

201

Complaint

respondent corporation which may affect compliance obligations arising out of this order.

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

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

IN THE MATTER OF

DIXIE READERS' SERVICE, INC., ET AL.

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

Docket C-2151. Complaint, Feb. 14, 1972—Decision, Feb. 14, 1972

Consent order requiring a Jackson, Miss., solicitor and seller of magazine subscriptions through sales agents to cease failing to reveal all aspects of the job when recruiting prospective solicitors, misrepresenting that such solicitors will be engaged in contests for college and other awards, misrepresenting the terms and conditions of soliciting subscriptions, deceptively guaranteeing the delivery of the magazines, fostering sympathy appeals by its solicitors, failing to refund monies promptly, and failing to notify subscribers of their rights-to-cancel subscription contract within 3 days. The respondent is also required to deliver a copy of the decision and order to its sales agents and representatives.

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 Dixie Readers' Service, Inc., a corporation, and Quinton Gibson, 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. Respondents Dixie Readers' Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Mississippi, with its principal office and place of business located at 3032 Terry Road, in the city of Jackson, State of Mississippi.

Respondent Quinton Gibson is an officer of the corporate respondent Dixie Readers' Service, Inc.

The aforesaid individual respondent 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 engaged in the sale of magazine subscriptions and other publications to the purchasing public by either of two methods which are commonly referred to as "cash subscription" and "two-payment."

Respondents enter into business arrangements with certain publishers or distributors of magazines and other publications whereby the publishers or distributors agree to accept and fill orders for designated magazines or other publications sold by respondents. The publishers or distributors generally require that the magazines or other publications be sold for a designated amount and that respondents forward an agreed upon amount to the publisher or distributor thereof.

Pursuant to such arrangements the respondents solicit and sell to the purchasing public subscriptions to such magazines.

PAR. 3. In the course and conduct of their business of selling magazine subscriptions pursuant to subscription contracts, as aforesaid, respondents have entered into contractual arrangements with publishers or distributors of magazines whereby respondents are authorized to sell certain magazine subscriptions at designated selling prices and to pay designated amounts to said publishers or distributors as payment for said subscriptions. Respondents are thereby given authority to sell subscriptions to some but not all magazines and other publications.

PAR. 4. In the course and conduct of their business, as aforesaid, respondents enter, and have entered, into agreements with individuals known as "crew managers" who in turn employ or hire "sales agents," "solicitors," or other representatives to sell said magazines.

Acting through their said crew chiefs and solicitors, respondents place into operation and, through various direct and indirect means and devices, control, direct, supervise, recommend and otherwise implement sale methods whereby members of the general public are contacted by door-to-door solicitations, and by means of statements, representations, acts and practices as hereinafter set forth, are induced to sign subscription contracts with respondents which provide for the purchase of magazines or other publications and payment therefor usually on a cash or two-payment basis.

Complaint

Respondents also provide managers with credentials, sales contract forms, magazine lists and other printed materials some of which bear the name and address of the corporate respondent. Said printed materials are placed in the hands of respondents' sales solicitors for use in the solicitation of magazine subscriptions.

The subscription contracts, when signed by the subscriber, are thereafter returned by the sales solicitor and the crew manager to the respondents who place subscription orders with the appropriate publishers and distributors for magazines and other publications respondents are authorized to sell.

In the manner aforesaid, respondents, directly or indirectly, through said crew managers control, furnish the means, instrumentalities, services and facilities for, condone, approve and accept the pecuniary benefits flowing from the acts, practices and policies hereinafter set forth, of said crew managers and sales solicitors, hereinafter collectively referred to as respondents' representatives or solicitors.

PAR. 5. In the course and conduct of their business and in the manner aforesaid, respondents through their representatives or solicitors, who travel from one area to another, solicit subscriptions for magazines in various States of the United States. Respondents transmit and receive in commerce the aforementioned printed materials used in the solicitation and sale of magazine subscriptions. The subscription contracts and money are sent by said representatives or solicitors from various states to respondents' place of business in the State of Mississippi and are then forwarded by respondents to various publishers or distributors, many of whom are located in states other than the State of Mississippi. Respondents thereby maintain, and at all times mentioned herein have maintained, a substantial course of trade in the sale of magazine subscriptions in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. Respondents, in the course and conduct of their business as aforesaid, have disseminated, and now disseminate or cause to be disseminated, classified advertisements in newspapers of general and interstate circulation and in newspapers throughout the United States and have made statements and representations respecting pay and working conditions, designed and intended to induce individuals to apply as representatives or solicitors to sell magazine subscriptions on the behalf of respondents.

Among and typical of such representations, but not all inclusive thereof, are the following:

1. * * * work in Florida, Texas, California and return.
2. New car * * *

3. * * * with expense drawing account.
4. Average \$105.00 to \$185.00 weekly plus cash bonus * * *

In the aforesaid manner, the respondents have represented, and are now representing directly or by implication, that:

1. Persons who answer respondents' advertisements and who become representatives or solicitors for respondents will travel on a planned itinerary to Florida, Texas and California and return.
2. Persons who answer respondents' advertisements and who become representatives or solicitors for respondents will be furnished a new car while traveling for or on the behalf of respondents.
3. Respondents will pay the expenses of persons who answer respondents' advertisements and who become representatives or solicitors for respondents.
4. Persons who answer respondents' advertisements and who become representatives or solicitors for respondents will earn \$105 to \$185 per week.

PAR. 7. In truth and in fact:

1. Persons who answer respondents' advertisements and who become representatives or solicitors for respondents do not travel on a planned itinerary to Florida, Texas and California and return.
2. Persons who answer respondents' advertisements and who become representatives or solicitors are not furnished new cars while traveling for or on the behalf of respondents.
3. Respondents do not pay the expenses of persons who answer respondents' advertisements and who become representatives or solicitors for respondents.
4. Persons who answer respondents' advertisements and who become representatives or solicitors for respondents do not earn \$105 to \$185 per week.

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

PAR. 8. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their magazine subscriptions, respondents and respondents' representatives or solicitors have represented, and now represent, directly or by implication, that:

1. Respondents are authorized to sell subscriptions for and are able to deliver or cause the delivery of all magazines for which they sell subscriptions and accept payments.
2. Respondents' representatives or solicitors are participants in a "contest" working for prizes and awards and are not solicitors working for money compensation.

3. Respondents' representatives or solicitors are employed by or for the benefit of a charitable or non-profit organization.

4. Respondents' representatives or solicitors are employed by or affiliated with programs sponsored by a government agency, the purpose of which is to provide assistance to underprivileged groups or persons.

5. Respondents' representatives or solicitors are competing for college scholarship awards.

6. Respondents' representatives or solicitors are college students working their way through school.

7. Respondents' representatives or solicitors are "bonded" and that such "bonding" insures their honesty and integrity.

8. Respondents have a bond on deposit which guarantees fulfillment of all magazine subscription orders sold by their representatives or solicitors.

9. Respondents guarantee the delivery of magazines for which they sell subscriptions and accept payments.

10. The money paid by the subscriber to the respondents' representative or solicitor at the time of the sale is the total cost of the subscription.

11. Magazines purchased by subscribers will be distributed to various schools and institutions as gifts or contributions.

PAR. 9. In truth and in fact:

1. Respondents are not authorized to sell subscriptions for and are not able to deliver or to cause the delivery of all magazines for which their representatives or solicitors sell subscriptions and accept payments. In many instances, respondents' representatives or solicitors sell subscriptions for magazines which respondents are not authorized by the publisher or distributor thereof to sell, and consequently, respondents are unable to deliver or to cause the delivery of these magazines for which they have accepted payments from subscribers.

2. Respondents' representatives or solicitors work for money compensation and are not participants in a "contest" working for prizes and awards. The use by respondents and their representatives or solicitors of credentials and promotional materials identifying such representatives or solicitors as participants in a contest is a spurious device which enables their representatives or solicitors to utilize a personal sympathy appeal in the sale of subscriptions.

3. Respondents' representatives or solicitors are not employed by or for the benefit of a charitable or non-profit organization.

4. Respondents' representatives or solicitors are not employed by or affiliated with programs sponsored by a government agency, the

purpose of which is to provide assistance to underprivileged groups or persons.

5. Respondents' representatives or solicitors are not competing for college scholarship awards.

6. In a substantial number of instances, respondents' representatives or solicitors are not college students working their way through college.

7. Respondents' representatives or solicitors are not "bonded;" and there is no assurance for their honesty and integrity.

8. The bond which respondents have deposited with a third party does not guarantee the fulfillment of all magazines subscriptions sold by respondents' representatives or solicitors.

9. Respondents do not guarantee the delivery of magazines for which they sell subscriptions and accept payments and, once the order is submitted to the publisher or distributor, no further effort is made by respondents to insure such delivery.

10. In a substantial number of instances, the money paid by the subscriber to the respondents' representative or solicitor at the time of the sale is not the total cost of the sale, and the subscriber is required to pay an additional sum of money before his subscription will be entered as ordered.

11. Magazines purchased by subscribers are not distributed to various schools and institutions as gifts or contributions.

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

PAR. 10. In the further course and conduct of their business as aforesaid, where respondents have received payment for subscriptions to magazines they are not authorized to sell and are not able to deliver or cause to be delivered, they have also, in a substantial number of instances:

1. Failed to notify subscribers, after subscription orders have been received at their principal office and place of business, that said magazines cannot be delivered.

2. Required purchasers to subscribe to substitute magazines without offering them the option to receive a full refund of the money paid for the initial subscription.

3. Failed to refund to subscribers the money they have paid for subscriptions to such magazines.

4. Failed to answer, or to answer promptly, inquiries by or on behalf of subscribers concerning non-delivery of such magazines.

Therefore, the aforesaid acts and practices were, and are, unfair practices and are false, misleading and deceptive.

PAR. 11. In the further course and conduct of their business as aforesaid, where respondents have received payment for subscriptions to magazines they are in fact authorized to sell and are able to deliver or cause to be delivered, they have, in many instances, failed to deliver or cause to be delivered such magazines within a reasonable period of time.

Therefore, the aforesaid acts and practices were, and are, unfair practices and are false, misleading and deceptive.

PAR. 12. In the further course and conduct of their business as aforesaid, in instances where the respondents' representatives or solicitors have appropriated money paid by subscribers to their own use, respondents have either failed to refund to subscribers the money said subscribers have paid for subscriptions to magazines or have failed to enter the subscription as ordered by said subscribers.

Therefore, the aforesaid acts and practices were, and are, unfair practices and are false, misleading and deceptive.

PAR. 13. In the further course and conduct of their business as aforesaid, respondents, through their representatives and solicitors, have misrepresented, and are now misrepresenting, the cost, number of issues and duration of magazine subscriptions.

Therefore, the aforesaid acts and practices were, and are, unfair practices and are false, misleading and deceptive.

PAR. 14. 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 magazine subscriptions.

PAR. 15. By and through the use of the aforesaid acts and practices, respondents place in the hands of the crew managers, sales agents, representatives and others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 16. The use by respondents of the aforesaid false, misleading, deceptive and unfair representations, acts and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the purchase of a substantial number of magazine subscriptions from respondents.

PAR. 17. 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

80 F.T.C.

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 the complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of 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 Dixie Readers' Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Mississippi, with its principal office and place of business located at 3032 Terry Road in the city of Jackson, State of Mississippi.

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

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 respondents Dixie Readers' Service, Inc., a corporation, and its officers, and Quinton Gibson, individually and as an officer of said corporation, and respondents' agents, representa-

tives, employees, successors, and assigns, directly or through any corporate or other device, in connection with the advertising, offering for sale, or distribution of magazines, magazine subscriptions or other products or the sale, solicitation or acceptance of subscriptions for magazines or other publications or monies paid therefor, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, to prospective solicitors and solicitors that they will travel on a planned itinerary to various large cities throughout the United States; or misrepresenting in any manner, the travel opportunities available to their representatives or solicitors.

2. Representing, directly or by implication, to prospective solicitors and solicitors that they will be furnished a new car while traveling for or on the behalf of respondents.

3. Representing, directly or by implication, to prospective solicitors or solicitors that respondents will pay the expenses of such solicitors; or misrepresenting, in any manner, the terms or conditions of employment as a solicitor for respondents.

4. Representing, directly or by implication, to prospective solicitors or solicitors that they will earn \$185 per week, or any other stated or gross amount; or representing, in any manner, the past earnings of respondents' representatives or solicitors, unless in fact the past earnings represented have actually been received by a substantial number of respondents' representatives or solicitors and accurately reflect the average earnings of such representatives or solicitors.

5. Representing, directly or by implication, to prospective solicitors and solicitors that they will serve in any capacity other than as magazine subscription solicitors selling magazines on a door-to-door basis; or misrepresenting, in any manner, the terms, conditions, or nature of such employment, or the manner or amount of payment for such employment.

6. Failing clearly and unqualifiedly, to reveal during the course of any contact or solicitation of any prospective employee, sales agent or representative, whether directly or indirectly, or by written or printed communications, or by newspaper or periodical advertising, or person-to-person, that such prospective employee, sales agent or representative will be employed to solicit the sale of magazine subscriptions.

7. Soliciting or accepting subscriptions for magazines or other publications which respondents have no authority to sell or which

Decision and Order

80 F.T.C.

respondents cannot promptly deliver or cause to be delivered.

8. Representing, directly or by implication, that respondents' representatives or solicitors are participants in a contest working for prize awards and are not solicitors working for money compensation; or misrepresenting, in any manner, the status of their sales agents or representatives or the manner or amount of compensation they receive.

9. Representing, directly or by implication, that respondents' representatives or solicitors are employed by or for the benefit of any charitable or non-profit organization; or misrepresenting in any manner, the identity of the solicitor or of his firm or of the business they are engaged in.

10. Representing, directly or by implication, that respondents' representatives or solicitors are employed by or affiliated with programs sponsored by a government agency the purpose of which is to provide assistance to under-privileged groups or persons.

11. Representing, directly or by implication, that respondents' representatives or solicitors are competing for college scholarship awards.

12. Representing, directly or by implication, that respondents' representatives or solicitors are college students working their way through school.

13. Representing, directly or by implication, that respondents' sales agents or representatives have been or are bonded or making any references to bonding, unless such sales agents or representatives have been bonded by a recognized bonding agency, and any payments made pursuant to such bonding arrangement would accrue directly to the benefit of subscribers ordering subscriptions from respondents' representatives or solicitors; or misrepresenting, in any manner, the nature, terms or conditions of any such bond.

14. Representing, directly or by implication, that respondents have a legal arrangement with any independent third party which insures the placement and fulfillment of each and every magazine subscription order; or misrepresenting, in any manner, the nature, terms and conditions of any such arrangement.

15. Representing, directly or by implication, that respondents guarantee the delivery of magazines for which they sell subscriptions and accept payments, without clearly and conspicuously disclosing the terms and conditions of any such guarantee; or misrepresenting, in any manner, the terms and conditions of any guarantee.

16. Representing, directly or by implication, that the money paid by a subscriber to the respondents' representative or solicitor at the time of the sale is the total cost of the subscription in instances where the subscriber will be required to remit an additional amount in order to receive the subscription as ordered.

17. Representing, directly or by implication, that magazines purchased by subscribers will be distributed to various schools and institutions as gifts or contributions.

18. Misrepresenting the number and name(s) of publications being subscribed for, the number of issues and duration of each subscription and the total price for each and all such publications.

19. Utilizing any sympathy appeal to induce the purchase of subscriptions, including but not limited to: illness, disease, handicap, race, financial need, eligibility for benefit offered by respondents, or other personal status of the solicitor, past, present or future; or representing that earnings from subscription sales will benefit certain groups of persons such as students or the under-privileged, or will help charitable or civic groups, organizations or institutions.

20. Failing to answer and to answer promptly inquiries by or on behalf of subscribers regarding subscriptions placed with respondents.

21. Failing within thirty days from the date of sale of any subscription to enter each magazine subscription with publishers for magazines which respondents are authorized by the publisher or distributor thereof to sell; *Provided, however*, in those sales in which an additional payment is required, the subscription shall be entered within fourteen days of the receipt of the final payment, but in no event shall any subscription be entered later than sixty days from the date of sale.

22. Failing within thirty days from the date of sale of any subscription to notify a subscriber of respondents' inability to place all or a part of a subscription and to deliver each of the magazines or other publications subscribed for; and to offer each such subscriber the option to receive a full refund of the money paid for such subscription or part thereof which respondents are unable to deliver or to substitute other publications in lieu thereof.

23. Failing within fourteen days from the receipt of notification of a subscriber's election as provided in Paragraph 22 hereof, to make the required refund or to enter the subscription with publishers, as elected by the subscriber.

Decision and Order

80 F.T.C.

24. Failing to refund to subscribers the money said subscribers have paid for subscriptions to magazines or, at the election of the subscriber, to enter the subscription as originally ordered in instances where the respondents' representatives or solicitors have appropriated such money to their own use and have failed to enter the subscriptions as ordered by said subscribers, within fourteen days of notice thereof.

25. Failing to give clear and conspicuous oral and written notice to each subscriber that upon written request said subscriber will be entitled to a refund of all monies paid if he does not receive the magazine or magazines subscribed for within 120 days of the date of the sale thereof.

26. Failing to refund all monies to subscribers who have not received magazines subscribed for through respondent within 120 days from the date of the sale thereof upon written request for such refund by such subscribers.

27. Failing to arrange for the delivery of publications already paid for or promptly refunding money on a pro rata basis for all undelivered issues of publications for which payment has been made in advance.

28. Failing to furnish to each subscriber at the time of sale of any subscription a duplicate original of the contract, order or receipt form showing the date signed by the customer and the name of the sales representative or solicitor together with the respondent corporation's name, address and telephone number and showing on the same side of the page the exact number and name(s) of the publications being subscribed for, the number of issues and duration of each subscription and the total price for each and all such publications.

29. Failing to:

(a) Inform orally all subscribers and to provide in writing in all subscription contracts that the subscription may be cancelled for any reason by notification to respondents in writing within three business days from the date of the sale of the subscription.

(b) Refund immediately all monies to (1) subscribers who have requested subscription cancellation in writing within three business days from the sale thereof, and (2) subscribers showing that respondents' solicitations or performance were attended by or involved violation of any of the provisions of this order.

30. Furnishing, or otherwise placing in the hands of others, the means or instrumentalities by or through which the public

Decision and Order

may be misled or deceived in the manner or as to the things prohibited by this order.

It is further ordered, That:

(a) Respondents herein deliver, by registered mail, a copy of this decision and order to each of their present and future crew managers, and other supervisory personnel engaged in the sale or supervision of persons engaged in the sale of respondents' products or services;

(b) Respondents herein require each person so described in Paragraph (a) above to clearly and fully explain the provisions of this decision and order to all sales agents, representatives and other persons engaged in the sale of respondents' products or services;

(c) Respondents provide each person so described in Paragraphs (a) and (b) above with a form returnable to the respondents clearly stating his intention to be bound by and to conform his business practices to the requirements of this order;

(d) Respondents inform each of their present and future crew managers, sales agents, representatives and other persons engaged in the sale of respondents' products or services that the respondents shall not use any third party, or the services of any third party if such third party will not agree to so file notice with the respondents and be bound by the provisions of the order.

(e) If such third party will not agree to so file notice with the respondents and be bound by the provisions of the order, the respondents shall not use such third party, or the services of such third party to solicit subscriptions;

(f) Respondents inform the persons described in Paragraphs (a) and (b) above that the respondents are obligated by this order to discontinue dealing with those persons who continue on their own to deceptive acts or practices prohibited by this order;

(g) Respondents institute a program of continuing surveillance adequate to reveal whether the business operations of each said person described in Paragraphs (a) and (b) above conform to the requirements of this order;

(h) Respondents discontinue dealing with the persons so engaged, revealed by the aforesaid program of surveillance, who continue on their own the deceptive acts or practices prohibited by this order; and that

(i) Respondents upon receiving information or knowledge from any source concerning two or more bona fide complaints

Decision and Order

80 F.T.C.

of acts or practices prohibited by this order against any one of their sales agents or representatives during any one-month period will be responsible for either ending said acts or practices or securing the release or termination of the employment of the offending sales agent or representative.

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

It is further ordered, That in the event Quinton Gibson, the individual respondent to this order, divests himself, or is divested, of all stock ownership in, and no longer holds a position as an officer or director of, Dixie Readers' Service, Inc., or of its successors and assigns, such that he ceases to have any legal or beneficial interest in, or control of, the activities or policies of said corporation, its successors and assigns; further, that he does not thereafter own, acquire, or retain a similar interest or position in any other magazine sales agency or other business activity which advertises, offers for sale, or distributes magazines, magazine subscriptions, or other products characterized as being similar to Dixie Readers' Service, Inc., its successors and assigns; and further, that he does not function as a crew manager or solicitor of, or in any capacity with, a magazine sales agency; the provisions of this order shall have no application whatsoever to Quinton Gibson, individually, and he shall thereafter have no liability at law or in equity with respect to, or in connection with, this order, insofar as this order relates to the advertising, offering for sale, or distribution of magazines and magazine subscriptions. Further, in the event Quinton Gibson does thereafter own, acquire, or retain a similar interest or position in any other magazine sales agency which is unrelated to Dixie Readers' Service, Inc., its successors and assigns, having relinquished all his interest in and official capacity with Dixie Readers' Service, Inc., as hereinabove described, this order shall apply to him individually, and to his executive capacity with respect to the unrelated agency, but Quinton Gibson, individually shall bear no liability at law or in equity for the acts and practices of Dixie Readers' Service, Inc., its successors and assigns, or of any of the crew managers, agents, representatives, or solicitors of Dixie Readers' Service, Inc., its successors and assigns.

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

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

IN THE MATTER OF

GULF COAST DISTRIBUTORS & ACCEPTANCE CORPORATION, ET AL.

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

Docket C-2152. Complaint, Feb. 15, 1972—Decision, Feb. 15, 1972

Consent order requiring a Kenner, La., seller and distributor of various books, including two encyclopedias, to cease misrepresenting that it is distributing free merchandise, that it represents a school board or is taking a survey, that it is offering its books at reduced prices, failing to disclose that certain of its books are old editions, failing to notify customers that notes may be sold to a finance company and using any sales contract which shall become binding prior to the third day after execution.

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 Gulf Coast Distributors & Acceptance Corporation, a corporation, and Maurice Charest, 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. Gulf Coast Distributors & Acceptance Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its principal office and place of business formerly located at 2404 Airline Highway, and presently located at 712 Faye Street, in the city of Kenner, State of Louisiana.

Respondent Maurice Charest, is an individual and an officer of the corporate respondent. He formulates, directs and controls the

Complaint

80 F.T.C.

acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of various books, including encyclopedias named "The New Standard Encyclopedia," the "Negro Heritage Library" and other products to the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now distribute and for some time in the last past have distributed said books, including the "New Standard Encyclopedia," the "Negro Heritage Library," and other products, when sold, to purchasers residing in various States of the United States, and maintain and have maintained a substantial course of trade in said books and other 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 now are, and at all times mentioned herein have been, engaged in substantial competition with corporations, firms and individuals in the sale of books and other products of the same general kind and nature as those sold by respondents.

PAR. 5. In the course and conduct of the aforesaid business respondents sell said books and other products, at retail to the general public. Sales are made by respondents' sales representatives who contact prospective purchasers in their homes.

Respondents have formulated, developed and carried out a plan for the purpose of inducing the sale of said books and other products and have trained their sales representatives to use a sales presentation and materials in connection therewith and instruct them to use and follow same.

In the course of said sales presentation respondents and their sales representatives have made certain oral statements and representations concerning the newness, quality, and price of said books and other products. In addition to the foregoing, respondents and their sales representatives, prior to and during said sales presentations utilize or display certain materials furnished, approved, or ratified by the respondents, for the purpose of obtaining sales leads and inducing the purchase of said books and other products.

Typical and illustrative of materials used by respondents in order to obtain sales leads is a 3" x 5" cardboard card which respondents cause to be disseminated in grammar schools and other public places

229

Complaint

where they are filled out by children and other members of the general public. Said forms contain the following:

EDUCATIONAL MATERIALS
FREE REGISTRATION

NAME _____ AGE _____
 ADDRESS _____
 CITY _____ PHONE _____
 HUSBAND'S _____
 OCCUPATION _____ AGES OF CHILDREN _____
 () I DO own _____ Encyclopedia. Year _____
 () I do not own a good set of encyclopedias.
 () I would like free information on the New Standard Encyclopedia.
 () I would like free information on the Science Encyclopedia.
 () I would like free information on the "Negro Heritage Library."
 () I am active in all P.T.A. work. Yes----- No-----
 * * * * *

Typical and illustrative of materials shown to prospective purchasers, as aforesaid, is a printed sheet purporting to be an authorized or official survey form which has the following heading printed in bold type:

NATIONAL COUNCIL
WASHINGTON, D.C.

YOUR ASSIGNMENT IS TO CONTACT THE FAMILIES IN SELECTED AREAS WITH PRE-SCHOOL AND ELEMENTARY SCHOOL CHILDREN TO ASSIST IN AN ANALYSIS OF CURRENT AND FUTURE PAROCHIAL AND PUBLIC SCHOOL REQUIREMENTS.

During their sales presentations, respondents' sales representatives utilize an installment contract. In the upper right hand corner of said contract, across from the words "Authorized distributor for the New Standard Encyclopedia," appears a simulated ribbon badge. Inscribed therein and displayed to prospective purchasers are the words: "commended by Parents Magazine as advertised therein."

PAR. 6. Through the use of said materials and others similar thereto but not specifically set forth herein, separately or in connection with the oral sales presentation used variously by their sales representatives, said respondents now represent, and have represented directly or by implication:

- (1) That they are taking a survey for the "National Council, Washington, D. C." a governmental agency or educational group.
- (2) That respondents are conducting bona fide drawings and bona fide contests to determine the identity of persons eligible to receive books and other products as prizes.

Complaint

80 F.T.C.

(3) That the New Standard Encyclopedia is presently "Commended by Parents Magazine."

PAR. 7. In truth and in fact:

(1) Respondents have not been commissioned by any governmental agency or educational group to take an educational survey. "National Council" is a fictitious name used by respondents to gain entrance into prospective purchasers' homes for the purpose of selling them books and other products.

(2) Respondents do not conduct bona fide drawings or bona fide contests to determine the identity of persons eligible to receive merchandise as prizes. Respondents' purpose in conducting said drawings and contests is to obtain leads as to prospective purchasers for said books and other products.

(3) The New Standard Encyclopedia does not presently bear the commendation of Parents Magazine. Said commendation was revoked in February of 1968.

Therefore, the statements and representations referred to in Paragraphs Five and Six hereof, were and are false, misleading and deceptive.

PAR. 8. As part of their sales presentation in connection with the use of materials as aforesaid, respondents and their sales representatives have made and are now making the following additional oral representations:

(1) That they are authorized representatives of one or another public bodies, including the State Board of Education, or the Municipal School Board, or that they have been sent to the prospective purchaser's house by the principal or the teacher of the school attended by said prospective purchaser's children.

(2) That the offer of said books and other products is at a special introductory or reduced price, not being made to the public generally; and that it is being offered only to a specially selected group of people, *i.e.*, students and young newly-weds.

(3) That certain books or other products are given to the purchaser free of cost, or at a specially reduced price, as the case may be, with the purchase of an encyclopedia such as "The New Standard Encyclopedia."

(4) That the price, terms and conditions of the offer are limited to the time of call on the prospective purchaser.

PAR. 9. In truth and in fact:

(1) Respondents are not authorized representatives of any public body, including any State Board of Education or Municipal School Board, nor have they been sent by the principal or the teacher of the school attended by said prospective purchaser's children.

(2) Respondents' offer of said books and other products is not a special introductory or reduced price, nor is it limited to any selected group, *i.e.*, students. To the contrary, it has been offered and is being offered to the general public in the regular course of respondents' business.

(3) Certain of the books and other items included with the sale of an encyclopedia to purchasers are not free of cost, or at a specially reduced price, or the case may be. To the contrary, the cost of all such items is included in the contract price. Further, purchasers pay the full price for all books purchased from the respondents.

(4) The price, terms and conditions of said offers are not limited to the time when the call is made on the prospective purchaser.

Therefore, the statements and representations referred to in Paragraph Eight hereof, were and are false, misleading and deceptive.

PAR. 10. In the further course and conduct of their business, respondents, in an attempt to collect what they elected to treat as delinquent accounts, respondents have represented directly or by implication, that the failure of a customer to remit payment will result in legal action by respondents' attorney.

PAR. 11. In truth and in fact, respondents rarely, if ever, in the normal course of their business, forward accounts to an attorney for the purpose of instituting legal proceedings.

Therefore, respondents' statements and representations referred to in Paragraph Ten hereof, were and are false, misleading and deceptive.

PAR. 12. In the further course and conduct of their business and in furtherance of their purpose of inducing the purchase of said books and other products by the general public, respondents and their sales representatives have engaged in the following additional acts and practices.

In a substantial number of instances, the books and other products offered for sale and sold by respondents, have been used editions, old editions, or editions no longer in print. In such instances, respondents and their sales representatives, have represented, directly or by implication, that said books and other products were new, or were the latest editions, and have failed to disclose the material fact that said books and encyclopedias were used, or were old editions, or were no longer in print, as the case may be. The aforementioned books and other products shown to prospective customers have the appearance of being new. When represented to be new, or in the absence of a disclosure that they were used, the said books are

Decision and Order

80 F.T.C.

readily accepted by the public as being new, a fact of which the Federal Trade Commission takes official notice.

The Commission also takes official notice of the fact that there is a preference by the purchasing public for new books over used books.

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

PAR. 13. The use by respondents and their sales representatives, of the aforesaid unfair, false, misleading and deceptive statements, representations, acts and practices, and their failure to disclose material facts, as aforesaid, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and complete, and into the purchase of substantial quantities of said books and other products by reason of said erroneous and mistaken belief, and unfairly into the assumption of debts and obligations and the payment of monies which they might otherwise not have incurred.

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

DECISION AND ORDER

The 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

Decision and Order

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 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 Gulf Coast Distributors & Acceptance Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Louisiana, with its office and principal place of business formerly located at 2404 Airline Highway, and presently at 712 Faye Street, in the city of Kenner, State of Louisiana.

Respondent Maurice Charest is an officer 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 Gulf Coast Distributors & Acceptance Corporation, a corporation, and Maurice Charest, individually and as an officer of said corporation, and respondents' representatives, agents and employees, successors and assigns, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of books or other products, or in the attempted collection of delinquent or other accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting, directly or by implication that a drawing or contest is being conducted to determine a winner or winners of free merchandise or other prizes unless such contest or drawing is in fact designed to select a winner or winners of free merchandise or other prizes, and unless said prizes are actually awarded to such winners.

2. Representing, directly or by implication, that respondents are authorized representatives of one or another public bodies, including the State Board of Education, or the Municipal School Board, or that they have been sent to the prospective purchaser's house by a principal, teacher or any other educator

Decision and Order

80 F.T.C.

- or official, or that the purpose of the call or interview is other than to sell books or other products in connection therewith.
3. Representing, directly or by implication, that they are taking a survey for any organization, real or fictitious, when their purpose is to obtain sales leads or to gain entrance into the homes of prospective purchasers.
 4. Misrepresenting, directly or by implication, that the New Standard Encyclopedia is "Commended by Parents Magazine."
 5. Representing, directly or by implication, that the price at which books or other products are offered for sale is a special or reduced price, unless such price constitutes a substantial reduction from the price at which such books or other products were sold in substantial quantities for a reasonably substantial period of time by the respondents in the recent regular course of their business; or representing that any price is an introductory price.
 6. Representing, directly or by implication, that any offer is not available to the public generally, or is limited to a specially selected group.
 7. Failing to clearly reveal to prospective purchasers that certain books or other products being offered for sale or sold by respondents are old editions, or editions no longer in print, when said books are in fact old editions, or editions no longer in print, as the case may be.
 8. Representing, directly or by implication, that certain books or other products offered for sale or sold by respondents are new, when in fact, said books are repossessed, exchanged, previously owned, out of print, or old editions, as the case may be.
 9. Failing to clearly reveal to prospective purchasers that books or other products which have been repossessed, exchanged, previously owned, out of print, or old editions are in fact repossessed, exchanged, previously owned, out of print, or old editions, as the case may be.
 10. Representing, directly or by implication, that any books or other products offered for sale bear the commendation, approval or sanction, of any publication or organization, unless said sanction, approval or commendation is in full force and effect at the time of said offer or sale.
 11. Representing, directly or by implication, that delinquent accounts will be turned over to an attorney for collection, or that suit will be filed, unless such actions are in fact taken in the ordinary course of respondents' business.

Decision and Order

12. Misrepresenting, directly or by implication, that savings are available to purchasers or prospective purchasers of books or other products; or misrepresenting, in any manner, the amount of savings to purchasers or prospective purchasers thereof.

13. Failing to disclose orally prior to the time it is signed by the purchaser, that an instrument of indebtedness executed by a purchaser may, at respondents' option and without notice to the purchaser be discounted, negotiated or assigned to a finance company or other third party to which purchaser will thereafter be indebted and against which the purchaser's claim or defenses may not be available.

14. Failing to incorporate the following statement on the face of all contracts executed by respondents' customers with such conspicuousness and clarity as is likely to be observed, read and understood by the purchaser:

IMPORTANT NOTICE

If you are obtaining credit in connection with this contract you will be required to sign a promissory note. This note may be purchased by a bank, finance company or other third party. If it is purchased by another party, you will be required to make your payments to the purchaser of this note. You should be aware that if this happens you may have to pay the note in full to the new owner of the note even if this contract is not fulfilled.

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

16. Furnishing to others any means or instrumentalities whereby they may mislead purchasers or prospective purchasers as to any of the matters or things prohibited by this order.

It is further ordered, That the respondents herein shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of merchandise, products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

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

Complaint

80 F.T.C.

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.
Chairman Kirkpatrick not participating.

IN THE MATTER OF

CCM: ARTS & CRAFTS, INC., ET AL.

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

Docket 8817. Complaint, June 23, 1970—Decision, Feb. 16, 1972

Order dismissing a complaint against a College Park, Md., marketer of wood fiber square sheets and pre-cut wood fiber flower petals which charged a violation of the Flammable Fabrics Act on the grounds that the firm had voluntarily stopped selling the products, had cooperated fully with the Commission, and that the sales were *de minimis*.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that CCM: Arts & Crafts Inc., a corporation, and Charles Ellerin, Albert Ellerin and Eric Beissinger, 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 Flammable Fabrics 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 CCM: Arts & Crafts Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Respondents Charles Ellerin, Albert Ellerin and Eric Beissinger, are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of said corporation.

The respondents are engaged in the sale and distribution of hobby and art supplies, including but not limited to wood fiber square sheets and pre-cut wood fiber flower petals, with their principal place of business located at 321 Park Avenue, Baltimore, Maryland.

Initial Decision

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture for sale, the sale or offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, fabric, as "commerce" and "fabric" are defined in the Flammable Fabrics Act, as amended, which fabric 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 fabric mentioned hereinabove were wood fiber square sheets and pre-cut wood fiber flower petals which were intended for use in or which could reasonably be expected to be used in wearing apparel.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act 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.

Mr. Frank W. Vanderheyden and Mr. Freeman C. Murray supporting the complaint.

Mr. Thomas S. Markey, Mr. Charles J. McKerns and Mr. Peter J. Gallagher, Dow, Lohnes and Albertson, Washington, D. C. for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

APRIL 16, 1971

PRELIMINARY STATEMENT

The complaint in this proceeding, issued on June 23, 1970, alleges that CCM: Arts & Crafts, Inc., a corporation, sometimes hereinafter referred to as "CCM," Charles Ellerin, Albert Ellerin, and Eric Beissinger, individually and as officers of said corporation, hereinafter called respondents, violated the Federal Trade Commission Act and the Flammable Fabrics Act by selling and offering for sale, in commerce, "fabric" as defined in said last named Act, consisting of wood fiber square sheets and pre-cut wood fiber flower petals, which failed to conform to an applicable standard or regulation promulgated under the provisions of said last named Act, and which wood fiber square sheets and pre-cut wood fiber flower petals were intended for use or which could reasonably be expected to be used as articles of wearing apparel.

Through counsel, the respondents answered the complaint, admitting that they are engaged in the sale at retail of creative arts materials and, at one time in the past, sold a small quantity of wood fiber square sheets and pre-cut wood fiber flower petals which had been purchased in good faith from Ramont's (California Floral Arts Co.) by a corporation previously engaged in the same line of business prior to the acquisition of its assets by respondent CCM: Arts & Crafts, Inc.; that, in 1961, the Commission issued a consent order against Ramont's in Docket No. 8217, involving the same practices and products as those complained about in the present proceeding, which order, had it been enforced, would have obviated the institution of the instant complaint. Respondents further answered that, when they were informed by representatives of the Commission that there was some question as to the flammability of some of the wood fiber square sheets and pre-cut wood fiber flower petals in respondents' stock on hand, corporate respondent voluntarily removed all pieces of said merchandise from its inventory shelves and permanently discontinued the sale of wood fiber square sheets and pre-cut wood fiber flower petals entirely. Furthermore, respondents alleged that, at great expense, they attempted to notify, by registered mail and telephone, all customer purchasers of said wood fiber square sheets and pre-cut wood fiber flower petals of the possible flammability of some of such merchandise and recall the same. Respondents further represent that they have at all times cooperated with representatives of the Commission during their investigation of this matter, and that, for all of these reasons, the complaint should be dismissed.

A hearing has been held, at which time evidence was offered in support of, and in opposition to, the allegations of the complaint. The facts are largely undisputed. Proposed findings of fact, conclusions of law, and a proposed order have been submitted by counsel. These have been considered. All requested findings of fact and conclusions of law not found or concluded herein are denied.

Upon the basis of the entire record, the hearing examiner makes the following findings of fact and conclusions of law, and issues the following order:

FINDINGS OF FACT

1. The respondent, CCM: Arts & Crafts, Inc., is a corporation organized under the laws of the State of Delaware (admitted in Answer), with its office and place of business located at 9520 Baltimore Avenue, College Park, Maryland (Tr. 30-31).

2. The individual respondent, Charles Ellerin, is president of the corporate respondent (Tr. 31); Albert Ellerin is vice-president (Tr. 36); and Eric Beissinger is assistant controller thereof (Tr. 36, 52). Their business addresses are the same as that of the corporate respondent, and they formulate, direct and control the acts, practices, and policies of said corporation (Answer).

3. For more than twenty years, the individual respondent, Charles Ellerin, was president of Arts and Crafts Materials Corporation (the predecessor of the corporate respondent herein), which had been incorporated under the laws of the State of Maryland. It was engaged in the retail sale (Tr. 56) of art and handicraft materials and supplies to schools and, to a limited extent, the general public (Tr. 37). In August 1968, Crowell Collier and MacMillan, Inc. purchased the assets of Arts and Crafts Materials Corporation and formed a new corporation, the respondent, CCM: Arts & Crafts, Inc. (Tr. 31). The assets of Arts and Crafts Materials Corporation were transferred to the new corporation, respondent CCM: Arts & Crafts, Inc., and CCM has continued the same line of business formerly engaged in by Arts and Crafts Materials Corporation. The corporate name of Arts and Crafts Materials Corporation was changed and it became a holding company (Tr. 32-33). Wood fiber square sheets and pre-cut wood fiber flower petals were just two of the approximately 16,000 items of arts and crafts materials formerly carried in stock by respondent CCM (Tr. 44). The individual respondent, Charles Ellerin, has continued to serve as president of the new corporation, respondent CCM: Arts & Crafts, Inc., which has since been operated as a subsidiary of Crowell Collier and MacMillan, Inc. (Tr. 30-32). For economy reasons, respondent CCM: Arts & Crafts, Inc. continued to utilize some of the old stationery, including invoices, which has been used by Arts and Crafts Materials Corporation, bearing its printed name and address. In some instances, a rubber stamp may have been used to indicate the change in name (Tr. 33-35).

4. The circumstances which led to the issuance of the complaint in this proceeding were the following: The Commission, being concerned about the possible flammability of wood fiber products sold by arts and crafts hobby shops, including those located in the Washington, D.C. metropolitan area, instructed certain members of its staff to inspect the wood fiber products offered for sale in these shops to determine whether said products conformed to the applicable standards for flammability prescribed by the Flammable Fabrics Act. Pursuant to these instructions, Mr. George J. Miller, an

Attorney-Advisor, Division of Textiles and Furs, Federal Trade Commission, visited CCM's store in College Park, Maryland, on July 25, 1969, and inquired if CCM handled wood fiber products. The individual respondent, Eric Beissinger, assistant controller at CCM, informed Mr. Miller that CCM carried the item but only sold a small amount (less than \$2,000 worth in 1968 and 1969 [Tr. 67, 131]) of wood fiber products which it had purchased from Ramont's of California (Tr. 130-131). On this first visit to the CCM store, Mr. Miller obtained one package of Ramont's chips marked "flame proofed," which he marked for identification and delivered to his superiors at the Federal Trade Commission (Tr. 134).

5. One week later, on July 31, 1969, Mr. Miller again visited the CCM store, this time accompanied by Mr. Abraham Shapiro, another investigator in the employ of the Federal Trade Commission. On this visit, Mr. Miller requested of Mr. Beissinger some additional samples of the wood fiber square chips held in stock for sale by CCM, and Mr. Beissinger led Mr. Miller and Mr. Shapiro into CCM's warehouse in the back part of the retail store where the wood fiber square chips were stored in bins¹ (Tr. 132). Mr. Beissinger told Mr. Miller and Mr. Shapiro to take any samples they wished (Tr. 133). Up to that date, July 31, 1969, representatives of the Federal Trade Commission had not made any tests of CCM wood fiber square chips for flammability (Tr. 134). Mr. Miller had observed that the wood fiber square sheets and pre-cut wood fiber flower petals were contained in packages, some of the packages being marked "flame resistant," and some packages did not bear this marking (Tr. 137). When Mr. Miller informed Mr. Beissinger that some of the packages containing wood fiber square sheets were not marked "flame resistant," Mr. Beissinger replied that he was not aware of this, "that it was a slow moving item," and that respondents were thinking of discontinuing the sale of this item (Tr. 138). Mr. Miller testified that the purpose of his second visit to the CCM store on July 31, 1969, was to obtain some samples of what he characterized as the "old stock" of wood fiber square sheets from CCM's warehouse bins. Mr. Miller testified that the "old stock" did not contain the marking

¹ CCM's store is the equivalent of a catalogue showroom. The approximately 16,000 items of merchandise carried by CCM and listed in its catalogue by number are kept in numbered bins in the warehouse in the rear of the store. The customer selects the item for purchase from the catalogue, notifies the sales clerk of the number of the item as listed in the catalogue and the sales clerk goes to the corresponding numbered bin in the warehouse and obtains the article of merchandise selected by the customer and delivers it to the customer. The customer then pays for the merchandise and the sale is completed. On mail-order purchases, the purchaser also selects the item for purchase from CCM's catalogue by number, mails the order to CCM, and the merchandise is shipped to the purchaser by mail or freight.

"flame resistant" (Tr. 141). Mr. Miller took with him samples of the "old stock" of wood fiber square sheets. These were received in evidence as CX 2, 4, 6, 8, 10, 12, 14, 16, and 18 (Tr. 135). Subsequently, on August 7 and August 8, 1969, these wood fiber products were tested for flammability under Commercial Standard 191-53 (CX 63)² by a textile technologist employed by the Federal Trade Commission, Mrs. Arlene Sue Rosenberg, and found to be of Class 3 flammability. Under the Commercial Standards, Class 3 is characterized as "rapid and intense burning" (CX 3, 5, 7, 9, 11, 13, 15, 17, 19, and 83; Tr. 149, 152-153). Mrs. Rosenberg further testified, among other things, that the critical time for determining whether a specimen of plain surface fabric is or is not dangerously flammable is whether the fabric burns in less than 3½ seconds from the time the fabric is exposed to a flame (Tr. 155).

6. Mr. Shapiro, who accompanied Mr. Miller to CCM's store on July 31, 1969, testified, among other things, that, pursuant to his official duties as an employee of the Federal Trade Commission, he visited the store of the Vienna Family Hobby Center, 120 Branch Road, Southeast, Vienna, Virginia, on July 25, 1969, and obtained two or three packages of wood fiber square sheets (CX 85) from Mrs. Muriel Emery, part owner and manager of the Vienna Family Hobby Center (Tr. 97, 146), which he forwarded to the Textile and Fur Division of the Federal Trade Commission for testing for flammability (Tr. 147). These wood fiber square sheets had been purchased by the Vienna Family Hobby Center from CCM's predecessor, Arts and Crafts Materials Corporation, in 1967. Arts and Crafts Materials Corporation had also purchased the wood fiber square sheets from Ramont's of California (CX 1; Tr. 98-99). This was prior to the incorporation of respondent CCM. Tests for flammability of samples from these packages of wood fiber square sheets, made on July 24, 1970, showed them to be of Class 3 flammability (CX 86).

7. In support of their contention that the wood fiber products here involved may properly be classified as fabric, complaint counsel offered the testimony of Mr. Samuel Joseph Golub, A.B., M.A., and Ph.D in biology and plant morphology, who, at the time of the hearing, was assistant director at Fabric Research Laboratories in Dedham, Massachusetts. Dr. Golub testified, among other things, that, in his opinion, the wood fiber square sheets and pre-cut wood fiber

²The pertinent provisions of Commercial Standard 191-53, received in evidence as CX 63, prescribes the standards and procedure for testing the flammability of clothing and textiles intended to be used for clothing.

flower petals in evidence in this proceeding are fabric (Tr. 122, 125). On cross-examination, Dr. Golub testified that it is the use to which the wood fiber material is put, rather than its chemical structure, which led to his opinion that the wood fiber material here involved is fabric (Tr. 126).

8. It is the theory of complaint counsel that the wood fiber square sheets and pre-cut wood fiber flower petals (CX 2, 4, 6, 8, 10, 12, 14, 16, and 18) obtained by Mr. Miller from CCM and those obtained by Mr. Shapiro from the Vienna Family Hobby Center (CX 85) are "fabric" and a "product" as defined in the Flammable Fabrics Products Act, and are intended for use or may reasonably be expected to be used as an article of wearing apparel. Therefore, the standards and procedure prescribed in Commercial Standard 191-53 for testing the flammability of clothing and textiles intended to be used for clothing are appropriate and valid for testing the flammability of the wood fiber products involved in this proceeding.

9. It is undisputed that all of the wood fiber square sheets and pre-cut wood fiber flower petals involved in this proceeding were purchased from California Floral Manufacturing Company (Ramont's) (CX 23; Tr. 42, 55). Wood fiber square sheets and pre-cut wood fiber flower petals are used principally for making collages, such as artificial flowers for table decorations, according to Mr. Charles Ellerin, president of CCM. Within his knowledge these wood fiber products were never sold by CCM to be used as articles of wearing apparel (Tr. 45, 48). Mr. Beissinger testified, among other things, that the wood fiber square sheets are not a durable material, and not adaptable for use more than one time (Tr. 83). He further testified that, during the time CCM was selling the wood fiber products (August 1968, to August 1969), he was not aware that anyone was using them as articles of wearing apparel (Tr. 67). However, there was testimony by a former employee of the Youth Opportunity Service, D.C., that, in the summer of 1969, she purchased some wood fiber square sheets from CCM for use in teaching children (six to 14 years of age) at St. John's Church to make boutonnieres and corsages for presentation to their parents at a birthday party at the Church (Tr. 106-111). Although the witness characterized the articles as boutonnieres and corsages, there was no evidence that the boutonnieres and corsages were ever worn by the parents or anyone else as an article of wearing apparel.

10. The evidence is undisputed that, following Mr. Miller's first visit to CCM on or about July 25, 1969, Mr. Beissinger notified CCM's school materials office, located in Chicago, of Mr. Miller's

visit. As a result of Mr. Miller's second visit on or about July 31, 1969, Mr. Beissinger received a telephone call from one of the vice-presidents of CCM in the Chicago office, instructing him to remove the wood fiber products from CCM's shelves and discontinue their sale. Also, Mr. Beissinger was instructed to remove the listing of wood fiber products from CCM's catalogue. These instructions from CCM's vice-president were carried out. The wood fiber products were physically removed from CCM's shelves or bins in its warehouse and the listing of wood fiber products was removed from CCM's catalogue. As a result, CCM has not sold any wood fiber products since August 1969 (Tr. 53, 71, 74; RX 1).

11. These were not the only steps that CCM took to prevent any harmful effects from the improper use of the untreated wood fiber products which Arts and Crafts Materials Corporation may have sold to customers prior to the transfer of its assets to CCM in August 1968, and also those products which CCM may have sold to customers since that date. CCM decided to attempt to ascertain the identity of the purchasers of the untreated wood fiber products and, if possible, to recall those wood fiber products which remained in the hands of the purchasers. An auditor was sent from the New York office of CCM to determine the magnitude of the job. Mr. Beissinger employed three temporary employees in Baltimore and three in College Park to go through and examine approximately 70,000 sales invoices in an effort to locate the name and address of purchasers of wood fiber square sheets and pre-cut wood fiber flower petals from Arts and Crafts Materials Corporation and CCM over a period of almost two years (Tr. 70-71). This was a formidable and tedious task, and extended over a period of two weeks. Mr. Beissinger worked actively on this project (Tr. 72). RX 2A through RX 2N is a list of the customers of Arts and Crafts Materials Corporation and CCM to whom recall letters were sent on or about September 15, 1969, by registered mail, return receipt requested (Tr. 75). If no reply was received within ten days or two weeks following the mailing of the original letter, a representative of CCM attempted to reach the customer by telephone. If the customer could not be reached by telephone, a second letter was sent by registered mail, return receipt requested (Tr. 76-77). CX 77 is a copy of the first letter sent to purchasers. The second letter was the same as the first letter, except that the second letter was marked "second request" (Tr. 77). The letter notified the customer of the possible flammability of the untreated wood fiber squares or petals, and warned against their possible danger if used as any form of wearing apparel. Further,

Initial Decision

80 F.T.C.

the letter requested that the customer return for refund or credit any of the wood fiber products remaining on hand, etc. RX 3 is a summary of the responses which CCM received to its recall efforts. The total cost of the recall efforts was estimated to be between \$2,000 and \$3,000 (Tr. 83). By that time, September 1969, all of the wood fiber products sold by CCM and its predecessor, Arts and Crafts Materials Corporation, had been used, destroyed, or returned (Tr. 82-83; RX 3).

12. CCM's gross sales volume of all products for the year 1968 was a little more than \$3,000,000 (Tr. 67). For the year 1969, CCM's gross sales were approximately \$3,400,000 (Tr. 37, 52). At the time of the hearing in December 1970, CCM's gross sales for 1970 were expected to reach \$3,800,000 (Tr. 52). Approximately one-half of CCM's total sales are made within the State of Maryland and one-half outside that state (Tr. 52). Of CCM's total sales for the two years of 1968 and 1969, CCM's total dollars realized from the sale of both "treated" and "untreated" wood fiber square sheets and pre-cut wood fiber flower petals amounted to a total of approximately \$1,408.49, or less than \$2,000 (Tr. 67; RX 4). Thus, it is seen that the sale of wood fiber products constituted less than one-tenth of 1 percent of CCM's total sales for the two years. As a matter of fact, CCM was not incorporated until August 1968 (Tr. 31), and CCM discontinued the sale of wood fiber products in August 1969, and has not sold any since that date (Tr. 53). Therefore, the period during which CCM may have sold wood fiber products was between August 1968 and August 1969, a period of approximately one year, thus reducing the one-tenth of 1 percent proportion of CCM's wood fiber product sales to other product sales still more. During that one-year period, CCM sold approximately \$607.77 worth of wood fiber products (RX 4). Of this amount, a part could have been "untreated" or flammable material and the other part "treated" or flame resistant (Tr. 80-82). In any event, the sale of wood fiber products comprised an infinitesimal portion of CCM's total annual sales during the approximate one-year period in which it was selling wood fiber products.

CONCLUSIONS

Although CCM technically violated the provisions of the Flammable Fabrics Act and the Federal Trade Commission Act, the evidence shows that CCM was not the manufacturer of the wood fiber products involved herein, and its officers named as individual respondents herein were not aware that these products were worn or

would be worn as articles of wearing apparel and did not meet the standards for flammability prescribed by the Flammable Fabrics Act. As soon as CCM became aware that the Commission questioned the possible flammability of the wood fiber products in its stock, CCM voluntarily removed all of these products from its shelves or warehouse bins and discontinued their sale. CCM also removed the listing of wood fiber products from its catalogue. Also, at considerable expense, between \$2,000 and \$3,000, CCM employed extra employees to examine approximately 70,000 sales invoices in an effort to ascertain the name and address of each purchaser of wood fiber products so that recall letters could be sent to these purchasers. Another significant factor in determining the order to be issued herein is the fact that wood fiber square sheets and pre-cut wood fiber flower petals were only two of approximately 16,000 items sold by CCM and listed in its catalogue. Wood fiber products constituted less than one-half of 1 percent of CCM's sales of all its products during the years 1968 and 1969. CCM was not incorporated until the middle of August 1968, and permanently discontinued the sale of wood fiber products in August 1969. Therefore, it is seen that CCM actually only sold wood fiber products for approximately one year. This reduces to a negligible amount the percentage of CCM's wood fiber sales to its total annual sales of other products during the approximate one year period, August 1968 to August 1969. Under ordinary circumstances, sales of products involving such meager amounts would be considered as *de minimis*.

The main purpose of a cease and desist order is to prevent repetition of acts in the future which have been found to be in violation of law and against the public interest. Here CCM voluntarily discontinued the sale of wood fiber products in August 1969, prior to the issuance of the complaint herein, and there is no likelihood that CCM will resume the sale of untreated wood fiber products in the foreseeable future. Wood fiber products constituted a miniscule percentage of CCM's total sales. CCM fully cooperated with the representatives of the Federal Trade Commission during their investigation of this matter. Counsel for CCM do not deny the factual allegations in the complaint, but urge that a cease and desist order against CCM and the individual respondents herein, who are some of the officers of CCM, is not appropriate under the facts and circumstances shown by the record in this proceeding. This hearing examiner is of the opinion that, under all of the facts and circumstances of this case, a cease and desist order should not issue herein, and that the complaint should be dismissed.

Opinion of the Commission

80 F.T.C.

ORDER

It is ordered, That the complaint herein be, and the same hereby is, dismissed.

OPINION OF THE COMMISSION

By DENNISON, *Commissioner*:

Counsel supporting the complaint in this matter has appealed the initial decision of the hearing examiner which dismissed the complaint. For reasons other than those stated by the hearing examiner, that decision is affirmed.

The material facts in this matter are not disputed, and they can be summarized briefly. Respondents are alleged to have sold in interstate commerce plain square sheets and pre-cut simulated flower petals made of pressed wood fibers. These products are used for various hobby crafts, including the construction of artificial corsages and boutonnieres.

These and some 16,000 other arts and crafts materials had been sold by corporate respondent's predecessor, the Arts and Crafts Materials Corporation, for over 20 years. The individual respondents were the managers and owners of that corporation until August 1968, when its assets were sold to Crowell Collier and MacMillan, Inc. (CCM). A new corporation, the respondent herein, was organized as a subsidiary to conduct the same business, and the individual respondents were retained to supervise the operations.

As might be expected when a small businessman sells his corporation to a larger nationally-based conglomerate organization, the individual respondents were not exactly certain of their new status in the CCM corporate structure. Three years after the acquisition, the confusion attending it has still not cleared completely. The president of the respondent corporation, for example, is unsure of the present corporate structure (Tr. 31-3, 47).^{*} Although the individual respondents conduct the business in much the same manner as they did previously (Tr. 31, 35, 37), the extent of their authority is a question that apparently has not been completely resolved.

At approximately the same time that the ownership and structure of the corporate respondent were being formed into their present shape, a letter was received from the California Floral Manufacturing Company (Ramonts), supplier of the wood fiber products in question (Tr. 62). It contained a warning that the Federal Trade

^{*}As used herein, "Tr." refers to the official transcript of the hearings in Docket No. 8817 held on August 7, and December 8, 1970.

Commission had found that these materials were dangerously flammable. Although that letter temporized on the need to recall the materials from customers and to cease their sale, it was certainly adequate warning to put respondents on notice that there were serious legal problems involved in selling the wood fiber products.

Unfortunately, the effect of this warning was lost in the press of the reorganization of the business taking place at that time, and its full impact was realized only after a visit by representatives of the Federal Trade Commission approximately a year later. When the CCM hierarchy was informed of the visit, a vice president telephoned respondents and ordered them to cease all sales and advertising for sale of the wood fiber materials. In the course of a subsequent second visit from Commission personnel, samples were obtained for testing. They failed to meet the applicable flammability standard set by the Department of Commerce.

The portion of Section 3 of the Flammable Fabrics Act (15 U.S.C. § 1192) relevant here makes it an unfair method of competition and an unfair or deceptive act or practice under the Federal Trade Commission Act to manufacture, sell or offer to sell in interstate commerce any product, fabric, related material or product made of fabric or related material which fails to meet the applicable flammability standard. In turn, the Federal Trade Commission Act empowers the Commission to issue a complaint against those who commit unfair methods of competition and unfair or deceptive acts or practices, "if it shall appear to the Commission that a proceeding * * * would be to the interest of the public" (15 U.S.C. § 45(b)). These two Acts provided the statutory basis for the complaint issued against the respondent.

The hearing examiner found that respondent had "technically violated" these Acts, but dismissed the complaint and issued an initial decision citing several reasons for this disposition. They were: (a) that respondent was not aware that the wood fiber products were used as wearing apparel; (b) that respondent cooperated fully with Commission representatives in recalling the wood fiber products from its customers, an effort which cost respondent approximately \$2,000 to \$3,000; (c) that these items constituted less than one-half of 1 percent of respondent's sales volume, and thus the sales were *de minimis*; and (d) that respondent voluntarily discontinued sale of the wood fiber products. To this list respondent has added the defenses that the sales were in good faith as respondent did not know the wood fiber products were flammable, and that the incident might never have occurred had the Commission properly enforced

a 1961 order against respondent's supplier, Ramonts (see *Cal. Floral Products Mfg. Co.*, Docket No. 8217, 58 F.T.C. 765 (1961)).

While we agree the complaint in this matter should be dismissed, we do not fully accept the hearing examiner's reasons for doing so. The "good faith" claim may be dismissed easily. Respondent contends that it had no knowledge that the wood fiber products could be used to make an item which might be subject to the Act. This argument must fail on an examination of instruction booklets which respondent sold along with those products. Two of these booklets specifically state that wood fiber could be used to make leis and corsages.

The second part of respondent's "good faith" claim is based on a lack of knowledge that the specific products in question were dangerously flammable. Even if respondent had not received the warning letter from Ramonts, its supplier, lack of knowledge in and of itself is not sufficient to make the issuance of an order to cease and desist inappropriate (see, e.g., *Novik & Co., Inc.*, 62 F.T.C. 229 (1963)). The Flammable Fabrics Act is designed to protect the public from risk of injury or death from all sales of hazardous fabrics; liability does not depend upon the state of knowledge of the vendor. In the absence of other strong indications that the public safety will be adequately safeguarded without an order from the Commission, it is well settled that good faith on the part of the seller does not itself constitute a justification for the failure to issue such an order.

In addition, respondent's cooperation with the Commission in conducting a campaign to recall the wood fiber products would normally constitute no significant reason to avoid the issuance of an order. While such action may redound to respondent's credit in a moral sense, it does not alter the fact of the violation in a legal sense. *American Life & Accident Insurance Company v. F.T.C.*, 255 F.2d 289 (8th Cir. 1958), *certiorari denied*, 358 U.S. 875 (1958).

Similarly, the failure of the Commission's previous order against respondent's supplier, Ramonts, to curb that company's violations does not ameliorate respondent's own independent violation of the Flammable Fabrics Act. It is unfortunate that Ramonts continued to supply dangerously flammable fabrics in contravention of the order against it, but the Act nonetheless applies to respondent's sales as well.

The fact that the sale of wood fiber products amounted to less than one-half of 1 percent of respondent's sales does not establish an exemption under the Flammable Fabrics Act either. While a *de*

minimis defense might be acceptable in actions under other types of statutes, that doctrine is wholly inappropriate in matters involving public health and safety. Were even one person gravely injured by wearing a wood fiber corsage which caught fire, the incident could hardly be dismissed because the vendor of the offending materials sold much larger quantities of other products.

Respondent's final argument is that it voluntarily discontinued sales of the offending wood fiber products and that it did so 10 months before the complaint was issued. This action was taken, however, after respondent had been contacted by Commission investigators concerned about the flammability of the items in question. A cease and desist order is designed to protect the public interest in the future, and such an order directed against a discontinued practice is entirely appropriate *if there is no additional reason for the Commission to conclude that the practice will not be resumed at a later date.* *Hershey Chocolate Corp. v. F.T.C.*, 121 F.2d 968 (3rd Cir. 1941).

It is only the most unusual set of facts which would lead to the conclusion that a cease and desist order is not necessary to safeguard the public in the future where it has been shown that a violation of the Flammable Fabrics Act has occurred. We conclude, however, that such unusual facts are present here. As previously noted, there was considerable disruption attendant to the sale of the Arts & Crafts Materials Corporation to CCM and subsequent disorganization within the corporate hierarchy. Had the letter from Ramonts warning of the flammability of the wood fiber products arrived at any other time, there are strong indications that the matter would have been handled competently and expeditiously. Among those indications are the prompt response of CCM officials in ordering that sales of those materials cease as soon as they were notified of the Commission's investigation and the full cooperation of all respondents in conducting an efficient campaign to recall the materials from customers.

While no one of these factors alone constitutes sufficient reason not to issue a cease and desist order, their combination with the flux in corporate organization at the time the supplier's original notification was sent does present a different and unique situation.

The Commission, therefore, is convinced by the record in this matter as a whole that there is no reason to believe that the corporate and individual respondents will violate the Flammable Fabrics Act in the future. This being the case, we see no useful purpose in

Final Order

80 F.T.C.

issuing an order to cease and desist. The decision of the hearing examiner is affirmed and the complaint is accordingly dismissed.

Commissioner MacIntyre abstained from voting in this matter.

FINAL ORDER

This matter having been heard by the Commission upon the appeal of counsel supporting the complaint from the initial decision of the hearing examiner, and upon briefs and oral argument in support thereof and in opposition thereto, and the Commission having determined, for the reasons stated in the accompanying opinion, that the appeal should be denied and that the initial decision should be modified:

It is ordered, That the initial decision of the hearing examiner be modified by striking therefrom the conclusions beginning with the word "Conclusions" on page 246 and ending with the word "dismissed" on page 247 thereof.

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

It is further ordered That the complaint be, and it hereby is, dismissed.

Commissioner MacIntyre abstaining.

IN THE MATTER OF

RAYMOND C. ENGEL, SR., DOING BUSINESS AS NATIONAL 2ND
CAR OUTLET

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

Docket C-2153. Complaint, Feb. 16, 1972—Decision, Feb. 16, 1972

Consent order requiring a Modesto, Calif., seller of used automobiles to cease violating the Truth in Lending Act by failing to use in his consumer credit contracts the terms cash price, finance charge, amount financed, annual percentage rate, deferred payment price, total of payments and other terms as required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the regulations promulgated

thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Raymond C. Engel, Sr., an individual trading as National 2nd Car Outlet, hereinafter referred to as respondent, has violated the provisions of said Acts, and of the regulations promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Raymond C. Engel, Sr., is an individual trading as National 2nd Car Outlet with his office and principal place of business located at 401-14th Street, Modesto, California.

PAR. 2. Respondent is now, and for some time last past has been engaged in the offering for sale and sale of used cars to the public at retail.

PAR. 3. In the ordinary course and conduct of his business as aforesaid, respondent regularly extends, and for some time last past has regularly extended, consumer credit as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, respondent, in the ordinary course and conduct of his business and in connection with credit sales as "credit sale" is defined in Regulation Z, has caused, and is causing, certain of his customers to execute Motor Vehicle Purchase Orders, hereinafter referred to as the "Order" on which the respondent provides certain consumer credit cost information.

By and through the use of the order respondent:

1. Fails to render the consumer credit cost disclosures required by Section 226.8 of Regulation Z before consummation of the credit transactions as required by Section 226.8(a) of Regulation Z.

2. Fails to exclude the State of California Department of Motor Vehicles license, registration, and certificate of title transfer fees in computing the "cash price" as required by Section 226.2(i) of Regulation Z.

3. Fails to disclose the term "finance charge" clearly, conspicuously, in meaningful sequence as required by Section 226.6(a) of Regulation Z. Specifically, respondent deletes the word "finance" in the term "finance charge" and in lieu thereof writes the word "contract."

4. Fails to include the amount of premiums for vendor's single interest insurance, required by respondent to be purchased in con-

nection with the credit sale, as part of the finance charge, as required by Section 226.4(a)(7) of Regulation Z.

5. Fails to disclose the "finance charge" in credit transactions where finance charges are imposed as required by Sections 226.4, 226.6(a), and 226.8(c)(8)(i) of Regulation Z.

6. Fails to disclose the "amount financed" as required by Section 226.8(c)(7) of Regulation Z.

7. Fails, in some instances, to disclose the "annual percentage rate" in credit transactions where finance charges are imposed, as required by Sections 226.5, 226.6(a), and 226.8(b)(2) of Regulation Z.

8. Fails, in some instances, to disclose the "annual percentage rate" accurately 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.

9. Fails, in some instances, to disclose the "deferred payment price," which is 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, as required by Section 226.8(c)(8)(ii) of Regulation Z.

10. Fails, in some instances, to disclose the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

11. Fails, in some instances, to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

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

13. Fails to obtain the customer's specific dated and separately signed affirmative written indication of the desire for insurance coverage as required by Section 226.4(a)(5)(ii) of Regulation Z.

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

DECISION AND ORDER

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

Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act, the Truth in Lending Act, and the regulations promulgated under the Truth in Lending 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 Section 2.34(b) of its rules, the Commission issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Raymond C. Engel, Sr., is an individual trading as National 2nd Car Outlet with his office and principal place of business located at 401-14th Street, Modesto, California.

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 Raymond C. Engel, Sr., an individual trading as National 2nd Car Outlet, 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 any consumer credit extension as "consumer credit" is defined in Regulation Z (12 CFR §226) of the Truth in Lending Act (Pub.L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to render the consumer credit cost disclosures required by Section 226.8 of Regulation Z before consummation of the credit transactions, as required by Section 226.8(a) of Regulation Z.

Decision and Order

80 F.T.C.

2. Failing to exclude the State of California Department of Motor Vehicles license, registration, and certificate of title transfer fees in computing the "cash price" as required by Section 226.2(i) of Regulation Z.

3. Failing to disclose the term "finance charge" clearly, conspicuously, in meaningful sequence, as required by Section 226.6(a) of Regulation Z.

4. Failing to include the amount of premiums for Vendor's Single Interest insurance, required by respondent to be purchased in connection with the credit sale, as part of the finance charge, as required by Section 226.4(a)(7) of Regulation Z.

5. Failing to disclose the "finance charge" in credit transactions where finance charges are imposed as required by Sections 226.4, 226.6(a), and 226.8(c)(8)(i) of Regulation Z.

6. Failing to disclose the "amount financed" as required by Section 226.8(c)(7) of Regulation Z.

7. Failing to disclose the "annual percentage rate" in credit transactions where finance charges are imposed, as required by Sections 226.5, 226.6(a), and 226.8(b)(2) of Regulation Z.

8. Failing to disclose the "annual percentage rate" accurately 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.

9. Failing to disclose the "deferred payment price," which is 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, as required by Section 226.8(c)(8)(ii) of Regulation Z.

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

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

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

13. Failing to obtain the customer's specific dated and separately signed affirmative written indication of the desire for insurance coverage as required by Section 226.4(a)(5)(ii) of Regulation Z.

14. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with

252

Complaint

Sections 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by Sections 226.6, 226.8, 226.9 and 226.10 of Regulation Z.

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

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

EMPIRE ACCOUNTS SERVICE, INC., ET AL.

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

Docket C-2154. Complaint, Feb. 18, 1972—Decision, Feb. 18, 1972

Consent order requiring a Chicago, Ill., debt collection firm to cease misrepresenting that legal action will be instituted against delinquent debtors, misrepresenting the extent of information referred to credit reporting units, and using fictitious job titles and organizational descriptions of respondents' business.

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 Empire Accounts Service, Inc., a corporation; John T. McCormick, individually and as an officer of said corporation; William H. Richter, Jr., 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. Empire Accounts Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 7 West Madison Street, Chicago, Illinois.

Complaint

80 F.T.C.

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

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

PAR. 2. Respondents are now, and for some time last past have been, engaged in the practice of collecting or attempting to collect any and all kinds of money debts.

PAR. 3. In the course and conduct of their aforesaid business, respondents solicit and receive accounts for collection from businesses and professional people located in Illinois and other states. In carrying out their aforesaid collection business, 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 collection business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with other corporations, firms, and individuals engaged in the collection of alleged delinquent accounts.

PAR. 5. In the course and conduct of their collection business, respondents transmit and mail, and cause to be transmitted and mailed, to alleged delinquent debtors, various form letters and other printed materials. Typical, but not all inclusive, of the statements and representations in such material are the following:

1. Form letters which include the following language: * * * If we do not receive your money order for the full amount * * * We will immediately file suit in order to reduce your balance to judgment and follow this with levy and seizure of all your property—real, personal and business.

Form letters captioned: LAW OFFICES SHELDON GRAUER which contain the following language: * * * I have been retained to collect the outstanding balance. I have been instructed to prepare the necessary papers to file suit within seven days * * *

2. Form letters which include the following language: Failure to comply * * * will cause us to: * * * Report this to all credit bureaus which will prevent you from ever obtaining additional credit * * *

We will report your account to all the credit bureaus in your area * * *

3. Form letters which are signed Pre-Legal Department.

PAR. 6. By and through the use of the above quoted statements and representations, and others of similar import and meaning but

not specifically set forth herein, respondents have represented directly or by implication:

1. That failure to pay the amount claimed as owing within a stated period of time will result in immediate legal action.
2. That failure to pay the amount claimed as owing within a stated period of time will result in notification of all credit bureaus which would prevent debtor from ever obtaining additional credit.
3. That respondents' organization has or maintains a separate pre-legal department with qualified employees serving in this department.

PAR. 7. In truth and in fact:

1. Legal action has not been instituted nor would such action be immediately instituted to collect delinquent accounts on debtors' failure to pay upon receipt of said notices nor have the accounts been turned over to an attorney for litigation.
2. If payment is not made all credit bureaus are not contacted concerning the alleged delinquent accounts.
3. Respondents do not have a separate pre-legal department with qualified employees serving in this department.

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

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead and deceive members of the public into the erroneous and mistaken belief that said statements and representations were, and are, true and to induce recipients thereof into the payment of alleged delinquent accounts by reason of the 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 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 respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

1. Respondent Empire Accounts Service, Inc., is a corporation organized existing and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located at 7 West Madison Street, Chicago, Illinois.
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 Empire Accounts Service, Inc., a corporation and its officers, John T. McCormick and William H. Richter, Jr., individually and as officers of said corporation, and respondents' representatives, employees, officers, agents, assignees and successors, directly or through any corporate or other device, in connection with the collection of, or attempts to collect accounts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any way that legal action will be instituted against an alleged delinquent debtor.
2. Using forms, letters or materials, printed or written, which represent directly or by implication that where payment is not received, the information of said delinquency is referred to all bona fide credit reporting agencies unless credit bureaus are notified as represented if the debtor fails to make payment or otherwise settle his account.
3. Misrepresenting in any way the manner and extent of respondents' referral of debt delinquency information to credit reporting agencies.

4. Using fictitious job titles or organizational designations or descriptions in connection with respondents' business or misrepresenting in any manner any departmentalization of respondents' business.

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

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

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

IN THE MATTER OF

DONALD FURNITURE COMPANY, INC.

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

Docket C-2155. Complaint, Feb. 18, 1972—Decision, Feb. 18, 1972

Consent order requiring a Memphis, Tenn., corporation selling furniture and electrical appliances to cease violating the Truth in Lending Act by failing to disclose in its retail installment contracts the terms and conditions of any security interest in the goods purchased, failing to itemize the amount of the total downpayment as cash downpayment or trade-in, and failing to disclose other terms as required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Donald Furniture Company, Inc., a corporation, hereinafter referred to as respondent has violated the provisions of said Acts and 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:

Complaint

80 F.T.C.

PARAGRAPH 1. Respondent Donald Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 405 North Cleveland Street, Memphis, Tennessee.

PAR. 2. Respondent is now, and for sometime last past has been, engaged in the sale of furniture and electrical appliances to the public.

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

PAR. 4. Subsequent to July 1, 1969, respondent, in the ordinary course of its business, as aforesaid, and in connection with its credit sales, as "credit sale" is defined in Regulation Z, has caused and is now causing customers to execute retail installment contracts, hereinafter referred to as "the contract."

By and through the use of the contract, respondent:

1. Failed in some instances to disclose the terms and provisions of any security interest in the property or goods purchased, or the type of security interest required, in any one of the following three ways, as required by Section 226.8(a) and 226.801 of Regulation Z:

(a) Together on the contract evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or

(b) On one side of the separate statement which identifies the transaction; or

(c) On both sides of a single document containing on each side thereof the statement *NOTICE*: "See other side for important information," with the place for the customer's signature following the full content of the document.

2. Failed in some instances to itemize the "total downpayment" as "cash downpayment" or "trade-in," as applicable as required by Section 226.8(c)(2) of Regulation Z.

3. Failed in some instances to disclose the amount of the "Unpaid Balance of Cash Price," and failure to use that term as required by Section 226.8(c)(3) of Regulation Z.

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

108 thereof, respondent has thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of 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 Donald Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 405 North Cleveland Street, Memphis, Tennessee.

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 Donald Furniture Company, Inc., a corporation and respondent's agents, representatives, and employees, successors and assigns, directly or through any corporate or other device in connection with any extension, or arrangement for the extension, of consumer credit, or any advertisement to aid, pro-

Decision and Order

80 F.T.C.

mote or assist directly or indirectly any extension of consumer credit as "consumer credit" and "advertisement" are defined in Regulation Z of the Truth in Lending Act, do forthwith cease and desist from:

1. Failing to disclose the terms and provisions of any security interest in the property or goods purchased, or the type of security interest required, in any one of the following three ways, as required by Section 226.8(a) and 226.801 of Regulation Z:

(a) Together on the contract evidencing the obligation on the same side of the page and above or adjacent to the place for the customer's signature; or

(b) On one side of the separate statement which identifies the transaction; or

(c) On both sides of a single document containing on each side thereof the statement *NOTICE*: "See other side for important information," with the place for the customer's signature following the full content of the document.

2. Failing to itemize the amount of the "total downpayment" as "cash downpayment" or "trade-in," as applicable as required by Section 226.8(c) (2) of Regulation Z.

3. Failing to disclose the amount of the "Unpaid Balance of Cash Price," and failure to use that term as required by Section 226.8(c) (3) of Regulation Z.

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

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

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

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

Complaint

IN THE MATTER OF

U.S. INDUSTRIES, INC., DOING BUSINESS AS VALOR DIVISION,
ET AL.

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

Docket C-2156. Complaint, Feb. 25, 1972—Decision, Feb. 25, 1972

Consent order requiring a New York City manufacturer and seller of wool products, including women's coats, to cease violating the Wool Products Labeling Act by misbranding its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that U.S. Industries, Inc., a corporation, trading as Valor Division, and Albert Markson, individually and as chairman of said division, have violated the provisions of said Acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent U.S. Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware. Respondent U.S. Industries, Inc. trades, among others, under the name of Valor Division.

Respondent Albert Markson is the chairman of the Valor Division of U.S. Industries, Inc. He directs the acts and practices of said division, including those hereinafter set forth.

Respondents are engaged in the manufacture and sale of wool products, including women's coats, with the office and principal place of business of respondent U.S. Industries, Inc., located at 250 Park Avenue, New York, New York. The office and principal place of business of Valor Division and respondent Albert Markson, chairman of Valor Division, is located at 671 Bellville Avenue, New Bedford, Massachusetts.

PAR. 2. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in the Wool

Complaint

80 F.T.C.

Products Labeling Act of 1939, wool products as "wool product" is defined therein.

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

Among such misbranded wool products, but not limited thereto, were ladies' coats stamped, tagged, labeled, or otherwise identified by respondents as "80% Wool and 20% Undetermined Fibers," whereas in truth and in fact, said products contained substantially different fibers and amounts of fiber than represented.

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

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

PAR. 5. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 6. Respondents are now and for some time last past have been engaged in the advertising, offering for sale, sale, and distribution of certain products, namely coats, in commerce. In the course and conduct of their business, 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 Commonwealth of Massachusetts 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. 7. In the course and conduct of their business, and for the purpose of inducing the sale of their said products, namely women's coats, respondents have made certain statements in an advertisement inserted in the New York Times Magazine of August 24, 1969, relative to the fiber content composition of the said coats.

The statement in the New York Times Magazine of August 24, 1969, reads "A. take the fabrics There's the coats body, made of 100% wool Melton."

PAR. 8. By the use of the aforesaid statement and representation respondents represent, and have represented, directly that said coats were composed entirely of "wool," whereas in truth and in fact, said coats were not composed entirely of wool, but contained substantially different fibers and amounts of fibers than represented.

PAR. 9. The acts and practices of respondents as set forth in Paragraph Seven and Eight above, have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public, and constituted, and now constitute, unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

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

1. Respondent U.S. Industries, Inc., trading as Valor Division, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware.

Respondent Albert Markson is chairman of Valor Division. He directs the acts and practices of said division.

Respondents are engaged in the manufacture and sale of wool products, including but not limited to women's coats, with the office and principal place of business of respondent U.S. Industries, Inc., located at 250 Park Avenue, New York, New York. The office and principal place of business of Valor Division and respondent, Albert Markson, chairman of Valor Division, is located at 671 Bellville Avenue, New Bedford, Massachusetts.

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 U.S. Industries, Inc., a corporation, trading as Valor Division, or any other name, and its officers, and Albert Markson, individually and as chairman of Valor Division, 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 offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

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

It is further ordered, That respondents U.S. Industries, Inc., a corporation, trading as Valor Division or any other name, and its officers, and Albert Markson, individually and as chairman of Valor Division, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of coats, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from falsely and deceptively advertising or misrepresenting in any manner, or by any means, the character or amount of constituent fibers contained in such 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 this 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

AUSTIN H. BURKE, FORMERLY DOING BUSINESS AS AUSTIN
BURKE, INC.

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

Docket C-2157. Complaint, March 1, 1972—Decision, March 1, 1972

Consent order requiring a Miami Beach, Fla., individual selling and distributing wool and textile fiber products, including men's wear, to cease misbranding his wool products and falsely and deceptively advertising his textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, and the Textile Fiber Products Identification Act, and by virtue of the authority vested in

Complaint

80 F.T.C.

it by said Acts, the Federal Trade Commission having reason to believe that Austin H. Burke, an individual formerly doing business as Austin Burke, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and it 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 Austin H. Burke is an individual, formerly doing business as Austin Burke, Inc., a corporation which was organized, existing and doing business under and by virtue of the laws of the State of Florida.

Respondent was formerly engaged in the sale and distribution of wool and textile fiber products, including men's wear, with the office and principal place of business of Austin Burke, Inc., located formerly at 608 Lincoln Road Mall, Miami Beach, Florida. The present address of the respondent is 2218 Alton Road, Miami Beach, Florida.

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

PAR. 3. Certain of said wool products were misbranded by respondent within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled or otherwise identified with respect to the place or country where said products were manufactured.

Among such misbranded wool products, but not limited thereto, were wool products with a label on or affixed thereto which stated predominantly that the wool product was, among other things, "Styled in California," and stating in an inconspicuous place and manner on another part of said product that it was "Made in Japan." Such disclosure had the tendency to mislead purchasers into believing that the wool products were of domestic manufacture.

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

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

PAR. 5. The acts and practices of the respondent as set forth above were in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and constituted unfair methods of competition and unfair and deceptive acts and practices, in commerce within the meaning of the Federal Trade Commission Act.

PAR. 6. Respondent for some time last past engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States, of textile fiber products; and has sold, offered for sale, advertised, delivered, transported and caused to be transported textile fiber products which had been advertised or offered for sale in commerce; and has sold, offered for sale, advertised, delivered, transported and caused to be transported after shipment in commerce, textile fiber products either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 7. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and to assist, directly or indirectly, in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the rules and regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were sweaters, shirts, jackets and coats which were falsely and deceptively advertised by means of newspaper advertisements. The aforesaid sweaters, shirts, jackets and coats were described by means of such terms as "Orlon," "Dacron," "Cords" and "Madras" and the true generic names of the fibers contained in such products were not set forth.

Complaint

80 F.T.C.

PAR. 8. The acts and practices of the respondent as set forth above in Paragraph Seven were in violation of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, and constituted unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

PAR. 9. Respondent some time last past engaged in the advertising, offering for sale, sale and distribution of certain products, in commerce, namely men's wear. In the course and conduct of his business the aforesaid respondent caused some of the said products, when sold, to be shipped from his place of business in the State of Florida to purchasers located in various other States of the United States, and maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 10. Respondent in the course and conduct of his business made statements in a prominent manner on labels affixed to his products that said products were, among other things, "Styled in California," and stated in an inconspicuous manner that said products were "Made in Japan." By means of the aforesaid statements and by overemphasizing the phrase "Styled in California" the respondent represented that his products were made in California. The aforesaid act and practice of overemphasizing the phrase "Styled in California" had the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said products were made in the United States.

PAR. 11. Respondent in the course and conduct of his business made certain statements in newspaper advertisements concerning his products. Among and typical of the statements used by respondent to describe his products were such phrases as "Vicuna Toned," "Vicuna Toned Doeskin," and "Chamois Doeskin (Vicuna Finish)." By means of the aforesaid designations, the respondent represented his products as being made of the hair of the vicuna, or chamois. In truth and in fact, such products were not composed of the hair of the vicuna or chamois. The use of such terms by respondent in representing his products had the capacity to mislead and deceive members of the purchasing public into the erroneous belief that they were purchasing products, composed in whole or in part of vicuna, or chamois and such use was false and deceptive.

PAR. 12. Respondent in the course and conduct of his business made certain statements in newspaper advertisements concerning his products. Among and typical of the statements used by the respond-

ent to describe his products were such phrases as "\$125 Mohair Suits," "Imported Mohair Tuxedos" and "\$169 Black Mohair Suits." By means of the aforesaid statements, respondent represented his products to be made entirely of "Mohair." In truth and in fact the aforesaid products were not made entirely of Mohair. The use of the word "Mohair" or any simulation thereof, either alone or in connection or conjunction with any other word or words, without qualification or limitation as to amount, to designate, describe, or refer to any product which is not composed entirely of the hair of the Angora goat had the capacity to mislead and deceive members of the purchasing public into the erroneous belief that the product was composed entirely of hair of the Angora goat and was false and deceptive.

PAR. 13. Respondent in the course and conduct of his business made certain statements in newspaper advertisements concerning his products. Among and typical of the statements used by the respondent to describe his products were such statements as "Buy Direct!! We tailor Most Of Our Clothing in San Diego. You save 20% to 50%." By means of the aforesaid statements the respondent represented that he manufactured most of his own products. Such a statement had the capacity to mislead and deceive members of the purchasing public into the erroneous belief that such purchases were being made directly from the manufacturer and that the purchasers thereof would realize substantial savings thereby. In truth and in fact, the aforesaid statements were false and deceptive in that respondent's products were not manufactured by the respondent but were manufactured and sold to the respondent by unrelated garment manufacturers.

PAR. 14. Respondent in the course and conduct of his business made certain representations in newspaper advertisements concerning his products. Among and typical of the representations used by the respondent to represent his products were such statements as:

PUBLIC NOTICE: Warehouse Sale. Men's Clothing. Most Items comparable to and less than WHOLESALE.

The use of the aforesaid statements implied that the respondent was offering products to the consuming public at prices which were less than the prices paid by the respondent in acquiring products and that savings were afforded to the purchasers of said products. In truth and in fact, many of the alleged "less than wholesale" prices were not "less than wholesale" but, in fact, were in excess of the prices paid for the products by the respondent and savings were not afforded to the purchasers thereof as represented.

Decision and Order

80 F.T.C.

PAR. 15. Respondent in the course and conduct of his business made certain statements in newspaper advertisements. Among and typical of the statements used by the respondent to represent products were such statements as "Regular \$105-\$150, now \$69.00," "Regular \$110, now \$69.00." By means of these aforesaid statements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively represented that the prices of such products were reduced from respondent's former prices and the amount of such purported reductions constituted savings to purchasers of respondent's products. In truth and in fact, the alleged former prices were fictitious in that they were not actual, bona fide prices at which respondent offered the products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said products were not reduced in price as represented and savings were not afforded purchasers of respondent's products, as represented.

PAR. 16. The aforesaid acts and practices of the respondent, as herein alleged in Paragraphs Ten through Fifteen were all to the prejudice and injury of the public and of the respondent's competitors and constituted unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of Section 5(a)(1) 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, the Wool Products Labeling Act of 1939, and the Textile Fiber Products Identification Act.

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

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

1. Respondent Austin H. Burke is an individual, formerly doing business as Austin Burke, Inc., a corporation which was organized, existing, and doing business under and by virtue of the laws of the State of Florida.

Respondent was engaged formerly in the sale and distribution of wool and textile fiber products, including men's wear, with the office and principal place of business of Austin Burke, Inc., located formerly at 608 Lincoln Road Mall, Miami Beach, Florida. The present address of the respondent is 2218 Alton Road, Miami Beach, Florida.

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 Austin H. Burke, an individual, formerly doing business as Austin Burke, Inc., a corporation, and respondent's representatives, agents and other employees, directly or through any corporate or other device, in connection with the introduction into commerce, or offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the place or country in which such products are manufactured.

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

It is further ordered, That respondent Austin H. Burke, an individual, formerly doing business as Austin Burke, Inc., a corporation, and respondent's representatives, agents and employees, directly or

through any corporate or other device in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from falsely and deceptively advertising textile fiber products by making any representations, by disclosure or by implication, as to fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product unless the same information required to be shown on the stamp, tag, label, or other means of identification under Section 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of a fiber present in the textile fiber product need not be stated.

It is further ordered, That respondent Austin H. Burke, an individual, formerly doing business as Austin Burke, Inc., a corporation, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of men's wear or any of respondent's products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting the country of origin of his products by overemphasis or by giving undue prominence to any words or phrases relating to countries other than that in which the product originated or was manufactured, or in any other manner misrepresenting the country of origin of his products.

2. Describing or otherwise representing his products as "Vicuna Toned," "Vicuna Toned Doeskin," "Vicuna Finish" or "Chamois Doeskin," or words of similar import or meaning, unless such products are in fact, (1) made of hairs, fleece or skin of the animal commonly known and referred to as "Vicuna" or (2) made of the skin of the female deer, an animal commonly known and referred to as Doe; or (3) made from the skin of an

Alpine Antelope commonly known and referred to as Chamois, or from the fleshers or undersplits of sheepskins which have been tanned in oil after splitting.

3. Describing or otherwise representing products as Mohair unless such product is composed entirely of the hair fibers of the Angora goat or failing to set forth the presence of any other constituent fibers in said product in immediate conjunction with and with equal size and conspicuousness in their order of predominance by weight.

4. Representing either directly or indirectly that the respondent manufactures his own products, by the use of such words as "Buy Direct. We Tailor Most of Our Own Clothing in San Diego" or words of similar import or meaning unless and until respondent owns, operates, and directly and absolutely controls manufacturing facilities wherein said products are manufactured.

5. Representing in advertisements, or in any other manner, directly or by implication, by means of the phrase "Most Items Comparable to and Less than WHOLESale," or any other phrase, term or wording of similar import or meaning that the respondent's products are being offered for sale at a price equal to or less than the price paid for the product by respondent, unless that fact is true.

6. Representing directly or by implication, that any price, whether accompanied or not by descriptive terminology, is the respondent's former price of such product when such price is in excess of the price at which such product has been sold or offered for sale in good faith by the respondent on a regular basis for a reasonably substantial period of time in the recent regular course of business, or otherwise misrepresents the price at which such product has been sold or offered for sale by respondent.

7. Falsely or deceptively representing that savings are afforded to the purchaser of any product or misrepresenting in any manner the amount of savings afforded to the purchaser of the product.

8. Falsely or deceptively representing that the price of any product is reduced.

9. Failing to maintain full and adequate records disclosing the facts upon which any pricing claims are based.

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.

Complaint

80 F.T.C.

IN THE MATTER OF

DIXIE FURNITURE COMPANY, 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-2158. Complaint, March 1, 1972—Decision, March 1, 1972

Consent order requiring an Atlanta, Ga., firm selling furniture and appliances to cease violating the Truth in Lending Act by failing to use on its installment contracts the terms "cash price," "cash downpayment," "trade-in," "total downpayment," "amount financed" and other terms required by Regulation Z of said Act.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Dixie Furniture Company, Inc., a corporation, and Warren N. Dukes and James W. Dukes, individually, and as officers 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. Dixie Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 457 Edgewood Avenue, Southeast, Atlanta, Georgia.

Respondents Warren N. Dukes and James W. Dukes are officers of the corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time last past have been engaged in the sale of furniture and appliances to the public.

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

PAR. 4. Subsequent to July 1, 1969, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' goods and services. On these contracts, hereinafter referred to as "the contract," respondents provide certain consumer credit cost information. Respondents do not provide these customers with any other consumer credit cost disclosures.

By and through the use of the contract, respondents:

1. Fail to use the term "cash price" to describe the price at which respondents offer, in the regular course of business, to sell for cash the property or services which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

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

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

4. Fail to disclose the sum of the "cash downpayment" and the "trade-in," and to describe that sum as the "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.

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

6. Fail to use the term "amount financed" to describe the amount of credit of which the customer has the actual use, as required by Section 226.8(c)(7) of Regulation Z.

7. Fail to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

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

9. In a number of instances understated the annual percentage rate by amounts ranging from .75 percent to 6.50 percent and thereby failed to disclose the annual percentage rate with an accuracy at least to the nearest quarter of one percent, computed in accordance with Section 226.5(b)(1) of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

Decision and Order

80 F.T.C.

10. Fail in certain instances to print the term "Annual Percentage Rate" more conspicuously than other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

11. Fail in certain instances to print the term "finance charge" more conspicuously than other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

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

13. Fail to print numerical amounts as figures printed in not less than the equivalent of 10 point type, as required by Section 226.6(a) of Regulation Z.

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

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity

with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Dixie Furniture Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 457 Edgewood Avenue, Southeast, Atlanta, Georgia.

Respondent Warren N. Dukes and James W. Dukes 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.

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 Dixie Furniture Company, Inc., and its officers, and Warren N. Dukes and James W. Dukes, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any subsidiary or other 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 §226) of the Truth in Lending Act (Pub.L. 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing to use the term "cash price" to describe the price at which respondents offer, in the regular course of business, to sell for cash the property or services which are the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

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

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

4. Failing to disclose the sum of the "cash downpayment" and the "trade-in," and to describe that sum as the "total downpayment," as required by Section 226.8(c)(2) of Regulation Z.

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

6. Failing to use the term "amount financed" to describe the amount of credit of which the customer has the actual use, as required by Section 226.8(c)(7) of Regulation Z.

7. Failing to use the term "total of payments" to describe the sum of the payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

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

9. Failing to disclose the annual percentage rate with an accuracy at least to the nearest quarter of one percent, computed in accordance with Section 226.5(b)(1) of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

10. Failing to print the term "Annual Percentage Rate" more conspicuously than other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

11. Failing to print the term "finance charge" more conspicuously than other prescribed terminology, as required by Section 226.6(a) of Regulation Z.

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

13. Failing to print numerical amounts as figures printed in not less than the equivalent of 10 point type, as required by Section 226.6(a) of Regulation Z.

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

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

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

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

RUFFOLO BROS., INC., ET AL.

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

Docket C-2159. Complaint, March 1, 1972—Decision, March 1, 1972

Consent order requiring a New York City manufacturer and distributor of wearing apparel, including women's dresses, to cease importing or selling any fabric which violates the standards of 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 Ruffolo Bros., Inc., a corporation, and Elmo Ruffolo and Aurora Ruffolo, 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 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 Ruffolo Bros., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its address is 500 Seventh Avenue, New York, New York.

Respondents Elmo Ruffolo and Aurora Ruffolo are officers of the corporate respondent. They formulate, direct and control the acts,

practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are engaged in the manufacture, sale and distribution of wearing apparel, including, but not necessarily limited to women's dresses.

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

Among such products mentioned hereinabove were dresses style No. 217.

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 constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

1. Respondent Ruffolo Bros., 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 500 Seventh Avenue, New York, New York.

Respondents Elmo Ruffolo and Aurora Ruffolo are the president and vice president, respectively, of said corporation. They formulate, direct and control the acts, practices and policies of said corporation and their principal office and place of business is located at the above stated address.

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

ORDER

It is ordered, That the respondents Ruffolo Bros., Inc., a corporation, its successors and assigns, and its officers, Elmo Ruffolo and Aurora Ruffolo, 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 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 issued, amended or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the

Decision and Order

80 F.T.C.

dresses which gave rise to the complaint, of the flammable nature of said dresses and effect the recall of said dresses from such customers.

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

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' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the dresses which gave rise to the complaint, (2) the number of said dresses in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said dresses and effect the recall of said dresses from customers, and of the results thereof, (4) any disposition of said dresses since April 2, 1971, and (5) any action taken or proposed to be taken to bring said dresses into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said dresses, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

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

Complaint

IN THE MATTER OF

LAUREATE HOSIERY MILLS, INC., ET AL.

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

Docket C-2160. Complaint, March 1, 1972—Decision, March 1, 1972

Consent order requiring Bayonne, N.J., and Charlotte, N.C., importers, wholesalers and retailers of textile fiber products to cease misbranding their textile fiber products and misrepresenting themselves as manufacturers of such products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Laureate Hosiery Mills, Inc., a corporation, and Schulte & Dieckhoff (USA), Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the rules and regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Laureate Hosiery Mills, 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 206 West 5th Street, Bayonne, New Jersey.

Respondent Schulte & Dieckhoff (USA), 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 1820 Statesville Avenue, Charlotte, North Carolina.

Respondents are importers, wholesalers and retailers of textile fiber products.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and the importation into the United States of textile

fiber products; and in the sale, offering for sale, advertising, delivery, transportation, and causing to be transported, of textile fiber products which have been advertised or offered for sale in commerce; and in the sale, offering for sale, advertising, delivery, transportation, and causing to be transported, after shipment in commerce, of textile fiber products, whether in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of the textile fiber products were misbranded by the respondents in that they were not stamped, tagged, labeled or otherwise identified to show each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the rules and regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products, namely pantyhose, with labels that failed:

1. To disclose the true generic name of the fiber or fibers present in said products.
2. To disclose the percentages by weight of such fiber or fibers in said products.
3. To show that said products were imported and the name of the country where they were processed or manufactured.

PAR. 4. The acts and practices of the respondents as set forth above were and are in violation of the Textile Fiber Products Identification Act and the rules and regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

PAR. 5. In the course and conduct of their business, respondent Laureate Hosiery Mills, Inc., a corporation, and its officers, now cause, and for some time last past have caused, their said textile fiber products, including hosiery, when sold, to be shipped from their place of business in the State of New Jersey to purchasers thereof located in various other States of the United States, and maintain, and at all time 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. 6. In the course and conduct of their business, at all time mentioned herein, said respondents have been in substantial competition, in commerce, with corporations, firms and individuals who

are also engaged in the sale of products of the same general kind as that sold by said respondents.

PAR. 7. In the course and conduct of their business the aforesaid respondents refer to the said corporate respondent as "Laureate Hosiery Mills, Inc.," thus stating or implying that said corporate respondent is a manufacturer of the hosiery which it sells. In truth and in fact, the said corporate respondent performs no such manufacturing functions whatsoever, but operates exclusively as a distributor of said products. Thus the aforesaid representation is false, misleading and deceptive.

There is a preference on the part of many members of the public to buy products directly from mills or factories in the belief that by doing so certain advantages come to them, including lower prices.

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

PAR. 9. The aforesaid acts and practices of said respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of said respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning 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 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 Textile Fiber Products Identification 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

Decision and Order

80 F.T.C.

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 finding, and enters the following order:

1. Respondent Laureate Hosiery Mills, 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 206 West 5th Street, Bayonne, New Jersey.

Respondent Schulte & Dieckhoff (USA), 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 1820 Statesville Avenue, Charlotte, North Carolina.

Respondents are importers, wholesalers and retailers of textile fiber products.

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 Laureate Hosiery Mills, Inc., a corporation, its successors and assigns, and its officers, and Schulte & Dieckhoff (USA), Inc., a corporation, its successors and assigns, and its officers, and respondents' representatives, agents and employees, directly or through any corporate or other device in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and

"textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondent Laureate Hosiery Mills, Inc., a corporation, its successors and assigns, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hosiery or other textile products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that respondent Laureate Hosiery Mills, Inc., is a manufacturer of hosiery or other products unless respondents own and operate, or directly and absolutely control a mill, factory or manufacturing plant wherein said hosiery or other products are manufactured.

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

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

COSMAW, INC., ET AL.

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

Docket C-2161. Complaint, March 1, 1972—Decision, March 1, 1972

Consent order requiring an Omaha, Neb., corporation allegedly operating social clubs for single, divorced and/or widowed persons to cease misrepresenting

Complaint

80 F.T.C.

that such social clubs are in actual operation, that such clubs operate 7 nights a week, that they offer dancing, cards, ping-pong, bowling and other recreational activities, that prospective members will help form the clubs' boards of directors, that any portion of the monies paid to the clubs is tax-free, failing to give notice that payment notes may be sold, and failing to include in contracts a provision for cancellation within 3 days. Respondents are also required to give notice to customers that they are not licensed to do business in Missouri or Kansas and that no social club was ever opened in Kansas City.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and the Truth in Lending Act and the regulations promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Cosmaw, Inc., a corporation, Waldo E. Brown, individually and as an officer of said corporation, and Lloyd C. McCord, individually and as a manager of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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 Cosmaw, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its last known principal office and place of business located at 4951 Center Street, Omaha, Nebraska.

Respondent Waldo E. Brown is an individual and an officer of said corporation. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His last known address is the same as that of the corporate respondent, Cosmaw, Inc.

Respondent Lloyd C. McCord is an individual and a manager of said corporation. Together with Waldo E. Brown, he formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His last known address is 5647 Paseo, Kansas City, Missouri.

PAR. 2. Respondents Cosmaw, Inc., Waldo E. Brown, and Lloyd C. McCord are now, and for some time last past have been, engaged in the operation of social clubs for single, divorced, and/or widowed persons, and the advertising, offering for sale, and sale of memberships to the public in said clubs.

PAR. 3. Respondents Cosmaw, Inc., Waldo E. Brown, and Lloyd C. McCord in the course and conduct of their business as aforesaid, now cause, and for some time last past have caused, their memberships to be advertised and sold to purchasers thereof located in the various

States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said memberships and related services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and 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 memberships and related services in their social clubs; said memberships and services being of the same general kind and nature as those sold by respondents' competition.

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

COUNT I

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One, Two, Three, and Four hereof are included by reference in COUNT I, as if fully set out.

PAR. 5. In the course and conduct of their aforesaid business, respondents Cosmaw, Inc., Waldo E. Brown, and Lloyd C. McCord, for the purpose of inducing the purchase of their memberships and related services have made, and are now making, numerous statements and representations in advertisements inserted in newspapers of general interstate circulation. Typical and illustrative of the foregoing, but not all inclusive thereof, are the following:

Attention

Single, divorced, and widowed Cosmaw Club—club of single men and women, ages 30 to 55 located in Minneapolis, Des Moines and Omaha is now opening in Kansas City.

An exciting new concept for singles, offering permanent club rooms open seven nights weekly with cocktail lounge, card room, pool, ping pong, nightly dancing, dinners, trips to Vegas and lots of other fun activities. Cosmaw members are the cream of the crop in singles, selected through personal interview, character references and board of director approval. All singles interested in becoming charter members and helping stock the Kansas City branch write to Cosmaw, Inc., 4951 Center street, Omaha, Nebraska, 68106 or call 402-553-1400 for more information.

* * * * *

A T T E N T I O N

Single—Widowed—Divorced

30 to 55

COSMAW

(CLUB of SINGLE MEN and WOMEN)

PROUDLY ANNOUNCES THE OPENING

OF THEIR KANSAS CITY BRANCH!

3217 Broadway

Formerly the Board Room Club

Complaint

80 F.T.C.

COSMAW, the most popular social town club for unmarried adults offers a respectable and dignified place for their members to enjoy all types of recreation with hundreds of other selective singles.

CLUBROOM

- Open 7 days a week
- Dancing
- Singing
- Cocktail Lounge
- Billiards
- Cards
- Ping-Pong
- TV Lounge

ACTIVITIES

- Bowling
- Dinner parties
- Swimming
- Theatre
- Picnics
- Group Vacations

INSTRUCTION COURSES

- Dance Lesson
- Bridge Instruction
- Investment Club
- Public Speaking
- Art and Drama

ATMOSPHERE

- Carefree
- Relaxing
- Comfortable
- Congenial

MEMBERSHIP ACQUIRED ONLY THROUGH PERSONAL INTERVIEW, CHARACTER REFERENCES AND BOARD OF DIRECTOR APPROVAL

* * * * *

SINGLE
DIVORCED
WIDOWED
MEN AND WOMEN
30-55

INQUIRE ABOUT COSMAW TOWN CLUB FOR SINGLE ADULTS. WE REQUIRE:

- Personal interviews
- Character references
- Board of director approval

COSMAW OFFERS:

- Permanent clubrooms
- Open 7 nights a week
- Screened membership
- Clubs in Omaha, Des Moines, Minneapolis
- Complete social outlet

Now open in Kansas City for membership applications. For appointment call 931-5190 and ask for membership secretary or write Cosmaw, 3217 Broadway, Kansas City, Mo. 64111.

* * * * *

PAR. 6. By and through the use of the above quoted statements and representations, and others of similar import and meaning, but

not expressly set out herein, and through their agents and representatives, respondents Cosmaw, Inc., Waldo E. Brown, and Lloyd C. McCord, have represented, directly or by implication, that:

(1) Cosmaw, Inc., operates social clubs for single, divorced, and widowed persons and is expanding its operation to other cities throughout the United States.

(2) Cosmaw, Inc., conducted a survey in the Kansas City metropolitan market area and determined that there was a large demand for a social club, such as Cosmaw, Inc., was operating in several other cities.

(3) The Cosmaw club in Kansas City, Missouri, would be located at 3217 Broadway and would consist of a clubroom which would be open seven nights a week with dancing, singing, billiards, cards, ping-pong, a TV lounge, and would feature a cash bar and food.

(4) The Cosmaw club, to be located at 3217 Broadway, Kansas City, Missouri, would be open on or about December 31, 1970, for a New Year's Eve party for its members.

(5) The members of Cosmaw, Inc., would be provided courses of instruction in dancing, bridge, public speaking, art, drama, and investment clubs.

(6) The members of Cosmaw, Inc., would be provided with selected group activities consisting of bowling, dinner parties, swimming, theatre, picnics, and group vacations.

(7) The advisory board for Cosmaw, Inc., is made up of doctors, clergy, bankers, and attorneys.

(8) The first ten female and the first ten male members would be designated charter members and would be on the advisory board for the Cosmaw club to be operated in Kansas City, Missouri, at 3217 Broadway Street.

(9) The membership in the Kansas City club of Cosmaw, Inc., would be limited in each "age group," with all members being required to be in the general age brackets of 30 to 55 years of age, with the different age brackets being 30-35, 36-40, 41-45, 46-50, and 51-55.

(10) The prospective members are screened and their personal references are carefully checked prior to their obtaining membership in Cosmaw, Inc.

(11) The costs of being a member of Cosmaw, Inc., are \$75 for initiation, \$200 for membership, which may be transferred, by sale or gift, \$6 for sales tax, and \$10 per month dues thereafter.

(12) The membership will be constituted of an equal number of men and women members.

(13) The Cosmaw, Inc., club members will sponsor a charity.

PAR. 7. In truth and in fact:

(1) Cosmaw, Inc., does not operate clubs presently in any other cities in the United States nor is it expanding its operation to 37 or any other number of cities.

(2) Cosmaw, Inc., did not conduct a survey in the Kansas City metropolitan area, the results of which indicated a large demand for a social club, such as Cosmaw, Inc., represented it was offering in the Kansas City metropolitan market area.

(3) There is no Cosmaw, Inc., clubroom for single, divorced, and/or widowed persons at 3217 Broadway, Kansas City, Missouri, nor is there any club facility in the Metropolitan Kansas City area which offers the activities set out in Paragraph Six, subparagraphs 3, 5, and 6.

(4) Cosmaw, Inc., did not open any type of club facility in the Metropolitan Kansas City area although numerous initiation fees and membership fees were sold in the Metropolitan Kansas City area.

(5) There is no advisory board for Cosmaw, Inc., consisting of doctors, lawyers, clergy, and bankers, nor were the first ten men and women members sold in the Kansas City area designated charter members and placed on the advisory board.

(6) The membership in Cosmaw, Inc., was not limited as represented in Paragraph Six, subparagraph 9, nor were the prospective members carefully screened or their references checked in all instances, if at all.

(7) The membership fee in the amount of \$200 is not transferrable and the \$6 charged for sales tax was not in fact sales tax, but was retained by respondents Cosmaw, Inc., and/or Waldo E. Brown, or Lloyd C. McCord.

(8) The memberships sold are not constituted equally of male and female members, but are actually primarily those of female members.

(9) No charity was ever sponsored by Cosmaw, Inc., in the Metropolitan Kansas City, Missouri, or Kansas, market area.

PAR. 8. In the further course and conduct of their business, and in furtherance of a sales program for inducing the purchase of memberships in their social clubs, respondents, their salesmen and representatives have engaged in the following additional unfair, false, misleading, and deceptive acts and practices:

In a substantial number of instances, and in the usual course of their business, respondents sell and transfer their customers' obligations, procured by the aforesaid unfair, false, misleading, and deceptive means, to Educational Credit Bureau, Inc., 1125 Grand Avenue, Kansas City, Missouri. In any subsequent legal action to collect on

such obligations, Educational Credit Bureau, or other third parties, may cut off various personal defenses, otherwise available to the obligor, arising out of the respondents' failure to perform or out of other unfair, false, misleading, or deceptive acts and practices on the part of respondents.

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

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

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

COUNT II

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

PAR. 11. In the ordinary course and conduct of their business, as aforesaid, respondents regularly extend, and for some time last past have regularly extended, consumer credit as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 12. Subsequent to July 1, 1969, respondents, in the ordinary course and conduct of their business and in connection with credit sales as "credit sale" is defined in Regulation Z, have caused and are now causing persons purchasing memberships in Cosmaw, Inc., to execute "retail time contracts and promissory notes," hereinafter referred to as the contract.

PAR. 13. By and through the use of these contracts, respondents:

1. Failed, in a number of instances, to disclose the annual per-

centage rate to the nearest quarter of one percent, as required by Section 226.5(b)(1) of Regulation Z.

2. Failed, in a number of instances, to disclose accurately the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

3. Failed, in a number of instances, to disclose the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, as required by Section 226.8(b)(7) of Regulation Z.

4. Failed, in a number of instances, to designate the amount of the cash price for the property as "cash price," as required by Section 226.8(c)(1) of Regulation Z.

5. Failed, in a number of instances, to disclose the amount of the downpayment in money, and to designate it as the "cash downpayment," as required by Section 226.8(c)(2) of Regulation Z.

6. Failed, in a number of instances, to disclose the difference between the cash price and the total downpayment, and to designate that difference as the "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.

7. Failed, in a number of instances, to designate the amount financed as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

8. Failed, in a number of instances, to designate the amount of the finance charge as the "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

9. Failed, in a number of instances, to designate the deferred payment price as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

PAR. 14. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the 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 Truth in Lending Act and the regulations promulgated thereunder, 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 Section 2.34(b) of its rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Cosmaw, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Nebraska with its last known principal office and place of business at 4951 Center Street, Omaha, Nebraska.

Respondent, Waldo E. Brown, is an individual and officer of said corporation. He formulates, directs, and controls the acts and practices of said corporation, and his present address is 808 North 75th Street, Omaha, Nebraska.

Respondent, Lloyd C. McCord, is an individual and a manager of said corporation. Together with Waldo E. Brown, he formulates, directs, and controls the acts and practices of said corporation, and his address is 5647 Paseo Street, Kansas City, Missouri.

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 Cosmaw, Inc., a corporation, and its officers, and Waldo E. Brown, individually and as an officer of said corporation, and Lloyd C. McCord, individually and as a manager of said corporation, and respondents' agents, representatives, salesmen, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, and sale of social club memberships or other services or 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, that respondents operate or will operate any social club or any other type of business, unless such club or business is actually in operation and offering all services prior to the actual advertisement, solicitation, and/or sale of memberships in said club or business.

2. Representing, directly or by implication, that respondents have conducted any survey concerning the demand for the memberships or services of their social clubs.

3. Representing, directly or by implication, that respondents' social clubs are open seven (7) nights a week, or for any other period of time, other than the actual hours of operation of such clubs.

4. Representing, directly or by implication, that respondents' social clubs offer dancing, singing, billiards, cards, ping-pong, TV, and a cash bar and food, unless such be the fact.

5. Representing, directly or by implication, that respondents' social clubs provide courses of instruction in dancing, bridge, public speaking, art, drama, and investment clubs.

6. Representing, directly or by implication, that respondents' social clubs offer group activities consisting of bowling, dinner parties, swimming, theatre, picnics, and group vacations.

7. Representing, directly or by implication, that the board of directors of respondents' social clubs are made up of doctors, clergymen, bankers, attorneys, and/or members of any other profession not actually represented on the board of directors.

8. Representing, directly or by implication, that any of respondents' members are designated "charter members" and help to form an advisory board, which governs the operation of respondents' social clubs.

9. Representing, directly or by implication, that the membership in respondents' social clubs is limited as to age group or in any other manner.

10. Representing, directly or by implication, that prospective members for respondents' social clubs are carefully screened and their personal references checked.

11. Representing, directly or by implication, that any portion of monies paid to respondents is sales tax, unless such money is remitted to the proper taxing authority.

12. Representing, directly or by implication, that respondents' memberships in its social clubs are constituted of an equal number of men and women.

13. Representing, directly or by implication, that respondents' memberships may be transferred and/or sold.

14. Representing, directly or by implication, that respondents and/or their memberships contribute to or sponsor any charitable organization.

15. Failing to incorporate the following statement on the face of all contracts, notes, or other evidence of indebtedness executed by or on behalf of respondents' customers:

NOTICE

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

16. Assigning, selling or otherwise transferring respondents' notes, contracts or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract or other documents evidencing the indebtedness.

17. Contracting for any sale, which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of consummation of the transaction.

18. Failing to refund immediately all monies to customers who have requested contract cancellation in writing within three (3) days from the execution thereof.

Provided, That the prohibitions contained in Sections 15 through 18 above shall not apply in those instances when respondents do not own an interest in the business in question, or formulate, direct, control and/or manage its business acts and practices.

II

It is further ordered, That respondents, Cosmaw, Inc., a corporation, and its officers, and Waldo E. Brown, individually and as an officer of said corporation, and Lloyd C. McCord, individually and as a manager of said corporation, trading under said corporate name or trading or doing business under any other name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the consumer credit sale of memberships or services, or any other products or services, as "credit sale" is defined in Regulation Z (12 CFR, §226) of the Truth in Lending Act (Pub.L. 90-321, 15 U.S.C. 1601 *et seq.*), forthwith cease and desist from:

Decision and Order

80 F.T.C.

1. Failing to disclose the annual percentage rate, where and when required by Regulation Z to be used, to the nearest quarter of one (1%) percent, in accordance with Section 226.5(b)(1) of Regulation Z.

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

3. Failing to disclose the method of computing any unearned portion of the finance charge in the event of prepayment of the obligation, and further failing to disclose the amount or method of computation of any charge that may be deducted from the amount of any rebate to be credited to the obligation or refunded to the customer, as required by Section 226.8(b)(7) of Regulation Z.

4. Failing to use the term "cash price" to designate the cash price of the property or service which is the subject of the transaction, as required by Section 226.8(c)(1) of Regulation Z.

5. Failing to disclose the amount of any downpayment in money as the "cash downpayment," using that term, as required by Section 226.8(c)(2) of Regulation Z.

6. Failing to disclose the difference between the cash price and the cash downpayment, using the term "unpaid balance of cash price," as required by Section 226.8(c)(3) of Regulation Z.

7. Failing to disclose accurately the amount financed or failing to describe that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

8. Failing to disclose the finance charge accurately, computed in accordance with Section 226.4 of Regulation Z, as required by Section 226.8(c)(8)(i) of Regulation Z.

9. Failing to disclose accurately the amount of the deferred payment price or failing to describe that amount as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.

It is further ordered, That each and every customer who purchased a membership from Cosmaw, Inc., in the Metropolitan Kansas City area be notified in writing that:

1. Cosmaw, Inc., is a Nebraska corporation, and is not authorized to do business in the States of Missouri and Kansas.

2. The Retail Time Contracts and Promissory Notes executed in the States of Missouri and Kansas are not enforceable.

3. Educational Credit Bureau is not a holder in due course as concerns those Retail Time Contracts and Promissory Notes assigned to it by respondents. Educational Credit Bureau had knowledge or reason to know that Cosmaw, Inc., was a foreign corporation and that the Cosmaw, Inc., social club was not open and never did open for business at 3217 Broadway, Kansas City, Missouri.

It is further ordered, That respondents provide each and every person who purchased a membership in the Kansas City metropolitan area a true and correct copy of this cease and desist order.

It is further ordered, That respondents, Waldo E. Brown and Lloyd C. McCord, not engage in the promotion, advertisement, solicitation, and/or sale of any type of membership, until such time as full restitution of all monies has been made to those persons who purchased a Cosmaw, Inc., membership in the Cosmaw club, which was to have been operated at 3217 Broadway, Kansas City, Missouri.

It is further ordered, That respondents, Waldo E. Brown and Lloyd C. McCord, shall not act as an officer or director, or become an agent or employee of any corporation or partnership or other form of business engaged in the promotion, advertisement, or solicitation, and/or sale of any type of membership, until such time as full restitution of all monies has been made to each and every person who purchased a membership in Cosmaw, Inc., club, which was to be operated at 3217 Broadway, Kansas City, Missouri.

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

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

It is further ordered, That respondents deliver a copy of this order to cease and desist to all of their present and future personnel, engaged in the offering for sale, or sale of memberships, services, or any other products or services, or in the consummation of any extension of consumer credit in connection with said sales transactions, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.