cost to a consultant.

There are over 6,000 key consultants in the program.

(c) The senior consultant, who purchases his products indirectly from respondent corporation, and directly from a key consultant, purchases at approximately a 12.5 percent discount as compared with the cost to a consultant.

COUNT I

Alleging violation of Section 5 of the Federal Trade Commission Act, as amended, by respondents.

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

PAR. 10. Respondents' multilevel marketing program has inherent in it and basic to its functioning predominant elements of chance. Additionally, it is an unfair practice in its total concept, and is also false, misleading and deceptive.

Said multilevel marketing program is based upon false assumptions. Essentially, respondents hold out to prospective distributors the lure of making large sums of money by recruiting other distributors into their program, and receiving commissions, overrides or other considerations on their sales and on their recruiting activities. A principal inducement to entering respondents' multilevel marketing program is the falsely represented potential or reasonable expectancy of earning substantial finder's fees, overrides, commissions, profits and other compensation based on the recruitment or sales performance of other distributors over and above the ordinary profit from wholesale and retail sales of the product. Respondents' multilevel marketing program contemplates a virtually endless recruiting of participants. Under such circumstances, it is unfair for respondents or their representatives to sell substantial quantitites of merchandise, or to require the payment of substantial sums of money with respect to persons who desire to enter into their program.

Participants in respondents' multilevel merchandising program do not have the potentiality or reasonable expectancy of receiving large profits or earnings through finder's fees, commissions, overrides, and other compensation, arising out of the sale of respondents' products by others, or in the recruiting activities of other distributors by other participants in the program.

The number of recruits necessary to insure a participant the extremely large profits represented increases by geometrical progression while the overall number of potential investors remain relatively constant. Thus the participant may be, and in a substantial number of instances will be, unable to find additional investors in a given community or geographical area by the time he enters respondents' marketing program. This comes about because the recruiting of participants who came into the program at an earlier stage may have already exhausted the number of prospective participants.

Respondents have at various times, by and through the use of movies, brochures and pamphelts, demonstrated geometrical progressions of two, five, six and seven. Based upon a geometrical progression of two distributors, as employed by respondents or their representatives at their opportunity meeting sales presentations, the number of additional participants in their program at each stage of growth will be as follows:

Level:	Number
1	2
2	4
3	8
4	16
5	32
6	64
7	128
8	256
9	512
10	1024
11	2048
12	4096

It is obvious from the foregoing that as to the individual participant, respondents' program of recruiting must of necessity ultimately collapse when the market for distributors becomes saturated.

Additionally, respondents' merchandising program is in the nature of a lottery. Chance permeates the entire program. Participants may invest substantial sums of money on the chance that through the activities and efforts of others, over whom they exercise little or no control or direction, they will receive exceedingly high returns before the point of saturation is reached.

Therefore, the use by respondents of the aforesaid multilevel marketing program in connection with the sale of their merchandise is a practice which is contrary to established public policy of the Gov-

ernment of the United States and was and is an unfair act and practice within the intent and meaning of Section 5 of the Federal Trade Commission Act and was and is false, misleading and deceptive.

COUNT II

Alleging further violation of Section 5 of the Federal Trade Commission Act, as amended, by respondents.

PAR. 11. The allegations of Paragraphs One through Ten are incorporated by reference in Count II as if fully set forth verbatim.

PAR. 12. In the course and conduct of their business, and for the purpose of inducing the participation by others in their marketing program and of selling their merchandise, by and through oral statements and representations of respondents or their representatives, and by means of brochures and other written material, respondents or their representatives represent and have represented, directly or by implication to prospective participants, that:

1. It is relatively easy for distributors to recruit and retain persons who will invest in their program as distributors and/or as sales personnel to sell respondents' products.

2. Participants in respondents' marketing program have the potentiality and resonable expectancy of receiving extremely large profits or earnings, and that a distributor who is faithful to the marketing program could earn two hundred thousand dollars per month by a chain of recruiting.

PAR. 13. In truth and in fact:

1. It is not as easy as respondents or their representatives represent to recruit and retain persons who will invest in respondents' program as distributors and/or as sales personnel to work home routes and sell respondents' products door-to-door.

2. For the reasons hereinabove set forth, participants in respondents' multilevel marketing program do not have the potentiality and reasonable expectancy of receiving large profits or earnings.

Therefore, the statements and representations as set forth in Paragraph Twelve hereof were and are false, misleading and deceptive, and are in volation of Section 5 of the Federal Trade Commission Act, as amended.

COUNT III

Alleging further violation of Section 5 of the Federal Trade Commission Act, as amended, by respondents.

PAR. 14. The allegations of Paragraphs One through Eight are incorporated by reference in Count III as if fully set forth verbatim.

PAR. 15. The acts, practices and methods of competition engaged in, followed, pursued or adopted by respondents, and the combination, conspiracy, agreement or common understanding entered into or reached between and among the respondents of others not parties hereto are unfair methods of competition and to the prejudice of the public because of their dangerous tendency to, and the actual practice of, fixing, maintaining and otherwise controlling the prices at which the products of Chemical Associates, Inc., are resold, in both the wholesale and retail markets.

Said acts, practices and methods of competition, and the adverse competitive effects resulting therefrom, constitute an unreasonable restraint of trade and an unfair method of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

COUNT IV

Alleging further violation of Section 5 of the Federal Trade Commission Act, as amended, by respondents.

PAR. 16. The allegations of Paragraphs One through Eight are incorporated by reference in Count IV as if fully set forth verbatim.

PAR. 17. The acts, practices and methods of competition engaged in, followed, pursued or adopted by respondents, and the combination, conspiracy, agreement or common understanding entered into or reached between and among the respondents or others not parties hereto are unfair methods of competition and to the prejudice of the public because of their dangerous tendency to, and the actual practice of, restricting the customers as to whom the Chemical Associates' distributors may resell their products, where they may sell their products and in what circumstances they may advertise their business activities and products.

Said acts, practices and methods of competition, and the adverse competitive effects resulting therefrom, constitute an unreasonable restraint of trade and an unfair method of competition in commerce within the intent and meaning of Section 5 of the Federal Trade Commission Act, as amended.

COUNT V

Alleging violation of Section 2(a) of the Clayton Act, as amended, by respondents.

PAR. 18. The allegations of Paragraphs One through Eight are incorporated by reference in Count V as if fully set forth verbatim.

PAR. 19. The difference in net cost among the various distributors, each of whom is in competition with other distributors of respondents' products, results in substantial discriminations in the net prices for products sold to the non-favored customers, who are both direct purchasers and indirect purchasers of respondents' products.

In addition, the various fees, overrides, or other payments result in discriminations among the direct and indirect purchasing distributors who are in competition with one another. These monies are direct and indirect payments by respondent Chemical Associates, and in effect are discriminations in the net price of products to the various distributors.

The effect of respondent Chemical Associates' discrimination in net price as alleged herein may be substantially to lessen competition or tend to create a monopoly in the line of commerce in which its favored purchaser is engaged, or to injure, destroy or prevent competition between the favored and non-favored purchasers or with customers of either of them, except to the extent that competition has been sterilized by the acts and practices alleged in Counts III and IV hereof.

The aforesaid acts and practices of respondent Chemical Associates, Inc., constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of Section 5 of the Federal Trade Commission Act, as amended, and with Section 2(a) of the Clayton Act, as amended; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Chemical Associates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 1530 West Belt North Drive, Houston, Texas.

2. Respondents John R. Frey, and Donald L. Shriver are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their address is the same as that of said corporation.

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

ORDER

I

It is ordered, That respondents Chemical Associates, Inc., a corporation, its officers, agents, representatives, divisions, employees, successors and assigns, and respondents John R. Frey, and Donald L. Shriver, individually and as officers of Chemical Associates, Inc., their agents, representatives and employees, directly or indirectly, or through any corporate or other device in connection with the offering for sale, sale, or distribution of any goods or commodities in commerce, or in connection with any multilevel marketing program or any other kind of merchandising, marketing or sales promotion program in commerce, as "commerce" is defined in the Federal Trade Commission Act and in the Clayton Act, shall forthwith cease and desist, directly or indirectly, from:

1. Entering into, maintaining, or enforcing any contract, agreement, understanding, marketing system, or course of conduct with any dealer or distributor of any goods or commodities to do or perform or attempting to do or perform any of the following acts, practices, or things:

(a) Fix, establish or maintain the prices, discounts, re-

bates, overrides, commissions, fees, or other terms or conditions of sale relating to pricing upon which such goods or commodities may be resold.

(b) Require or coerce any person to enter into a contract, agreement, understanding, marketing system, or course of conduct whereby said person in turn requires or coerces third parties to adhere to a course of conduct which fixes, establishes, or maintains the prices, discounts, rebates, overrides, commissions, fees, or other terms or conditions of sale relating to pricing upon which such goods or commodities may be resold.

(c) Refrain from selling any merchandise in any quantity to any specified person, class of persons, business, or class of businesses, or through the facilities of any business, class of businesses, or other means of distribution: *Provided, however*, That nothing in this order shall be construed or applied to prohibit respondent from making bona fide unilateral selection of respondents' customers on the basis of their own criteria and judgment, or from recommending reasonable criteria and standards to their distributors for the selection of customers, said criteria and standards not violating the letter or spirit of any of the provisions of this order.

(d) Require or coerce any person to enter into a contract, agreement, understanding, marketing system, or course of conduct whereby said person in turn requires or coerces third parties to adhere to a course of conduct requiring, inducing, or coercing any distributor to refrain from selling any merchandise in any quantity to any specified person, class of persons, business, or class of business, or through the facilities of any business, class of business, or other means of distribution.

(e) Prevent any distributor or dealer of any of corporate respondent's products from advertising either his distributorship or said products, in any media of his choosing, or preventing any distributor or dealer from employing the trade name or any of the trademarks of corporate respondent in said advertising: *Provided, however*, Respondents may take such steps as may be necessary to protect its public image and rights under the trademark and copyright laws.

(f) Require or coerce any person to enter into a contract, agreement, understanding, marketing system, or course of conduct which discriminates, directly or indirectly, in the price of any merchandise of like grade and quality by selling to any purchaser, directly or indirectly, or causing to be sold to any purchaser, at net prices higher than the net prices charged any other purchaser, who competes in the resale or distribution of such merchandise with the purchaser paying the higher price.

2. Discriminating, directly or indirectly, in the price of any merchandise of like grade and quality by selling to any purchaser at net prices higher than the net price charged any other purchaser who competes in the resale or distribution of such products with the purchaser paying the higher price, or with customers of the purchaser paying the higher price: *Provided, however*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacturer, sale or delivery: *And provided further*, That all other defenses available in law to a charge of price discrimination shall be available to the respondent company.

3. Discriminating, directly or indirectly, in the terms or conditions of sale of any merchandise of like grade and quality by selling to any purchaser upon terms or conditions of sale less favorable than the terms or conditions of sale upon which such products are sold to any other purchaser who competes in the resale of respondent's products with the purchaser who is afforded less favorable terms or conditions of sale: *Provided*, That all defenses available in law to a charge of discrimination in terms and conditions of sale shall be available to the respondent company.

4. Entering into, maintaining, or enforcing any contract, agreement, understanding, marketing system, or course of conduct with any dealer or distributor of any goods or commodities, or with any other person, to require any person to pay any sum of money to any other distributor or dealer or other person when not in exchange for any products or merchandise actually purchased.

5. Offering to pay or paying, or authorizing, suggesting or requiring the payment of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other consideration or thing of value to any participant dealer or distributor, directly or indirectly, except for and in consideration

of bona fide services actually rendered to the respondent, participant, dealer or distributor paying for same, in connection with the sale or purchase of goods, wares, or merchandise, with the amount of compensation for such services rendered having a direct, actual and bona fide relationship to the services performed: *Provided, however*, That respondents may not pay, grant, suggest or authorize the payment of anything of value to any participant, dealer or distributor for recruiting participants, dealers or distributors except as follows:

(i) The amount of said payment or other consideration may be either a sum certain or an amount based upon actual and verified retail sales to the consuming public by the recruited distributor, not exceeding six (6) months in duration; and

(ii) The recruiting or encouragement of recruiting does not contravene any of the provisions of Parts II and III of this order.

6. Requiring any of its distributors to obtain the prior approval of respondents for any advertising or promotion of the product or his distributorship when the distributors use their own funds for advertising: *Provided, however*, That nothing contained herein shall prohibit respondents from furnishing its distributors with suggested forms of advertising which do not otherwise contravene the law or the letter or spirit of any of the provisions of this order: *And provided further*, Respondent may take such steps as may be necessary to protect its public image and rights under the trademark and copyright laws.

7. Engaging, either as part of any contract, agreement, understanding, or courses of conduct with any distributor or dealer of any goods or commodities, or individually and unilaterally, in the practice of:

(a) Publishing or distributing, directly or indirectly, any list, order form, report form, or promotional material which employs resale prices for such goods or commodities without stating clearly and visibly in connection therewith the following statement:

"The prices quoted herein are suggested prices only. All distributors and dealers are free to determine their own resale prices."

(b) Publishing or distributing, directly or indirectly, any sales manual or instructional material which employs sample resale prices for such goods or commodities without stating clearly and visibly in connection therewith that said

price upon which such goods or commodities may be resold are not binding upon the distributor or dealer.

(c) Publishing or distributing, directly or indirectly, except as may be expressly provided herein, any override whether required, recommended or suggested, to be paid by one distributor or dealer or class of distributors or dealers to any other distributor or dealer or class of distributors or dealers.

II

It is further ordered, That the aforesaid respondents and their officers, agents, representatives, employees, successors and assigns, in connection with the advertising, offering for sale or sale of products, franchises or distributorships, or with the seeking to induce or inducing the participation of persons, firms or corporations therefor, in connection with any multilevel marketing program or any other kind of merchandising, marketing or sales promotion program, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist, directly or indirectly, from:

1. Operating or participating in the operation or suggested operation of any program or plan wherein the financial gains to the participants, other than remuneration from the retail sales of respondents' products, is or may be dependent in any manner and to any degree upon the continued, successive recruitment of other participants, except as expressly provided herein.

2. Requiring that prospective participants or participants in respondents' said programs pay any consideration, either to respondents or to any other person, other than payment for the actual cost of reasonably necessary sales materials, and for products actually purchased in reasonable quantities, in order to participate in any manner therein.

3. Requiring, suggesting, using or participating in any multilevel marketing program, or any other kind of merchandising, marketing or sales promotion program, either directly or indirectly:

(a) Wherein any finder's fees, bonuses, overrides, commissions, cross-commissions, discounts, rebates, dividends or other compensation or profits inuring to participants therein are or may be dependent, in whole or in part, upon the element of chance dominating over the skill or judgment of the participants; or

(b) Wherein no amount of judgment or skill exercised by the participant has any appreciable effect upon any or all

finder's fees, bonuses, overrides, commissions, cross-commissions, discounts, rebates, dividends or other compensation or profits which the participant may receive or be entitled to receive; or

(c) Wherein the participant is without that degree of control over the operation of such plan as to enable him to substantially affect the amount of any or all finder's fees, bonuses, overrides, commissions, cross-commissions, discounts, rebates, dividends or other compensation or profits which the participant may receive or be entitled to receive.

4. Representing, directly or by implication, that participants in respondents' multilevel marketing program, or any other kind of merchandising, marketing or sales promotion program, will earn or receive, or have the potential or reasonable expectancy of earning or receiving, any stated or gross or net amount, or representing in any manner the past earnings of participants, unless in fact the past earnings represented are those of a substantial number of participants in the community or geographic area in which such representations are made, accurately reflect the average earnings of these participants under circumstances similar to those of the participant or prospective participant to whom the representations are made, and actually resulted from predominant elements of skill and judgment rather than chance.

5. Representing, directly or by implication, that it is easy for participants to recruit or retain persons who will invest or participate in respondents' multilevel marketing program or other kind of merchandising marketing or sales promotion program, either as distributors, dealers, franchisees, wholesalers or sales personnel.

It is further ordered, That respondent Chemical Associates, Inc., shall continue to offer to buy back saleable and usable merchandise purchased by any of its distributors at not less than cost less 15 percent.

III

It is further ordered, That respondent Chemical Associates, Inc., within sixty (60) days from the effective date of this order shall:

1. Mail or deliver a conformed copy of this order to cease and desist to all present distributors, sales personnel or other persons engaged in the sale or distribution of respondents' products or services, or in the participation of respondents' merchandising programs.

2. Offer distributorships or dealerships to any former distributor or dealer who was terminated or suspended by respondent

corporation for the violation of any rule, regulation or policy which contravenes any of the provisions of this order.

It is further ordered, That respondents or their representatives shall orally inform all prospective participants in respondents' multilevel merchandising program or any other kind of merchandising, marketing or sales promotion program, and to provide clearly and conspicuously in all contracts of participation, that the contract may be cancelled for any reason by notification to respondents or its representatives in writing within five (5) working days from the date of execution of such contract.

It is further ordered, That the respondents herein shall within sixty (60) days of the effective date 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, and subsequent thereto, for a period of three (3) years thereafter, provide the Commission with copies of all brochures, pamphlets, marketing plans, meeting scripts, film scripts, etc., that respondents may employ directly or indirectly in the promotion of their products.

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

IN THE MATTER OF

WILIAM O. MENEFEE, ET AL.

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

Docket C-1827. Complaint, Nov. 27, 1970—Decision, Nov. 27, 1970***

Consent order requiring two Houston, Tex., distributors of cleaning compounds, polishes, shine kits and related products to cease fixing resale prices for its products, imposing customer, advertising and sales outlet restrictions on its distributors, discriminating in price between competing resellers, and participating in any successive recruitment of other participants in any multilevel marketing scheme; respondents are also required to affirmatively grant customers the right to determine their own resale prices.

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* For complaint in this case, see consolidated complaint *In the Matter of Chemical Associates, Inc., et al.*, Docket No. C-1826, p. 1500 herein.

** Reported as amended by Commission's order of February 18, 1971, by amending Part III, Paragraph number 1, of the order.

467-207—73——97

Decision and Order

The Federal Trade Commision having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of Section 5 of the Federal Trade Commission Act, as amended, and with Section 2(a) of the Clayton Act, as amended; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondents William O. Menefee and William J. Southwell were officers or directors of Chemical Associates, Inc., at the time that the agreement was executed and formulated, directed and controlled the policies, acts and practices 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

I

It is ordered, That respondents William O. Menefee and William J. Southwell, individually, their agents, representatives and employees, directly or indirectly, or through any corporate or other device in connection with the offering for sale, sale, or distribution of any

goods or commodities in commerce, or in connection with any multilevel marketing program or any other kind of merchandising, marketing or sales promotion program in commerce, as "commerce" is defined in the Federal Trade Commission Act and in the Clayton Act, shall forthwith cease and desist, directly or indirectly, from:

1. Entering into, maintaining, or enforcing any contract, agreement, understanding, marketing system, or course of conduct with any dealer or distributor of any goods or commodities to do or perform or attempting to do or perform any of the following acts, practices, or things:

(a) Fix, establish or maintain the prices, discounts, rebates, overrides, commissions, fees, or other terms or conditions of sale relating to pricing upon which such goods or commodities may be resold.

(b) Require or coerce any person to enter into a contract, agreement, understanding, marketing system, or course of conduct whereby said person in turn requires or coerces third parties to adhere to a course of conduct with fixes, establishes, or maintains the prices, discounts, rebates, overrides, commissions, fees, or other terms or conditions of sale relating to pricing upon which such goods or commodities may be resold.

(c) Refrain from selling any merchandise in any quantity to any specified person, class of persons, business, or class of businesses, or through the facilities of any business, class of businesses, or other means of distribution: *Provided, however*, That nothing in this order shall be construed or applied to prohibit respondent from making bona fide unilateral selection of respondents' customers on the basis of their own criteria and judgment, or from recommending reasonable criteria and standards to their distributors for the selection of customers, said criteria and standards not violating the letter or spirit of any of the provisions of this order.

(d) Require or coerce any person to enter into a contract, agreement, understanding, marketing system, or course of conduct whereby said person in turn requires or coerces third parties to adhere to a course of conduct requiring, inducing, or coercing any distributor to refrain from selling any merchandise in any quantity to any specified person, class of persons, business, or class of business, or through

the facilities of any business, class of business, or other means of distribution.

(e) Prevent any distributor or dealer of any of corporate respondent's products from advertising either his distributorship or said products, in any media of his choosing, or preventing any distributor or dealer from employing the trade name or any of the trademarks of corporate respondent in said advertising: *Provided, however*, Respondents may take such steps as may be necessary to protect its public image and rights under the trademark and copyright laws.

(f) Require or coerce any person to enter into a contract, agreement, understanding, marketing system, or course of conduct which discriminates, directly or indirectly, in the price of any merchandise of like grade and quality by selling to any purchaser, directly or indirectly, or causing to be sold to any purchaser, at net prices higher than the net prices charged any other purchaser, who competes in the resale or distribution of such merchandise with the purchaser paying the higher price.

2. Discriminating, directly or indirectly, in the price of any merchandise of like grade and quality by selling to any purchaser at net prices higher than the net price charged any other purchaser who competes in the resale or distribution of such products with the purchaser paying the higher price, or with customers of the purchaser paying the higher price; *Provided, however*, That nothing herein contained shall prevent differentials which make only due allowance for differences in the cost of manufacturer, sale or delivery: *And provided further*, That all other defenses available in law to a charge of price discrimination shall be available to the respondent company.

3. Discriminating, directly or indirectly, in the terms or conditions of sale of any merchandise of like grade and quality by selling to any purchaser upon terms or conditions of sale less favorable than the terms or conditions of sale upon which such products are sold to any other purchaser who competes in the resale of respondent's products with the purchaser who is afforded less favorable terms or conditions of sale or with a customer of the purchaser afforded the less favorable terms or conditions of sale: *Provided*, That all defenses available in law to a charge of discrimination in terms and conditions of sale shall be available to the respondent company.

4. Entering into, maintaining, or enforcing any contract, agreement, understanding, marketing system, or course of conduct with any dealer or distributor of any goods or commodities, or with any other person, to require any person to pay any sum of money to any other distributor or dealer or other person when not in exchange for any products or merchandise actually purchased.

5. Offering to pay or paying, or authorizing, suggesting or requiring the payment of any finder's fee, bonus, override, commission, cross-commission, discount, rebate, dividend or other consideration or thing of value to any participant dealer or distributor, directly or indirectly, except for and in consideration of bona fide services actually rendered to the respondent, participant, dealer or distributor paying for same, in connection with the sale or purchase of goods, wares, or merchandise, with the amount of compensation for such services rendered having a direct, actual and bona fide relationship to the services performed: *Provided, however*, That respondents may not pay, grant, suggest or authorize the payment of anything of value to any participant, dealer or distributor for recruiting participants, dealers or distributors except as follows:

(i) Said payment or other consideration is a one-time only reward for each distributor or dealer recruited;

(ii) The amount of said payment or other consideration may be either a sum certain or an amount based upon actual and verified retail sales to the consuming public by the recruited distributor, not exceeding six (6) months in duration; and

(iii) The recruiting or encouragement of recruiting does not contravene any of the provisions of Parts II and III of this order.

6. Requiring any of its distributors to obtain the prior approval of respondents for any advertising or promotion of the product or his distributorship when the distributors use their own funds for advertising: *Provided, however*, That nothing contained herein shall prohibit respondents from furnishing its distributors with suggested forms of advertising which do not otherwise contravene the law or the letter or spirit of any of the provisions of this order: *And provided further*, Respondent may take such steps as may be necessary to protect its public image and rights under the trademark and copyright laws.

7. Engaging, either as part of any contract, agreement, under-

standing, or courses of conduct with any distributor or dealer of any goods or commodities, or individually and unilaterally, in the practice of:

(a) Publishing or distributing, directly or indirectly, any list, order form, report form, or promotional material which employs resale prices for such goods or commodities without stating clearly and visibly in connection therewith the following statement:

"The prices quoted herein are suggested prices only. All distributors and dealers are free to determine their own resale prices."

(b) Publishing or distributing, directly or indirectly, any sales manual or instructional material which employs sample resale prices for such goods or commodities without stating clearly and visibly in connection therewith that said price upon which such goods or commodities may be resold are not binding upon the distributor or dealer.

(c) Publishing or distributing, directly or indirectly, except as may be expressly *provided* herein, any override whether required, recommended or suggested, to be paid by one distributor or dealer or class of distributors or dealers to any other distributor or dealer or class of distributors or dealers.

II

It is further ordered, That the aforesaid respondents and their officers, agents, representatives, employees, successors and assigns, in connection with the advertising, offering for sale or sale of products, franchises or distributorships, or with the seeking to induce or inducing the participation of persons, firms or corporations therefor, in connection with any multilevel marketing program or any other kind of merchandising, marketing or sales promotion program, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist, directly or indirectly, from:

1. Operating or participating in the operation or suggested operation of any program or plan wherein the financial gains to the participants, other than remuneration from the retail sales of respondent's products, is or may be dependent in any manner and to any degree upon the continued, successive recruitment of other participants, except as expressly *provided* herein.

2. Requiring that prospective participants or participants in

respondent's said programs pay any consideration, either to respondents or to any other person, other than payment for the actual cost of reasonably necessary sales materials, and for products actually purchased in reasonable quantities, in order to participate in any manner therein.

3. Requiring, suggesting, using or participating in any multilevel marketing program, or any other kind of merchandising, marketing or sales promotion program, either directly or indirectly:

(a) Wherein any finder's fees, bonuses, overrides, commissions, cross-commissions, discounts, rebates, dividends or other compensation or profits inuring to participants therein are or may be dependent, in whole or in part, upon the element of chance dominating over the skill or judgment of the participants; or

(b) Wherein no amount of judgment or skill exercised by the participant has any appreciable effect upon any or all finder's fees, bonuses, overrides, commissions, cross-commissions, discounts, rebates, dividends or other compensation or profits which the participant may receive or be entitled to receive; or

(c) Wherein the participant is without that degree of control over the operation of such plan as to enable him to substantially affect the amount of any or all finder's fees, bonuses, overrides, commissions, cross-commissions, discounts, rebates, dividends or other compensation or profits which the participant may receive or be entitled to receive.

4. Representing, directly or by implication, that participants in respondents' multilevel marketing program, or any other kind of merchandising, marketing or sales promotion program, will earn or receive, or have the potential or reasonable expectancy of earning or receiving, any stated or gross or net amount, or representing in any manner the past earnings of participants, unless in fact the past earnings represented are those of a substantial number of participants in the community or geographic area in which such representations are made, accurately reflect the average earnings of these participants under circumstances similar to those of the participant or prospective participant to whom the representations are made, and actually resulted from predominant elements of skill and judgment rather than chance.

5. Representing, directly or by implication, that it is easy for participants to recruit or retain persons who will invest or par-

ticipate in respondents' multilevel marketing program or other kind of merchandising marketing or sales promotion program, either as distributors, dealers, franchisees, wholesalers or sales personnel.

It is further ordered, That respondent Chemical Associates, Inc., shall continue to offer to buy back saleable and usable merchandise purchased by any of its distributors at not less than cost less 15 percent.

III

It is further ordered, That respondent Chemical Associates, Inc., within sixty (60) days from the effective date of this order shall:

1. Mail or deliver a conformed copy of this order to cease and desist to all present distributors, sales personnel or other persons engaged in the sale or distribution of respondents' products or services, or in the participation of respondents' merchandising programs.

2. Offer distributorships or dealerships to any former distributor or dealer who was terminated or suspended by respondent corporation for the violation of any rule, regulation or policy which contravenes any of the provisions of this order.

It is further ordered, That respondents or their representatives shall orally inform all prospective participants in respondents' multilevel merchandising program or any other kind of merchandising, marketing or sales promotion program, and to provide clearly and conspicuously in all contracts of participation, that the contract may be cancelled for any reason by notification to respondents or its representatives in writing within five (5) working days from the date of execution of such contract.

It is further ordered, That the respondents herein shall within sixty (60) days of the effective date 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, and subsequent thereto, for a period of three (3) years thereafter, provide the Commission with copies of all brochures, pamphlets, marketing plans, meeting scripts, film scripts, etc., that respondents may employ directly or indirectly in the promotion of their products.

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

IN THE MATTER OF

B. MARGARITIS FURS, INC., ET AL.

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

Docket C-1828. Complaint, Dec. 1, 1970—Decision, Dec. 1, 1970

Consent order requiring a New York City manufacturer of fur garments to cease misbranding, falsely invoicing and deceptively guaranteeing its fur products.

COMPLAINT

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

PARAGRAPH 1. Respondent B. Margaritis Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Gus Margaritis and Barbara Margaritis are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 350 Seventh Avenue, New York, New York.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the terms

"commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

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

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed to disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored when such was the fact.

PAR. 5. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the fur products so falsely guarantied would be introduced, sold, transported and distributed in commerce, in violation of Rule 48(c) of said Rules and Regulations under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 6. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices under the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection, Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Fur 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 has reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent B. Margaritis Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 350 Seventh Avenue, New York, New York.

Respondents Gus Margaritis and Barbara Margaritis are officers of the said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their 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 B. Margaritis Furs, Inc., a corporation, and its officers, and Gus Margaritis and Barbara Margaritis, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding any fur product by failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Falsely or deceptively invoicing any fur product by failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

It is further ordered, That respondent B. Margaritis Furs, Inc., a corporation, and its officers, and Gus Margaritis and Barbara Margaritis, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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

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

IN THE MATTER OF

AMERICAN HOSPITAL SUPPLY CORPORATION
TRADING AS
CONVERTORS DIVISION

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

Docket C-1829. Complaint, Dec. 1, 1970—Decision, Dec. 1, 1970

Consent order requiring an Evanston, Ill., corporation which manufactures and distributes disposable hospital products to cease manufacturing and selling

certain items of wearing apparel, including nurses' caps and infants' shirts, which do not conform to the flammability standards under the Flammable Fabrics Act.

Complaint

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that American Hospital Supply Corporation, a corporation, trading as Convertors Division, hereinafter referred to as respondent, has violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

Paragraph 1. Respondent American Hospital Supply Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Respondent corporation trades as Convertors Division.

The respondent is engaged among other activities in the manufacture, sale and distribution of disposable hospital products, including but not limited to, wearing apparel. Among the items of wearing apparel manufactured, sold and distributed are nurses' caps and infants' shirts. The respondent's principal office is located at 1740 Ridge Avenue, Evanston, Illinois.

Par. 2. Respondent for some time last past has been engaged in the manufacture, sale and offering for sale, in commerce, and in the importation into the United States, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products; and has manufactured for sale, sold, or offered for sale, products made of fabrics or related materials which have been shipped and received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which products, fabric and related materials fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products were nurses' caps and infants' shirts.

Par. 3. The aforesaid acts and practices of respondent were and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and;

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent had violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 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 Hospital Supply Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. The respondent corporation trades as Convertors Division.

Respondent is engaged among other activities in the manufacture, sale and distribution of disposable hospital products, including but not limited to, wearing apparel. Among the items of wearing apparel manufactured, sold and distributed are nurses' caps and infants' shirts. The respondent's principal office is 1740 Ridge Avenue, Evanston, Illinois.

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 the respondent American Hospital Supply Corporation, a corporation, trading as Convertors Division, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent, if it shall not have done so heretofore, notify all of its customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of such products, and effect recall of such products from said customers.

It is further ordered, That the respondent herein, if it shall not have done so heretofore, either process the products which gave rise to the complaint so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission an interim special report in writing setting forth the respondent's intentions as to compliance with this order. This interim report shall also advise the Commission fully and specifically concerning the identity of the products which gave rise to the complaint, (1) the number of such products in inventory, (2) any action taken and any further actions proposed to be taken to notify customers of the flammability of such products and effect recall of such products from said customers, and of the results of such actions, (3) any disposition of such products since January 1970, and (4) any action taken or proposed to be taken to flameproof or destroy such products and the results of such action. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of paper,

silk, rayon and acetate, nylon and acetate, rayon, cotton or combinations thereof in a weight of two ounces or less per square yard, of having a raised fiber surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

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

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

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

IN THE MATTER OF

MARS MFG. CO., INC. OF ASHEVILLE, NORTH CAROLINA, ET AL.

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

Docket C-1830. Complaint, Dec. 1, 1970—Decision, Dec. 1, 1970

Consent order requiring an Asheville, N.C., corporation which manufactures and distributes disposable hospital products to cease manufacturing and selling certain items of wearing apparel, including nurses' caps and infants' shirts, which do not conform to the flammability standards under the Flammable Fabrics Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Mars Mfg. Co., Inc. of Asheville, North Carolina, a corporation, and Robert T. Bayer, 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 Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Mars Mfg. Co., Inc. of Asheville, North Carolina is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina.

Respondent Robert T. Bayer is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporate respondent.

Respondents are engaged in the manufacture, sale and distribution of disposable hospital products, including but not limited to, wearing apparel. Among the items of wearing apparel manufactured, sold and distributed are "nurses' caps" and "infants' shirts." Respondents principal place of business is located at Asheville, North Carolina. Respondents mailing address is Post Office Box 6316.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture, sale and offering for sale, in commerce, and in the importation into the United States, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale, or shipment in commerce, products and fabrics; and have manufactured for sale, sold, or offered for sale, products made of fabrics or related materials which have been shipped and received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which products, fabrics and related materials fail to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products were nurses' caps and infants' shirts.

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

DECISION AND ORDER

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

hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Flammable Fabrics Act; 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 has reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Mars Mfg. Co., Inc. of Asheville, North Carolina, is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina.

Respondent Robert T. Bayer is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said 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 the respondents Mars Mfg. Co., Inc. of Asheville, North Carolina, a corporation, and its officers, Robert T. Bayer, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce,

or selling or delivering after sale or shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

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

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

It is further ordered, That the respondents herein shall, within ten (10) days after service upon it of this order, file with the Commission an interim special report in writing setting forth the respondents' intentions as to compliance with this order. This interim report shall also advise the Commission fully and specifically concerning the identity of the products which gave rise to the complaint, (1) the amount of such products in inventory, (2) any action taken and any further actions proposed to be taken to notify customers of the flammability of such products and recall of such products from said customers, and of the results of such actions, (3) any disposition of such products since April 1970, and (4) any action taken or proposed to be taken to flameproof or destroy such products and the results of such action. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or combinations thereof in a weight of two ounces or less per square yard, or having a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

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

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

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

It is further ordered, That the 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

ROBERT BENEDICK TRADING AS ROBERT BENEDICK FURS

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

Docket C-1831. Complaint, Dec. 1, 1970—Decision, Dec. 1, 1970

Consent order requiring a New York City individual to cease misbranding, falsely invoicing and deceptively guaranteeing his fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Robert Benedick, an individual trading as Robert Benedick Furs, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Robert Benedick is an individual trading as Robert Benedick Furs.

Respondent is a retailer of fur products with his office and principal place of business located at 333 Seventh Avenue, New York, New York.

PAR. 2. Respondent is now and for some time last past has been engaged in the introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and has sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce; as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

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

Among such misbranded fur products, but not limited thereto, were fur products without labels as required by the said Act.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed:

1. To disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

2. To show the country of origin of imported furs contained in fur products.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 6. Respondent furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of his fur products by falsely representing in writing that respondent had a continuing guaranty on file with the Federal Trade Commission when respondent in furnishing such guaranties had reason to believe that the fur products so falsely guarantied would be introduced, sold, transported and distributed in commerce, in violation of Rule 48(c) of said Rules and Regulations under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the

Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

Decision and Order

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection, Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Fur Products Labeling 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 records for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Robert Benedick is an individual trading as Robert Benedick Furs with his office and principal place of business located at 333 Seventh Avenue, New York, New York.

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

ORDER

It is ordered, That respondent Robert Benedick, individually and trading as Robert Benedick Furs or under any other trade name,

and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding any fur product by failing to affix a label to such fur product showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act.

2. Falsely or deceptively invoicing any fur product by failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

3. Representing, directly or by implication on an invoice that the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondent Robert Benedick, individually and trading as Robert Benedick Furs or under any other trade name and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondent has reason to believe that such fur product may be introduced, sold, transported or distributed in commerce.

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

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon 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

THE SEEBURG CORPORATION

MODIFIED ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT

Docket 8682. Complaint, April 22, 1966—Decision, Dec. 4, 1970

Order modifying a divestiture order dated April 10, 1969, 75 F.T.C. 561, pursuant to a decision of the Court of Appeals, Sixth Circuit, 425 F. 2d 124 (8 S.&D. 1146) which required the omission of the words "and/or sale" of vending machines from Paragraph D of the original order.

FINAL ORDER

The Commission issued its divestiture order in this matter on April 10, 1969 [75 F.T.C. 561]; the Court of Appeals for the Sixth Circuit modified and, as so modified, affirmed the divestiture order on April 29, 1970 [8 S.&D. 1146], and the Supreme Court denied petition for writ of certiorari on October 19, 1970;

It is therefore ordered, That the divestiture order issued by the Commission be, and it hereby is, modified to read in full as follows:

A

It is ordered, That respondent, The Seeburg Corporation, a corporation, and its officers, directors, agents, representatives, employees, subsidiaries, affiliates, successors and assigns, within one (1) year from the date of service of this order, shall divest absolutely and in good faith, all stock, assets, properties, rights and privileges, tangible or intangible, including but not limited to all properties, plants, machinery, equipment, trade names, contract rights, patents, trademarks, and good will acquired by The Seeburg Corporation as a result of the acquisition by The Seeburg Corporation of the assets of Cavalier Corporation, together with all plants, machinery, buildings, land, improvements, equipment and other property of whatever description that has been added to or placed on the premises of the former Cavalier Corporation, so as to restore Cavalier Corporation as a going concern and effective competitor in the manufacture and sale of bottle vending machines.

B

It is further ordered, That pending divestiture, respondent shall not make any changes in any of the plants, machinery, buildings,

equipment or other property of whatever description of the former Cavalier Corporation which shall impair its present capacity for the production, sale and distribution of vending machines, or its market value.

C

It is further ordered, That by such divestiture, none of the assets, properties, rights or privileges, described in Paragraph A of this order, shall be sold or transferred, directly or indirectly, to any person who is at the time of the divestiture an officer, director, employee, or agent of, or under the control or direction of, The Seeburg Corporation or any subsidiary or affiliated corporations of The Seeburg Corporation, or owns or controls, directly or indirectly, more than one (1) percent of the outstanding shares of common stock of The Seeburg Corporation, or to any purchaser who is not approved in advance by the Federal Trade Commission.

D

It is further ordered, That respondent shall for a period of ten (10) years from the date of service of this order, cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, without the prior approval of the Federal Trade Commission, all or any part of the share capital of any corporation engaged in the manufacture of vending machines in the United States, or capital assets pertaining to such manufacture.

E

It is further ordered, That respondent shall submit to the Commission periodically, within thirty (30) days from the date of service of this order and every ninety (90) days thereafter, a report in writing setting forth its efforts and progress in carrying out the divestiture requirements of this order until all such assets have been divested with the approval of the Commission; and respondent shall submit to the Commission on the first day of each calendar year a report in writing setting forth its compliance with the cease and desist provisions of this order.

F

It is further ordered, That respondent notify the Commission of the names and addresses of all persons, firms or corporations who shall express to respondent any interest in purchasing the assets to be divested under the terms of this order, within thirty (30) days after having been informed of such interest.

Chairman Kirkpatrick and Commissioner Dennison did not participate for the reason oral argument was heard and the opinion and original order were issued prior to their appointment to the Commission.

IN THE MATTER OF

YARDLEY OF LONDON, INC.

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

Docket C-1832. Complaint, Dec. 7, 1970—Decision, Dec. 7, 1970

Consent order requiring a New York City distributor of toiletries, perfumes and cosmetics to cease fixing resale prices of its products, restricting persons to whom customers may resell, limiting territory in which customers may resell, reserving any firm as the exclusive sales customer of respondent, and cutting off supplies of any customer.

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 Yardley of London, Inc., sometimes hereinafter referred to as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45), 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 Yardley of London, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey. It maintains general offices, a production plant, and its principal warehouse at 700 Union Boulevard, Totowa, New Jersey. Its executive offices and salesrooms are located at 620-630 Fifth Avenue, New York, New York.

PAR. 2. Respondent purchases and imports essences and fragrances from its parent firm, Yardley and Company, Limited, London, England, for finishing in the United States into toiletries, perfumes and cosmetics which it distributes under the Yardley trade name. During the year 1967 respondent's estimated total volume of sales was in excess of $25,000,000.

PAR. 3. Respondent distributes, offers to sell, and sells toiletries,

perfumes and cosmetics for both men and women (hereinafter "products") which are shipped from its warehouses in Totowa, New Jersey; Chicago, Illinois; Dallas, Texas; and Los Angeles, California; to a large number of customers located throughout the United States. At all times referred to herein there has been a constant and substantial flow of respondent's products shipped in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent, in the course and conduct of its business, is in competition in commerce with other manufacturers and distributors of toiletries, perfumes and cosmetics, except to the extent that such competition has been lessened, restrained, or otherwise injured as hereinafter alleged.

PAR. 5. Respondent distributes its products through a network of company-employed salesmen who sell said products directly to retail outlets, or between about 1956 and early 1969, to wholesale sales representatives such as wholesale druggists and toiletry merchandisers. During 1965 and 1966 there were approximately 13,000 listed active customers of respondent in the United States, of which more than 12,000 were retail outlets and of which the remainder were wholesale sales representatives.

PAR. 6. Respondent's contracts, agreements, understandings, practices, and course of dealing with its wholesale sales representatives have included and have been conducted upon the following terms and conditions, among others:

1. Products were to be sold to retail dealers at 33-1/3 percent less than respondent's published retail fair trade prices, with no more than 2 percent cash discount, or, if offered for sale directly to consumers on racks or shelves controlled by a toiletry merchandiser, were to be prepriced according to respondent's retail fair trade prices.

2. Products were to be sold only to a specified class of retailers, such as drug stores (wholesale druggists) or food stores (toiletry merchandisers).

3. Products were not to be sold to any customer whose name was included on respondent's published "Wholesale Reservation List."

4. Products were to be sold only within the wholesale sales representative's regular trading area.

PAR. 7. Respondent has enforced the terms and conditions of its contracts, agreements, understandings, and methods of distribution through the use of the following acts and practices, among others:

1. It has periodically published and distributed to each of its wholesale sales representatives the "Wholesale Reservation List"

containing names and addresses of direct-buying retail accounts located in the State (or States) in which the representative has its regular trading area.

2. It has accepted, entertained, and acted upon complaints from one customer concerning the pricing, selling practices or activities of other customers which do not conform with the terms and conditions listed in Paragraph Six above.

3. It has spied upon, observed and otherwise policed the selling practices and activities of its customers in order to ascertain whether or not they conform with the terms and conditions listed in Paragraph Six above.

4. Its sales representatives have called upon customers and discussed with them the distribution policies of respondent in order to attain a planned course of dealing.

5. It has systematically terminated its contractual relationships with and discontinued sales to customers who were reselling products to price-cutters or to retailers other than those to whom they were authorized to sell.

PAR. 8. During the time period between about 1960 and mid-1967, respondent has entered into and maintained a system of alleged "consignment" agreements with its wholesale sales representatives, including wholesale druggists and toiletry merchandisers. Said agreements and the acts and practices which have been engaged in pursuant thereto have been in furtherance of the restrictive distribution system and of the unreasonable restraints upon trade and the lessening of competition which have been alleged hereinabove.

PAR. 9. Respondent, in addition to its activities with its wholesale sales representatives, as aforesaid, has directly attempted to tamper with, fix, control and maintain the resale selling prices of retail dealers handling its products through use of the following acts and practices, among others:

1. It has issued and mailed to persons or firms located in States in which no "fair trade" obligation was binding upon them and who allegedly were cutting prices of Yardley products threatening letters warning of possible further action.

2. In its contacts with retail dealers it has discussed, contracted, agreed, and reached understandings concerning a requirement to maintain the suggested or fair trade prices established by respondent.

PAR. 10. As a result of the contracts, agreements, understandings, acts, practices, and course of dealing aforesaid:

1. The resale prices of respondent's products have been unlawfully fixed and maintained.

2. The free movement of respondent's products and the right of alienation of products purchased from respondent have been unreasonably restricted, lessened and restrained.

3. The sources of supply of respondent's products to numerous price-cutters and other retail outlets have been unfairly and illegally cut off or foreclosed.

4. Competition among respondent and its wholesale sales representatives in the distribution, offering for sale, and sale of respondent's products to numerous retail outlets has been artificially and unreasonably restricted, lessened and restrained.

PAR. 11. Respondent's contracts, agreements, understandings, acts, practices, and course of dealing, as aforesaid, constitute unfair methods of competition or unfair acts or 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition 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, its attorney 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, having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, and having fully considered comments received from the public during said period, 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 Yardley of London, Inc., is a corporation which has its general offices and principal facilities at 700 Union Boulevard, Totowa, New Jersey, and maintains its executive offices and salesrooms at 620 Fifth Avenue, New York, New York.

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

ORDER

It is ordered, That respondent Yardley of London, Inc., a corporation, its officers, representatives, agents and employees, successors and assigns, directly or through any corporate or other device, in connection with the importation, manufacture, distribution, offering for sale and sale of toiletries, perfumes, and cosmetics, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Entering into, maintaining, continuing, or seeking to enforce any contract, agreement, understanding, or planned course of dealing to fix or maintain the resale prices of such products.

2. Limiting, restricting, or restraining the persons or firms to whom any customer may resell such products.

3. Limiting, restricting, or restraining the geographic area in which any customer may distribute, offer to sell, and resell such products.

4. Reserving any person or firm as the sole or exclusive customer of respondent, or seeking to prohibit any person or firm from competing with respondent in the offering for sale and sale of such products to any customer.

5. Discontinuing sales to, threatening to discontinue sales to, or seeking to cut off or foreclose sources of supply of such products to any person or firm who has lawfully acquired such products because of:

(a) The level of distribution at which he operates;

(b) The class of trade to whom he offers to sell and sells;

(c) The prices at which he distributes, offers to sell, and sells such products;

(d) The marketing or geographic area in which he distributes, offers to sell, and sells such products;

(e) The prices at which his customers offer to sell and sell such products.

Provided, however, That nothing contained herein shall be interpreted so as to prohibit respondent from entering into and enforcing in the manner authorized by law a "fair trade" resale price maintenance program, in accordance with the provisions of the Miller-Tydings Act and the McGuire Act.

It is further ordered, That respondent Yardley of London, Inc. furnish a copy of this order to all presently franchised retail outlets or other customers and to all employees, agents, or representatives engaged in sales activities, within ninety (90) days from the date hereof.

It is further ordered, That respondent Yardley of London, Inc., 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 of 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 Yardley of London, Inc., 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

CARNATION COMPANY

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

Docket C-1833. Complaint, Dec. 8, 1970—Decision, Dec. 8, 1970

Consent order requiring a major seller of food products with headquarters in Los Angeles, Calif., to cease making unwarranted nutritional claims in advertising its "Carnation Instant Breakfast."

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 Carnation Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public in-