IN THE MATTER OF

SHAKLEE CORPORATION

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

Docket C-2613. Complaint, Dec. 5, 1974 - Decision, Dec. 5, 1974

Consent order requiring an Emeryville, Calif., distributor of food supplements, cosmetic and bath, and household products, among other things to cease misrepresenting the nutritional value of its concentrated protein supplement; failing to include a disclosure notice in advertisements which warns against the use of the product by infants under 1 year of age without prior consultation with a physician; misrepresenting the nutritional content of its product; and furnishing means or instrumentalities of misrepresentation or deception to its distributors.

Appearances

For the Commission: *Harrison J. Sheppard, Robert B. Galler* and *Barry I. Miller.*

For the respondent: *L. G. Farren*, Emeryville, Calif.

COMPLAINT

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

PARAGRAPH 1. Respondent Shaklee Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 1900 Powell Street, Emeryville, Calif.

PAR. 2. Respondent is engaged in the advertising, offering for sale, and sale of food supplements, cosmetic and bath products, and household products. The products are manufactured by respondent or by others according to respondent's specifications, and are marketed through over 100,000 sales persons, who operate businesses designated "Distributorships," "Assistant Supervisorships" and "Supervisorships," located in all fifty states, and who sell to consumers at their homes and offices. In the course and conduct of the aforesaid business, respondent is now and for sometime past has been engaged in the publishing,

dissemination and distribution of advertisements, promotional materials and labels concerning the uses, purposes, utility, characteristics and effects of protein supplements, which come within the classification of food, as "food" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of its business, respondent has disseminated, and caused the dissemination of, certain advertisements, promotional literature and labels concerning its protein supplement, called "Instant Protein," by the United States mails, and has distributed its protein supplements for the purpose of purchase and consumption by consumers, from its place of business in the State of California to distributors in other States of the United States, and maintains and at all times mentioned herein has maintained a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act, and causes, and at all times mentioned herein has caused, the dissemination of advertisements by the United States mails, within the meaning of Sec. 12(a)(1) of the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, and for the purpose of inducing others to purchase said protein supplements, respondent has made, and is now making, directly or by implication, in advertisements which it causes to be placed in promotional brochures and labels, various statements and representations concerning said protein supplements. Typical and illustrative of such statements and representations are the following:

In addition - and mothers tell us this is one of the finest features - add SHAKLEE INSTANT PROTEIN to baby's food from the very first day solids are given. It is exceptionally digestible, and you can then be sure your baby's diet contains ALL of the essential amino acids necessary for sturdy growth and good health.

* * * * * * *

"PROTEIN POVERTY", according to eminent clinicians, may lead to a serious amino acid deficiency which often appears in those of teenage and those of advanced years. SHAKLEE INSTANT PROTEIN, due to its pleasant taste and conveniently drinkable form, is an ideal way to help eliminate such deficiency.

* * * * * * *

There are various reasons why one might be deficient in protein of high biological value. In older people, "PROTEIN POVERTY" may arise because of poor appetite, inability to properly digest heavy protein foods, loss of teeth or ill-fitting dentures that prevent proper mastication. Youngsters may be encouraging deficiency through careless eating habits. Regardless of the cause, a dietary evaluation of protein intake is in order.

* * * * * * *

An exclusive research formula, INSTANT PROTEIN was designed especially for those who have encountered "PROTEIN POVERTY." It is a scientific approach to the problem of helping to retard amino acid deficiency, so often a cause of "last wasting years".

* * * * * * *

Not all who are old in years are old in spirit and appearance. Some are full of life—full of energy and desire to accomplish their purpose. On the other hand, certain ones of advanced years are marked by symptoms which typify old age. Why is this? What is the underlying cause? It may lie in living habits, lack of interest in hobbies, etc.—but it may also be aggravated by prolonged and complex deficiencies of protein, vitamins and minerals.

* * * * * * *

For optimum nutrition during childhood—during the prime of life—in the twilight years—your body needs ALL of the essential amino acids for repair and maintenance. It will get them from only one source: the food you eat. Your present and your future are up to you.

ONE OUNCE PER DAY
(approx. three tablespoonfuls)
as a dietary supplement supplies

			MDR*	
		Adult	6-12 Years	1-6 Years
Protein (96.6% Dry Basis)	15 grams			
LECITHIN	1.3 grams			
Vitamin B-1, primary grown yeast	2.0 mg.	200%	266%	400%
Vitamin B-2, primary grown yeast	2.0 mg.	166%	222%	222%
Vitamin B-6, primary grown yeast	0.5 mg.	**	**	**
Niacin, primary grown yeast	10.0 mg.	100%	133%	200%
Pantothenic Acid, primary grown yeast	2.0 mg.	**	**	**
Calcium	500.0 mg.	67%	67%	67%
Phosphorus	250.0 mg.	33%	33%	33%
Iron	12.0 mg.	120%	120%	160%

*Minimum Daily Requirement

**Minimum Daily Requirement (MDR) has not been established

The protein ingredient of one ounce of Instant Protein w/ Cocoa Bean provides approximately the following amounts of the essential amino acids:

Methionine	135 mg.
Isoleucine	690 mg.
Leucine	1170 mg.
Phenylalanine	780 mg.
Lysine	855 mg.
Threonine	540 mg.
Tryptophan	165 mg.
Valine	675 mg.

Complaint

Ingredients: Soy protein isolate, washed raw sugar, cocoa bean powder, lecithin, calcium carbonate, tricalcium phosphate, calcium carrageenan, primary grown yeast, ferrous fumarate natural flavors.

Calories per tablespoon 37

SHAKLEE INSTANT PROTEIN w/ Cocoa Bean is a biologically complete protein drink that is especially compounded from soy-bean lecithin minerals and vitamins.

DIRECTIONS: to a glass of milk, add Instant Protein w/ Cocoa Bean to taste. Stir and serve. Use a blender to create a wide variety of beverages. Whirled with ice cream or yogurt, Instant Protein w/ Cocoa Bean creates a delicious variety of nutritious beverages.

Dist. by Shaklee Marketing Corp. Hayward, CA 94540 Made in U.S.A.

Exhibit 2

SHAKLEE

THE NAME THAT IS THE STAMP OF QUALITY

INSTANT PROTEIN

with powdered
COCOA BEAN
Lecithin, Vitamins and
Minerals

A flavorful drink for young and old!

NET WT. 36 OZ.
(2lb.4 oz.)
1.02 kg

PAR. 5. Through the use of said advertisements and labels and others similar thereto not specifically set out herein, disseminated as aforesaid, respondent has represented and is now representing, directly and by implication, that:

1. The addition of one ounce per day of "Instant Protein" to supplement the normal diet of infants in the United States from the first day such infants take solid foods is desirable or recommended for sturdy growth and good health.

2. "Instant Protein" is 96.6 percent protein.

3. Health problems of the elderly including but not limited to those involving lack of energy and lack of desire to accomplish goals can be alleviated by consumption of "Instant Protein."

PAR. 6. In truth and in fact:

1. Without medical authorization, the addition of a concentrated protein product such as "Instant Protein," in the amount of one ounce per day to the normal diet of infants under the age of one year, and particularly those who are dehydrated, can cause serious adverse effects, such as fever or serious illness.

2. "Instant Protein" contains substantially less than 96.6 percent protein.

3. Health problems of the elderly including but not limited to those involving a lack of energy and desire to accomplish goals, cannot be alleviated by consumption of a concentrated protein product such as "Instant Protein." Such problems are clinical in nature and should properly be diagnosed and treated by a physician.

PAR. 7. Furthermore, respondent deceptively failed to disclose, in advertising directed toward the elderly, that a concentrated protein product such as "Instant Protein," can be detrimental to those persons, most specifically the elderly, suffering from liver or kidney dysfunction.

PAR. 8. Therefore, the statements, representations, and failures to disclose material facts in said advertisements, promotional materials, and labels referred to in Paragraph Four were and are false, misleading, and deceptive in material respects and constituted, and now constitute, "false advertisements," as that term is defined in the Federal Trade Commission Act, and the statements, representations, and failures to disclose material facts as set forth in Paragraphs Five, Six, and Seven were, and are, false, misleading, and deceptive acts or practices.

PAR. 9. In the course and conduct of its business, and at all times mentioned herein, respondent has been, and now is, in substantial competition, in commerce, with corporations, firms, and individuals in the sale of protein supplements.

PAR. 10. The use by respondent of the aforesaid false, misleading, and deceptive statements, representations and practices, and its 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, into the purchase of substantial quantities of said products by reason of said erroneous and mistaken belief, and into taking unnecessary risks with respect to their health and well-being and that of others.

PAR. 11. The respondent's acts and practices alleged herein are to the prejudice and injury of the purchasing public, and to respondent's competitors, and constitute unfair methods of competition in commerce, and unfair and deceptive acts or practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

1. Proposed respondent Shaklee Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 1900 Powell Street, Emeryville, Calif.

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

ORDER

For purposes of this order, the term "Instant Protein" refers to the product of that name presently marketed by respondent and any other concentrated protein product for infant use.

For purposes of this order, a "concentrated protein product for infant use" is any protein food product marketed for general public or family use which (a) contains ten or more grams of protein per ounce in the form in which it is sold at retail and (b) is readily ingestible by infants one year of age or less (when taken as is or when added to water, juice, or milk) in quantities sufficient to provide at least fifty percent of the infant's daily protein needs (RDA).

It is ordered, That respondent Shaklee Corporation, a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, or through its distributors or franchisees, if any, in connection with advertising and labeling, offering for sale, or sale of "Instant Protein," in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that, in the absence of medical authorization "Instant Protein" should be added to the diets of infants under one year of age.

B. Failing to disclose the following warning clearly and conspiciously, *verbatim* on the label of "Instant Protein:"

NOTICE: Should not be used by infants under one year of age without consulting a physician.

For purposes of this order, the above notice shall be deemed to be clear and conspicuous if the smallest letter of the notice is no smaller than one-sixteenth of an inch and the notice is in no way obscured by background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

C. Failing to disclose for a period of two years from the effective date of this order, the following warning clearly and conspicuously (in print of a size and type no less prominent than the majority of the text of the document in which it is required to be contained), *verbatim*, in any advertising and promotional materials (excluding labels) for "Instant Protein," excepting only those advertisements or promotional materials whose text relating to "Instant Protein" is

limited to the name and price of the product and a general description of the product of no more than one sentence or phrase:

NOTICE: Should not be used by infants under one year of age or persons with liver or kidney diseases without consulting a physician;

Provided, however, That the words "or persons with liver or kidney diseases" may be omitted unless the particular advertising or promotional material is directed in whole or in part, directly or by implication, toward promoting the use of "Instant Protein" by the elderly as a specific consumer age group; and *Provided further,* That, in any advertisement or promotional material (other than the kinds of limited advertising previously referred to in this paragraph of this order) consisting of no more than four sentences of text relating to "Instant Protein," and not directed, explicitly or by implication, to infants, young children or the elderly as users of the product, the notice may be limited to the following:

Use as directed by label.

D. Misrepresenting in any manner the percentage of protein in "Instant Protein."

E. Representing, directly or by implication, that health problems of the elderly, including but not limited to those involving lack of energy and desire to accomplish goals, can be alleviated by consumption of "Instant Protein;" *Provided, however,* That this provision shall not bar the representation that the use of "Instant Protein" may be helpful in combating protein deficiency in the elderly.

It is further ordered, That:

F. Respondent, which has heretofore recalled its IP-14 leaflet advertising "Instant Protein," take any and all actions necessary and available to it to obtain the return to it of all copies, if any, of said leaflet remaining in the possession of its distributors of which respondent's officers or counsel have or obtain actual knowledge.

G. Respondent shall not be in violation of this order as the result of actions of its distributors or franchisees, if any, unless respondent's officers or counsel obtain actual knowledge that an act, which would otherwise be a violation by the respondent of the other provisions of this order, has been committed by such distributor or franchisee and respondent has failed within a reasonable period to take such action as respondent deems appropriate to cause such acts to be terminated; *Provided,* That respondent shall be in violation of this order if respondent's officers or counsel obtain actual knowledge that an act which would otherwise be a violation by the

respondent of the other provisions of this order has been committed on more than one occasion (at least one of which occasions having occurred after respondent took appropriate action under the preceding clause) by such distributor or franchisee and respondent has failed within a reasonable period to take any and all actions, including but not limited to termination of such distributor or franchisee, necessary and available to it to cause such acts to be terminated.

H. Respondent shall be in compliance with any provision of this order which is the subject of any of the provisions of a Trade Regulation Rule hereafter adopted by the Commission regulating the advertising or labelling of concentrated protein products such as "Instant Protein," if respondent is in compliance with such provisions of such Trade Regulation Rule.

I. Respondent shall forthwith cease and desist from furnishing distributors or others with any means, instrumentalities, directions or instructions whereby the public may be misled or deceived as to any of the matters or things prohibited by this order.

J. Respondent shall notify the Commission at least 30 days prior to any proposed change in the respondent corporation 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.

K. Respondent shall forthwith distribute (1) a copy of this order to each of its operating divisions; and (2) a notice to each of its distributors and franchisees, if any, notifying them of the provisions of Paragraphs A, D, E and G of this order.

L. Respondent shall within sixty (60) days after service upon it of this order file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

BEATRICE MAGGIE EDWARDS TRADING AS NEW FACES

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF SECS. 5 & 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2609. Complaint, Dec. 9, 1974—Decision, Dec. 9, 1974

Consent order requiring an Atlanta, Ga., promoter of a medical process involving the use of certain caustic chemical solutions on the face or body for the removal of wrinkles and blemishes, among other things to cease misrepresenting the nature, safety and results of its skin peeling process. Further, respondent is required to have prospective customers consult a physician prior to signing any contracts and to allow customers who have signed a contract, 48 hours in which to cancel the contract with full refund rights. Further, respondents must devote 15 percent of its advertising and oral sales presentation to disclosures of the inherent dangers and other material facts involved with the treatment.

Appearances

For the Commission: *Robert L. Osteen, Jr.*

For the respondent: *Raymond Alhadeff*, Atlanta, Ga.

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 Beatrice Maggie Edwards, an individual trading and doing business as New Faces, hereinafter referred to as the respondent, has violated Sections 5 and 12 of said Act, and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Beatrice Maggie Edwards, is an individual trading and doing business as New Faces, with her office and principal place of business located at 1459 Peachtree Street, N.E., Atlanta, Ga.

Beatrice Maggie Edwards formulates, directs and controls the policies, acts and practices of her business, New Faces, including the acts and practices hereinafter set forth. She resides at 1700 Henderson Avenue, Long Beach, Calif.

PAR. 2. Respondent advertises, offers for sale and sells to the general public a medical process called the New Faces treatment, hereinafter sometimes referred to as the respondent's treatment, which involves

the application of a certain caustic chemical solution to the face, or various other parts of the bodies of her clients for the purported purpose of removing or diminishing manifestations of aging such as wrinkles, lines, folds and spots and undesirable features such as blemishes, large pores, and acne marks by peeling the upper layers of skin from the treated areas. After the solution is applied to the patient's skin, bandages are then applied to the treated areas and are allowed to remain for several days; after which time, the bandages are removed and the upper layers of skin, destroyed by the process, are peeled away.

PAR. 3. Respondent's medical treatment constitutes either a drug or a cosmetic, or both, as defined in Section 15(c) and (e) of the Federal Trade Commission Act, 15 U.S.C. Section 55(c) and (e).

PAR. 4. In the course and conduct of her business as aforesaid, respondent advertises in newspapers of general circulation which are distributed by mail in states other than the state in which they are printed. In addition, advertising materials, contracts and agreements, business correspondence, monies and other documents travel by mail between respondent's place of business in Georgia and patients in other states of the United States. By virtue of these activities, respondent has maintained a substantial business in commerce, as "commerce" is used in Section 5 of the Federal Trade Commission Act. Also, respondent has disseminated and caused to be disseminated advertisements by United States mails, and in commerce by other means, within the meaning of Section 12(a)(1) of the Federal Trade Commission Act, 15 U.S.C. Section 52(a)(1). Further, respondent's advertisements have the purpose of inducing, or are likely to induce, directly or indirectly, the purchase in commerce of the New Faces treatment, within the meaning of Section 12(a)(2) of said Act, 15 U.S.C., Section 52(a)(2).

PAR. 5. In the course and conduct of her business, and for the purpose of inducing the purchase of her New Faces treatment, respondent has made and is now making numerous statements and representations in advertisements in newspapers of general circulation, in other promotional materials and during oral sales presentations. In the said advertising during the oral sales presentations, and at other times the respondent has represented and is now representing directly or by implication that:

1. Respondent's treatment is merely a cosmetic process and is not medical or surgical in nature.

2. Respondent's treatment is generally painless and involves no abrasives or caustic chemicals.

3. The potential discomfort possibly resulting from respondent's treatment is no more severe than that normally associated with a sunburn.

4. The application of the respondent's treatment is a safe procedure free from possible serious side effects or complications.

5. Respondent's treatment will eliminate or significantly diminish acne marks, big pores, deep lines, deep wrinkles and sagging or redundant folds of skin.

6. Respondent's treatment will produce or result in new, soft, fresh, clear, healthy, fine-textured skin.

7. Respondent's treatment is clinically recommended or can be beneficial to all kinds of people.

8. Respondent is competently trained and qualified to: (a) examine, advise, and mentally prepare patients to undergo the treatment; (b) determine whether each patient is a proper subject for treatment; (c) administer or perform treatment without the direction and supervision of a licensed medical practitioner; and (d) provide post-operative advice and care for patients.

9. Respondent's treatment is complete in ten (10) days.

10. As a result of respondent's treatment, patients will appear 15 years younger than their chronological age.

11. Respondent represents that the treatment is unique, that the process is new or special, that it involves a secret formula, that it is available only through the respondent, and that these factors justify the high price of the treatment.

PAR. 6. In truth and in fact:

1. The treatment involves application of a caustic chemical solution (containing phenol, also known as carbolic acid) to the skin, causing a second-degree burn which peels off the outer layers of the skin and produces a change in skin appearance solely by the body's own wound-healing processes. This treatment is known as chemosurgery and is a serious medical procedure.

2. The treatment involves caustic chemicals and creams which burn the upper layers of skin to create peeling and is in fact painful in many cases.

3. The pain associated with the said treatment can be so severe that respondent's patients are always sedated or anesthetized during the application of acid and may require medication for days, weeks, or months afterward to reduce pain and other discomforts, such as itching and burning. During the treatment, many patients experience such discomforts as the eyes swelling shut and difficulties breathing and swallowing.

4. The treatment has a number of inherent dangers to the human body:

(a) Systemic toxic reaction (poisoning). The chemical used in the New Faces treatment, phenol, is toxic to kidneys, liver, and other organs of the body when present in sufficient quantities. Phenol can be absorbed through the skin during the treatment in quantities sufficient to cause serious and even fatal illness in some people. Persons with kidney infections are particularly susceptible to adverse phenol reaction.

(b) Infection. Like any other serious burn covering a large surface of the body, the danger of infection through the burned area is ever present during the process and for some time afterward. The "powder mask," worn for over a week after the initial treatment is in reality a medical step to attempt to prevent infection.

(c) The eyes. If the acid gets in a patient's eyes, serious permanent damage can result, including blindness; therefore, a great deal of medical skill is required and adequate precautions must be taken to prevent such an occurrence and minimize the harm if this does happen.

(d) Other systemic complications. Since phenol skin-peeling is a serious, traumatic medical procedure and involves use of sedatives and other medications, clients are exposed to numerous other dangers, including heart disease and allergic reactions, which accompany procedures of this type. If patients are not properly prepared, physically, mentally and emotionally, with special emphasis on full disclosure of all that the process entails, these dangers are heightened and the prospects for improvement diminished.

5. Only certain limited conditions, such as fine lines and some skin blemishes, can be affected by the process, and only in carefully selected persons. Acne scars, big pores, deep lines, deep wrinkles, and sagging or redundant folds of skin are not eliminated or significantly diminished by the treatment.

6. As a result of the treatment, a number of undesirable changes in the skin may occur, necessitating the continual use of cosmetics or medical techniques to protect the skin, or treat or camouflage its condition, including but not limited to:

(a) Scarring. Various types of visible scars may appear after the treatment and remain indefinitely.

(b) Pigmentation changes. The treatment almost always produces changes in the color of the treated area, which may persist indefinitely, such as a lighter overall color, mottling (dark areas alternating with light areas), and lines of demarcation between treated and untreated areas.

(c) Redness. The extreme redness of the skin, which occurs mainly during the healing process, may persist for a long time. Also, there may be a tendency, persisting indefinitely, for the treated skin to flush (suddenly appear red) during times of overheating, overexertion or emotional stress.

(d) Sensitivity to sunlight. During the healing process and for an indefinite period afterward, the treated skin may react abnormally to exposure to sunlight, including severe sunburn, mottling, and other pigmentation changes.

(e) Other skin reactions. The treated skin may be affected by other problems associated with the traumatic impact of chemical skin-peeling, such as increased or coarsened hair growth requiring further medical attention.

7. Favorable results cannot be achieved unless rigorous criteria for patient selection are followed, including but not limited to:

(a) Sex. Most men should not undergo the treatment because of difficulties associated with beard growth and the necessity for wearing cosmetics to protect the skin and camouflage its condition. Yet respondent does perform the treatment on men.

(b) Age. A young person whose skin has not matured should not go through the treatment nor should an elderly person who cannot stand the physical strain.

(c) Type of skin. The treatment should only be performed on certain limited types of skin, and definitely not on dark-skinned persons because of the probability of drastic pigmentation changes.

(d) Other factors. People who are not in the proper physical, mental, and emotional health should not undergo this treatment.

8. Because of its serious medical nature, the respondent, who is not professionally trained or licensed, is not qualified to deal with the complex physical, mental, and emotional factors involved in the treatment.

9. A period lasting weeks or months, the duration of which cannot be accurately predicted, is required before the skin is healed. During this time, a treated person has an extremely red face, may suffer various discomforts, and must restrict public activities, avoid direct or reflected sunlight and use heavy cosmetics to shield and camouflage the skin.

10. Treated persons cannot reasonably expect that their appearance will be altered by more than a year or two from their actual chronological age, even with the best results obtained by a professional plastic surgeon.

11. There is nothing unique about the respondent's treatment. The process is not new or secret, but is performed by qualified plastic

surgeons under more closely controlled hospital conditions in metropolitan areas across the country for a fraction of the respondent's price. Therefore, representations referred to in Paragraph Five are false, misleading and deceptive.

PAR. 7. In the course and conduct of her business, respondent, directly or through agents, has represented in advertisements, during oral sales presentations, and at other times and places, the asserted advantages of her treatment, as hereinbefore described. In no case has respondent disclosed:

1. The treatment is chemical skin-peeling, a serious medical procedure known as chemosurgery.

2. The treatment involves the application of an acid called phenol to the skin, causing a second-degree burn which peels off the outer layers of the skin and produces a change in skin appearance solely by the body's own wound-healing reactions.

3. The pain associated with the treatment can be very severe; thus patients are sedated or anesthetized during the application of acid. This pain, as well as other discomforts, such as burning, itching, and swollen shut eyes, may persist for days or weeks afterward, requiring medication to control.

4. The treatment has a number of known inherent dangers, including: (a) poisoning of a person's entire system by the acid absorbed through the skin, which can be a serious, even fatal illness; (b) infection; (c) blindness, if the acid gets into a patient's eyes; (d) permanent scarring; and (e) other complications resulting from the traumatic nature of the procedure or the medications used.

5. A number of undesirable changes in the skin result from chemical skin-peeling, necessitating the continual use of cosmetics or medical techniques to protect, treat, or camouflage the skin. These may include: (a) permanent scarring; (b) changes in overall color of the treated area; (c) mottling; (d) a line of demarcation at the edge of the treated area; (e) extreme redness; (f) abnormal sensitivity to sunlight; (g) and other traumatic skin reactions.

6. The most common sign of aging in the neck area, which is a stringy or "turkey-neck" condition of the skin and underlying tissues, is not improved by chemical skin-peeling.

7. Almost all plastic surgeons refuse to perform chemical skin-peeling on the neck because the neck is not likely to be improved by the process and is more likely to be worsened since the risks of undesirable side effects and skin changes described above are greater.

8. Only minor aspects of skin appearance, such as fine wrinkles and some skin blemishes, can be treated by the process.

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9. Acne scars, big pores, deep lines, deep wrinkles, and sagging or redundant folds of skin are not removed or significantly reduced by the process, yet some of these conditions may be improved by other techniques of plastic surgery, such as dermabrasion or surgical face-lift.

10. Most men are not advised to undergo the process because of difficulties associated with beard growth and the necessity for continual use of cosmetics.

11. A young person whose skin has not matured should not undergo the process, because of the risk of permanent skin damage.

12. Dark-skinned persons should not undergo the process because of the probability of drastic pigmentation changes.

13. Only certain kinds of people with certain types of skin have a reasonable chance of receiving favorable results and avoiding adverse effects from chemical skin-peeling, and only a licensed medical practitioner familiar with such techniques of plastic surgery and able to evaluate complex physical, mental and emotional factors is qualified to examine, diagnose, advise, select, or mentally prepare patients for chemical skin-peeling, and only such a professional person can provide post-operative advice and care for patients.

14. Although a treatment of this serious nature is usually performed in a hospital, respondent only maintains space in her office for each patient's treatment and recuperation.

15. It may be weeks or months after the treatment before the skin is healed, during which time a treated person has an extremely red face, may suffer various discomforts, and must restrict public activities, avoid direct or reflected sunlight and use heavy cosmetics and sun screens.

16. If a more youthful appearance is achieved through the treatment, the result may not last more than a year or two, since part of the benefit is due to temporary swelling and since the natural aging processes begin all over again after the treatment.

17. Chemical skin-peeling is available from qualified plastic surgeons under closely controlled hospital conditions in metropolitan areas across the country at substantially lower cost.

The disadvantages, consequences and dangers described in the above paragraph have occurred or existed, or to a reasonable medical certainty can be expected to occur or exist, and respondent knew, or had reason to know, that they could be expected to occur or exist.

Therefore, the failure to disclose the material facts referred to in Paragraph Seven is false and misleading and the acts and practices referred to in said paragraph are unfair and deceptive.

PAR. 8. In the course and conduct of her business, the respondent has been, and is now, using persons other than a licensed medical practitioner who is familiar with techniques of plastic surgery, who is operating within the limits of his or her profession, and who is qualified to evaluate complex physical, mental and emotional factors, to examine, diagnose, advise, select, or mentally prepare prospective patients for her treatment, to administer or apply the treatment without supervision or direction, or to provide post-operative advice or care for them.
The use by the respondent of the aforesaid practices is an unfair act or practice and an act of unfair competition within the intent and meaning of Section 5 of the Federal Trade Commission Act.

PAR. 9. Therefore the advertisements, representations, acts and practices referred to hereinabove are false, misleading, unfair and deceptive.

PAR. 10. The use by respondent of the aforesaid false, misleading, unfair and deceptive representations, acts and practices has the capacity and tendency to mislead consumers into the mistaken belief that said representations are true and to unfairly influence consumers, with the result that consumers are induced to undergo the New Faces treatment and be subjected to severe pain, discomfort, inconvenience of traveling, exorbitant charges, and risks of disease or disfigurement, without being afforded reasonable opportunity to comprehend and consider the seriousness of the treatment or to compare facial improvement treatments available from other sources under more closely controlled medical conditions, at lower prices.

PAR. 11. The respondent's acts and practices alleged herein, including the dissemination of false advertisements, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the 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 Beatrice Maggie Edwards is an individual trading and doing business as New Faces, with her office and principal place of business located at 1459 Peachtree Street, N.E., Atlanta, Ga.

Respondent Beatrice Maggie Edwards formulates, directs and controls the policies, acts and practices of her business, New Faces, and she resides at 1700 Henderson Avenue, Long Beach, Calif.

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

ORDER

I

It is ordered, That respondent Beatrice Maggie Edwards, an individual trading and doing business as New Faces, her successors or assigns and respondent's agents, representatives and employees, either directly or through any corporate or other device, or through any franchisees or licensees, in connection with the advertising, offering for sale, sale, or dispensing of the New Faces treatment (hereinafter sometimes referred to as respondent's treatment) or any similar cosmetic chemosurgical process of face lifting or skin peeling, which involves the topical application of a caustic chemical solution containing carbolic acid (also known as phenol) or other substances on the face, neck, arms, hands or other parts of the human body for the purpose of inducing superficial skin burns, the result of which is the peeling or removal of the outer layers of skin, in commerce, as "commerce" is defined in the Federal Trade Commission Act, or by the United States mails within the mean-

ing of Section 12(a)(1) of the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing directly or by implication that:

1. Respondent's treatment or process is solely a cosmetic process, not a medical process, or does not involve chemical surgery.

2. Respondent's treatment or process is painless or involves no abrasives or caustic chemicals.

3. The potential discomfort possibly resulting from the application of respondent's treatment or process is no more severe than that normally associated with a sunburn.

4. Respondent's treatment is safe or free from possible serious side effects or complications.

5. Respondent's treatment or process will remove or significantly reduce acne scars, big pores, deep lines, deep wrinkles, or sagging, redundant folds of skin.

6. Respondent's treatment will produce or result in new, soft, fresh, clear, healthy, fine textured skin.

7. Respondent's process can be clinically recommended to or safely or successfully performed on men, young people, elderly people, or dark-skinned people.

8. Respondent is competently trained and qualified to: (a) examine, advise, and mentally prepare patients to undergo the treatment; (b) determine whether each patient is a proper subject for treatment; (c) administer or perform treatment without direction and supervision of a licensed medical practitioner; and (d) provide post-operative advice and care for patients.

9. Respondent's treatment is complete within any specified period of time.

10. Respondent's treatment will cause clients to appear any specified number of years younger than their actual chronological age.

11. Respondent's process is unique, new or special in the following or other ways:

(a) That it involves a secret formula or secret solution;

(b) That it or similar processes are only available through respondent;

(c) That it is not available through qualified plastic surgeons under more closely controlled hospital conditions in metropolitan areas across the country at a substantially lower cost.

B. Failing or refusing to make clear and conspicuous disclosures in all advertising and in all oral sales presentations, that:

1. The treatment is chemical skin-peeling, a serious medical procedure known as chemosurgery.

2. The treatment involves the application of an acid called phenol to the skin, causing a second-degree burn which peels off the outer layers of the skin and produces a change in skin appearance solely by the body's own wound-healing reactions.

3. The pain associated with the treatment can be very severe; thus patients are sedated or anesthetized during the application of acid. This pain, as well as other discomforts, such as burning, itching, and swollen shut eyes, may persist for days or weeks afterward, requiring medication to control.

4. The treatment has a number of known inherent dangers, including: (a) poisoning of a person's entire system by the acid absorbed through the skin, which can be a serious, even fatal illness; (b) infection; (c) blindness, if the acid gets into a patient's eyes; (d) permanent scarring; and (e) other complications resulting from the traumatic nature of the procedure or the medications used.

5. A number of undesirable changes in the skin result from chemical skin-peeling, necessitating the continual use of cosmetics or medical techniques to protect, treat, or camouflage the skin. These may include: (a) permanent scarring; (b) changes in overall color of the treated area; (c) mottling; (d) a line of demarcation at the edge of the treated area; (e) extreme redness; (f) abnormal sensitivity to sunlight; (g) and other traumatic skin reactions.

6. The most common sign of aging in the neck area, which is a stringy or "turkey-neck" condition of the skin and underlying tissues, is not improved by chemical skin-peeling.

7. Almost all plastic surgeons refuse to perform chemical skin-peeling on the neck because the neck is not likely to be improved by the process and is more likely to be worsened since the risks of undesirable side effects and skin changes described above are greater.

8. Only minor aspects of skin appearance, such as fine wrinkles and some skin blemishes, can be treated by the process.

9. Acne scars, big pores, deep lines, deep wrinkles, and sagging or redundant folds of skin are not removed or significantly reduced by the process, yet some of these conditions may be improved by other techniques of plastic surgery, such as dermabrasion or surgical face-lift.

10. Most men are not advised to undergo the process because of difficulties associated with beard growth and the necessity for continual use of cosmetics.

11. A young person whose skin has not matured should not undergo the process, because of the risk of permanent skin damage.

12. Dark-skinned persons should not undergo the process because of the probability of drastic pigmentation changes.

13. Only certain kinds of people with certain types of skin have a reasonable chance of receiving favorable results and avoiding adverse effects from chemical skin-peeling, and only a licensed medical practitioner familiar with such techniques of plastic surgery and able to evaluate complex physical, mental and emotional factors is qualified to examine, diagnose, advise, select, or mentally prepare patients for chemical skin-peeling, and only such a professional person can provide post-operative advice and care for patients.

14. Although a treatment of this serious nature is usually performed in a hospital, respondent only maintains space in her office for each patient's treatment and recuperation.

15. It may be weeks or months after the treatment before the skin is healed, during which time a treated person has an extremely red face, may suffer various discomforts, and must restrict public activities, avoid direct or reflected sunlight and use heavy cosmetics and sun screens.

16. If a more youthful appearance is achieved through the treatment, the result may not last more than a year or two, since part of the benefit is due to temporary swelling and since the natural aging processes begin all over again after the treatment.

17. Chemical skin-peeling is available from qualified plastic surgeons under closely controlled hospital conditions in metropolitan areas across the country at substantially lower costs.

Respondent shall set forth the above disclosures separately and conspicuously from the balance of each advertisement and each presentation used in connection with the advertising, offering for sale, sale, or dispensing of respondent's cosmetic process, and shall devote no less than fifteen percent of each advertisement or presentation to such disclosures. Provided however, that in advertisements which consist of less than forty-eight column inches in newspapers or periodicals, and in radio or television advertisements with a running time of two minutes or less, respondent may substitute the following statement, in lieu of the above requirements:

WARNING: This is a medical procedure—basically a chemical burn which peels skin away. It is extremely painful, takes a long time to heal, and exposes a person to risks of poisoning, infection, permanent scarring, and other medical complications. If performed on the neck, the process may make it look worse. Many signs of aging are not improved by this process, and the benefit, if any, is mainly temporary. Only certain kinds of people can benefit from this process, and they should be diagnosed, selected, treated, and continually cared for by a qualified doctor under closely controlled medical conditions. (Statement required by order of the Federal Trade Commission.)

Respondent shall set forth the above disclosure separately and conspicuously from the balance of each advertisement, stating nothing to the contrary or in mitigation thereof, and shall devote no less than fifteen percent of each advertisement to such disclosure, and if such disclosure is made in print, it shall be in at least eleven-point type.

II

It is further ordered, That respondent:

1. Recall and retrieve, from each and every licensee and sales representative, all advertisements and materials upon which advertisements or oral sales presentations are based, which contain any of the representations prohibited by Paragraph I(A) of this order or which fail to make the disclosures required by Paragraph I(B).

2. Deliver a copy of this order to each present and future franchisee, licensee, and sales representative, and to each licensed medical practitioner associated with respondent or her licensees; and obtain a written acknowledgement from each of the receipt thereof.

3. Obtain from each present and future franchisee, licensee, or sales representative an agreement in writing (a) to abide by the terms of this order, and (b) to the cancellation of their license or franchise for failure to do so; and that respondent cancel the license or franchise of any licensee or franchisee that fails to abide by the terms of this order.

III

It is further ordered, That respondent:

1. Provide prospective and present patients, as soon as possible after initial sales contact is made with such person and before such person signs any document relating to respondent's process, an information sheet which shall be furnished to the prospective patient and which contains nothing but the disclosures, numbered 1 to 17, set forth in Paragraph I(B). Respondent shall allow these persons ample, uninterrupted opportunity to read and consider the contents of this information sheet. Respondent shall retain a copy of this information sheet, after it is signed and dated by the person, for a period of two years.

2. Require that each such prospective patient, after receipt of the information sheet described above and before he or she signs any contract for respondent's treatment, consult with a licensed physician, who is not in any way associated with or recommended by the respondent, regarding the nature of chemical skin-peeling, its dangers, discomforts, limitations, and alternatives. Respondent shall obtain from each prospective patient a certificate, signed by the physician who was thus consulted, specifying that the physician:

a. Understands what respondent's treatment is and the conditions under which it will be performed;

b. Has explained to the prospective patient the nature of the treatment, its dangers, discomforts, limitations, and alternatives;

c. Has conducted or has examined the results of tests appropriate to determine prospective patient's physical fitness to undergo respondent's treatment and has discussed these results with the prospective patient; and

d. Has reviewed appropriate aspects of the prospective patient's medical history and has discussed these aspects with the prospective patient.

This certificate shall specify the date and approximate time of the consultation, and respondent shall retain all such certificates for three years.

IV

It is further ordered, That no contract for respondent's process shall become binding on the patient prior to forty-eight hours after the patient has consulted with the physician who will direct and supervise the performing of the treatment and inspected and approved the treatment and recuperation facilities, and that:

1. Respondent shall clearly and conspicuously disclose, orally prior to the time of sale, and in writing on any contract, promissory note or other instrument signed by the patient, that the purchaser may rescind or cancel any obligation incurred, with return of all monies paid, by mailing or delivering a notice of cancellation to the respondent's place of business prior to the end of this period.

2. Respondent shall provide a separate and clearly understandable form which the purchaser may use as a notice of cancellation.

3. Respondent shall return to such patient, within forty-eight hours after receipt of notice of cancellation, all monies paid.

4. Respondent shall not negotiate any contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to the time the patient is treated.

V

It is further ordered, That respondent cease and desist from the following unfair practice:

> Failing or refusing to use a licensed medical practitioner, who is familiar with such techniques of plastic surgery, who is operating within the limits of his or her profession, and who is qualified to evaluate complex physical, mental and emotional factors, to examine, diagnose, advise, select, or mentally prepare all prospective patients for chemical skin-peeling, to supervise and direct all administrations or applications of the treatment, and to provide post-operative advice or care for all such patients.

VI

It is further ordered, That respondent maintain at all times in the future, for a period of not less than three (3) years, complete business records relative to the manner and form of her continuing compliance with the above terms and provisions of this order.

VII

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

VIII

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

IX

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

X

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

IN THE MATTER OF

A. R. KNITWEAR CO., INC., ET AL.

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

Docket C-2610. Complaint, Dec. 9, 1974—Decision, Dec. 9, 1974

Consent order requiring a New York City manufacturer and distributor of textile fiber products, among other things to cease failing to affix labels containing disclosures as to the proper care and washing instructions for its wearing apparel.

Appearances

For the Commission: *James Manos.*
For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that A. R. Knitwear Co., Inc., a corporation, and Abe Rosenbluth and Rose Rosenbluth, individually and as officers of A. R. Knitwear Co., Inc., hereinafter referred to as respondents, have engaged in acts and practices that are not in conformance with the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) and by these and other means have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent A. R. Knitwear Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Abe Rosenbluth and Rose Rosenbluth are officers of the corporate respondent. They formulate, direct and control the poli-

cies, acts and practices of the said corporate respondent including those hereinafter set forth.

Respondents' office and principal place of business is located at 54 Canal Street, New York, N. Y.

PAR. 2. Respondents are manufacturers and distributors of textile products in the form of finished articles of wearing apparel as the terms "textile product" and "finished article of wearing apparel" are defined in the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423). Among said articles of wearing apparel manufactured and distributed by the respondents are ladies' sweaters.

PAR. 3. In the course and conduct of respondents' business as aforesaid, respondents cause, and for some time last past have caused, their finished articles of wearing apparel, when sold, to be shipped from their state of origin or distribution to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. On Dec. 9, 1971, after due notice and hearing, the Commission promulgated, effective July 3, 1972, its Trade Regulation Rule Relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) requiring that certain finished articles of wearing apparel shall have a label or tag permanently affixed or attached thereto which fully informs the purchaser as to instructions for the regular care and maintenance of said articles.

PAR. 5. In the course and conduct of their aforesaid business, respondents have attached to their said finished articles of wearing apparel labels with instructions for the care and maintenance of said apparel as follows:

MACHINE WASH WARM TUMBLE DRY MEDIUM.

PAR. 6. When the aforesaid articles of wearing apparel are washed and dried in accordance with the instructions described in "Paragraph Five" above, excessive shrinkage results, and, further, when any of the aforesaid wearing apparel is washed with other articles the dye in said apparel "runs" or "bleeds" onto, and stains the other articles. Through the failure of the respondents to provide instructions which when followed would prevent excessive shrinkage and which would inform purchasers to wash said wearing apparel separately, respondents thereby have failed to affix labels which fully inform purchasers how to effect the regular care and maintenance of said apparel.

PAR. 7. The aforesaid acts and practices of respondents, as alleged, are not in conformance with the provisions and requirements of the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), and thereby constituted and now constitute unfair methods of competition, and unfair and deceptive acts and practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

1. Respondent, A. R. Knitwear Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 54 Canal Street, New York, N. Y.

Respondents Abe Rosenbluth and Rose Rosenbluth are officers and individuals of said corporation. They formulate, direct and control the policies, acts and practices of the corporate respondent including those hereinafter referred to. The office and principal place of business of

proposed respondents Abe Rosenbluth and Rose Rosenbluth is the same as the corporate respondent.

Respondents are engaged in the business of manufacturing and distributing textile products in the form of finished articles of wearing apparel including ladies' sweaters.

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 A. R. Knitwear Co., Inc., a corporation, its successors and assigns, and its officers, and Abe Rosenbluth and Rose Rosenbluth, individually and as officers of said corporation and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, offering for sale, sale or distribution of any textile product in the form of a finished article of wearing apparel, as the terms "textile product" and "finished article of wearing apparel" are defined in the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to provide, for any said article of wearing apparel, care instructions which when followed prevent excessive shrinkage of the article.

2. Failing to include the phrase "wash separately" in care instructions for the machine or hand washing of any said apparel whose dye would "run" or "bleed" onto, or stain other articles washed with said apparel.

3. Failing to provide instructions on a permanently affixed label which fully inform purchasers how to effect the regular care and maintenance of said apparel.

It is further ordered, That respondents notify by registered mail all of their customers who have purchased, or to whom have been delivered, the finished articles of wearing apparel which gave rise to this complaint of the excessive shrinkage and staining capacity of said products, and effect the recall of the products from the customers.

It is further ordered, That the respondents herein relabel said articles of wearing apparel to bring them into conformance with the requirements of the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423).

It is further ordered, That in addition to the notification to customers required above, the respondents serve a copy of this order by registered

mail, return receipt requested, on each customer who purchased the products which gave rise to this complaint.

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

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

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

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

IN THE MATTER OF

BEL-MOR KNITWEAR, INC., ET AL.

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

Docket C-2611. Complaint, Dec. 9, 1974—Decision, Dec. 9, 1974

Consent order requiring a New York City manufacturer and distributor of textile products, among other things to cease failing to provide instructions on a permanently affixed label which inform purchasers how to effect regular care and maintenance of respondents' wearing apparel.

Appearances

For the Commission: *James Manos.*
For the respondents: *Pro se.*

COMPLAINT

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

Commission, having reason to believe that Bel-Mor Knitwear, Inc., a corporation, and Aaron Genicoff, individually and as an officer of Bel-Mor Knitwear, Inc., hereinafter referred to as respondents, have engaged in acts and practices that are not in conformance with the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) and by these and other means have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Bel-Mor Knitwear, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Aaron Genicoff is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the said corporate respondent including those hereinafter set forth.

Respondents' office and principal place of business is located at 229 West 36th Street, New York, N. Y.

PAR. 2. Respondents are manufacturers and distributors of textile products in the form of finished articles of wearing apparel as the terms "textile product" and "finished article of wearing apparel" are defined in the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423). Among said articles of wearing apparel manufactured and distributed by the respondents are ladies' sweaters.

PAR. 3. In the course and conduct of respondents' business as aforesaid, respondents cause, and for some time last past have caused, their finished articles of wearing apparel, when sold, to be shipped from their state of origin or distribution to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. On Dec. 9, 1971, after due notice and hearing, the Commission promulgated, effective July 3, 1972, its Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) requiring that certain finished articles of wearing apparel shall have a label or tag permanently affixed or attached thereto which fully informs the purchaser as to instructions for the regular care and maintenance of such articles.

PAR. 5. In the course and conduct of their aforesaid business, respondents have attached to their said finished articles of wearing apparel

labels with instructions for the care and maintenance of said apparel as follows:

MACHINE WASH WARM TUMBLE DRY MEDIUM.

PAR. 6. When the aforesaid articles of wearing apparel are washed and dried in accordance with the instructions described in "Paragraph Five," above, excessive shrinkage results and, further, when any of the aforesaid wearing apparel is washed with other articles the dye in said apparel "runs" or "bleeds" onto, and stains the other articles. Through the failure of the respondents to provide instructions which when followed would prevent excessive shrinkage and which would inform purchasers to wash said wearing apparel separately, respondents thereby have failed to affix labels which fully inform purchasers how to effect the regular care and maintenance of said apparel.

PAR. 7. The aforesaid acts and practices of respondents, as alleged, are not in conformance with the provisions and requirements of the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), and thereby constituted and now constitute unfair methods of competition, and unfair and deceptive acts and practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent

agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Bel-Mor Knitwear, 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 229 West 36th Street, New York, N. Y.

Respondent Aaron Genicoff is an officer and an individual of said corporation. He formulates, directs and controls the policies, acts and practices of the corporate respondent including those hereinafter referred to. The office and principal place of business of respondent Aaron Genicoff is the same as that of said corporate respondent.

Respondents are engaged in the business of manufacturing and distributing textile products in the form of finished articles of wearing apparel including ladies' sweaters.

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 Bel-Mor Knitwear, Inc., a corporation, its successors and assigns, and its officers, and Aaron Genicoff, individually and as an officer of said corporation and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, offering for sale, sale or distribution of any textile product in the form of a finished article of wearing apparel, as the terms "textile product" and "finished article of wearing apparel" are defined in the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to provide, for any said article of wearing apparel, care instructions which when followed prevent excessive shrinkage of the article.

2. Failing to include the phrase "wash separately" in care instructions for the machine or hand washing of any said apparel whose dye would "run" or "bleed" onto, or stain other articles washed with said apparel.

3. Failing to provide instructions on a permanently affixed label which fully inform purchasers how to effect the regular care and maintenance of said apparel.

It is further ordered, That respondents notify by registered mail all of their customers who have purchased, or to whom have been delivered, the finished articles of wearing apparel which gave rise to this complaint of the excessive shrinkage and staining nature of said products, and effect the recall of said products from such customers.

It is further ordered, That the respondents herein relabel said articles of wearing apparel to bring them into conformance with the requirements of the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423).

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

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

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

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

IN THE MATTER OF

LEON BIRNBAUM TRADING AS JOLIE KNITWEAR

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

Docket C-2612. Complaint, Dec. 9, 1974—Decision, Dec. 9, 1974

Consent order requiring a New York City manufacturer of textile fiber products, among other things to cease failing to label its merchandise with information relative to proper care and washing instruction of its wearing apparel.

Appearances

For the Commission: *James Manos.*
For the respondent: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Leon Birnbaum, an individual trading as Jolie Knitwear, hereinafter referred to as respondent, has engaged in acts and practices that are not in conformance with the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) and by these and other means has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Leon Birnbaum is an individual trading as Jolie Knitwear with his office and principal place of business located at 270 West 39th Street, New York, N. Y.

PAR. 2. Respondent is a manufacturer and distributor of textile products in the form of finished articles of wearing apparel as the terms "textile product" and "finished article of wearing apparel" are defined in the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423). Among said articles of wearing apparel manufactured and distributed by the respondent are ladies' sweaters.

PAR. 3. In the course and conduct of respondent's business as aforesaid, respondent causes, and for some time last past has caused, his finished articles of wearing apparel, when sold, to be shipped from their state of origin or distribution to purchasers thereof located in various other States of the United States and in the District of Columbia, and respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. On December 9, 1971, after due notice and hearing, the Commission promulgated, effective July 3, 1972, its Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423) requiring that certain finished articles of wearing apparel shall have a label or tag permanently affixed or attached thereto which fully informs the purchaser as to instructions for the regular care and maintenance of said articles.

PAR. 5. In the course and conduct of his aforesaid business, respondent has attached to his finished articles of wearing apparel labels with instructions for the care and maintenance of said apparel as follows:

MACHINE WASH WARM TUMBLE DRY MEDIUM.

PAR. 6. When the aforesaid articles of wearing apparel are washed and dried in accordance with the instructions described in "Paragraph Five" above, excessive shrinkage results and, further, when any of the aforesaid wearing apparel is washed with other articles, the dye in said apparel "runs" or "bleeds" onto, and stains the other articles. Through the failure of the respondent to provide instructions which when followed would prevent excessive shrinkage and which would inform purchasers to wash said wearing apparel separately respondent thereby has failed to affix labels which fully inform purchasers how to effect the regular care and maintenance of said apparel.

PAR. 7. The aforesaid acts and practices of respondent, as alleged, are not in conformance with the provisions and requirements of the Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), and thereby constituted and now constitute unfair methods of competition, and unfair and deceptive acts and practices, in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in

that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Leon Birnbaum, is an individual trading as Jolie Knitwear, with his office and principal place of business located at 270 West 39th Street, New York, N. Y.

Respondent is engaged in the business of manufacturing and distributing textile products in the form of finished articles of wearing apparel including ladies' sweaters.

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, Leon Birnbaum, individually and trading as Jolie Knitwear or trading under any other name, his successors and assigns, and respondent's representatives, agents and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, offering for sale, sale or distribution of any textile product in the form of a finished article of wearing apparel, as the terms "textile product" and "finished article of wearing apparel" are defined in the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423), in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to provide, for any said article of wearing apparel, care instructions which when followed prevent excessive shrinkage of the article.

2. Failing to include the phrase "wash separately" in care instructions for the machine or hand washing of any said apparel whose dye would "run" or "bleed" onto, or stain other articles washed with said apparel.

3. Failing to provide instructions on a permanently affixed label which fully inform purchasers how to effect the regular care and maintenance of said apparel.

It is further ordered, That respondent notify by registered mail all of his customers who have purchased, or to whom have been delivered, the finished articles of wearing apparel which gave rise to this complaint of the excessive shrinkage and staining nature of said products, and effect the recall of said products from such customers.

It is further ordered, That the respondent herein relabel said articles of wearing apparel to bring them into conformance with the requirements of the Federal Trade Commission's Trade Regulation Rule relating to the Care Labeling of Textile Wearing Apparel (16 C.F.R. §423).

It is further ordered, That in addition to the notification to customers required above, the respondent serve a copy of this order by registered mail, return receipt requested, on each customer who purchased the products which gave rise to this complaint.

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

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

IN THE MATTER OF

BROWN'S QUALITY FURNITURE, INC., ET AL.

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

Docket C-2614. Complaint, Dec. 16, 1974—Decision, Dec. 16, 1974

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

Appearances

For the Commission: *Martin Gorman.*
For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provision 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

Brown's Quality Furniture, Inc., a corporation, and Willie C. Brown and Philip Reed individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Brown's Quality Furniture, 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 Genesee Street, Rochester, N. Y.

Respondents Willie C. Brown and Philip Reed are the president and vice president respectively, of said corporation. The said individual respondents formulate, direct and control the acts and practices of the corporate respondent, including the consumer credit policies, as well as 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 advertising, offering for sale and sale of furniture and appliances to the public.

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend consumer credit and arrange 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, respondents, in the ordinary course and conduct of their business as aforesaid, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing their customers to execute retail installment contracts and security agreements, hereinafter referred to as the "Contract."

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 ordinary course of business, to sell for cash the property which is the subject of the credit sale, as required by Section 226.8(c)(1).

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

3. 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.

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

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

6. Fail in some instances to disclose the amount of the finance charge, determined in accordance with Section 226.4 of Regulation Z, as required by Section 226.8(c)(8)(i) of Regulation Z; and in those instances where the finance charge is disclosed, fail to use the term "finance charge," as required by Section 226.8(c)(8)(i) of Regulation Z.

7. 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 prescribed by Section 226.8(c)(8)(ii) of Regulation Z.

8. Fail to use the term and disclose the "annual percentage rate" accurately to the nearest quarter of one percent as required by Sections 226.5 and 226.8 of Regulation Z.

9. Fail to print the terms "finance charge" and "annual percentage rate" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

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

11. Fail to make consumer credit cost disclosures heretofore set forth in this paragraph before consummation of the transaction, and to furnish the customer with a duplicate of the instrument or a statement by which the disclosures required by Section 226.8 are made, as prescribed by Section 226.8(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 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 Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act; and

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

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

1. Respondent Brown's Quality Furniture, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York with its principal place of business located at 500 Genesee Street, Rochester, N. Y.

Respondents Willie C. Brown and Philip Reed are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above stated address.

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

ORDER

It is ordered, That respondents Brown's Quality Furniture, Inc., a corporation, its successors and assigns, and its officers, and Willie C. Brown and Philip Reed, individually and as officers of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer

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

1. Failing to disclose the "cash price" in the manner and form required by Section 226.8(c)(1) of Regulation Z.

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

3. 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.

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

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

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

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

8. Failing to use the term and disclose the "annual percentage rate" accurately to the nearest quarter of one percent as required by Sections 226.5 and 226.8 of Regulation Z.

9. Failing to print the terms "finance charge" and "annual percentage rate" more conspicuously than other required terminology, as required by Section 226.6(a) of Regulation Z.

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

11. Failing to make consumer credit cost disclosures before consummation of the transaction, and to furnish the customer with the duplicate of the instrument or a statement by which the disclosures required by Section 226.8 are made, as prescribed by Section 226.8(a) of Regulation Z.

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

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

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

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

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

It is further ordered, That 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

READER'S DIGEST ASSOCIATION, INC.

Docket C-2075. Interlocutory order, Dec. 17, 1974

Order denying respondent's request to reopen proceeding for modification of order provision prohibiting respondent from "using or distributing simulated checks, currency, 'new car certificates'; or using or distributing any confusingly simulated item of value."

Appearances

For the Commission: *J. Thomas Rosch.*

For the respondents: *William Barnabas McHenry* for Reader's Digest Association, Inc.

ORDER DENYING REQUEST TO REOPEN PROCEEDING

This matter is before the Commission on Reader's Digest Association's petition, dated Nov. 2, 1974, to reopen the proceeding in the above-captioned matter for modification of the order provision that prohibits respondent from "using or distributing simulated checks, currency, 'new car certificates'; or using or distributing any confusingly simulated item of value."

Reader's Digest requests that the Commission delete the aforesaid provision and substitute therefor the following: "representing that promotional materials are negotiable instruments which can be cashed, redeemed, or exchanged for money."*

Respondent's principal contention in support of this request is that the language: "confusingly simulated items of value," is so broad that it does not permit the application of reasonable standards to be consistently applied in determining whether respondent's promotional material violates the order.

Complaint counsel, in their answer received Nov. 26, 1974, object to the modification, pointing out that the "myriad of forms and materials submitted by respondent in connection with its promotions" makes any single or objective standard "other than that they should not simulate checks, currency, etc.," not practical.

We agree that the language of the subject order provision should not be narrowed. While the Commission strives in each order to set stan-

*By a petition dated Nov. 27, 1974, Reader's Digest requested that the proposed modification be changed to delete a second sentence which read: "The clear and conspicuous use of the term, 'non-negotiable,' on the face of the promotional materials shall act as a disclaimer of the ability to be cashed, redeemed or exchanged."

dards of conduct that can be adjudged objectively, the nature of the practices subject to the order often are such that a less definitive standard is necessary. Such is the case here.

Accordingly, *it is ordered*, That the request that this matter be reopened for modification of the order be denied.

Commissioner Thompson abstaining.

IN THE MATTER OF

PLAZA CLUB, INC., ET AL.

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

Docket C-2134. Order, Dec. 17, 1974

Order modifying subparagraph (J) of Paragraph I of a consent order issued against respondents, 80 F.T.C. 62, to except the use of negotiable instruments in consumer credit transactions in the State of Kansas.

Appearances

For the Commission: *Keith Q. Hayes.*

For the respondents: *McFadin & Spooner*, N. Kansas City, Mo.

ORDER REOPENING PROCEEDINGS AND MODIFYING ORDER TO CEASE AND DESIST

This matter is before the Commission upon a motion captioned "Petition to Reopen Docket," received Oct. 29, 1974, filed by Spa Fitness Centers, Inc., Carl Lane, Kenneth Melby and Scott Rice, successors in interest to the above-captioned respondents. The Bureau of Consumer Protection has filed an answer dated Nov. 26, 1974.

Petitioners point out that the law of Kansas, in which they transact business, now forbids the use of negotiable instruments in those consumer credit transactions in which they engage, and the law further preserves all defenses of a consumer against a third party to whom an instrument of indebtedness may have been negotiated in violation of the law. Therefore, the disclosure required by Paragraph I (J) of the order in this matter is no longer necessary, and indeed may be misleading with respect to contracts governed by Kansas law. Respondents seek exemption from the requirement for their operations in Kansas, and the Bureau of Consumer Protection does not object.

The Commission has considered the arguments of the parties and has determined, in the exercise of its discretion, to grant the petition to reopen, and to modify the order as provided hereinafter:

It is ordered, That the proceedings in this matter be reopened and that subparagraph (J) of Paragraph I of the order to cease and desist issued against respondents on Jan. 14, 1972, be modified to read as follows:

With the exception of contracts executed in the State of Kansas and to be performed in the State of Kansas, 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 any other third party. If it is purchased by another party, you will be required to make your payments to the purchaser of the 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.

IN THE MATTER OF

C & C DISTRIBUTING CO., INC., ET AL.

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

Docket C-2615. Complaint, Dec. 17, 1974 - Decision, Dec. 17, 1974

Consent order requiring a Terrell, Tex., seller and distributor of ladies' cologne and franchises in relation thereto, among other things to cease misrepresenting the nature of its franchises or distributorships; misrepresenting the risks involved in the investment; misrepresenting earnings and profits; failing to maintain accurate records substantiating representations made; failing to make certain disclosures as to the background and experience of respondent and the success of the franchises sold by respondent. Respondent is further required to allow future purchasers a 10-day cooling-off period in which to cancel the contract.

Appearances

For the Commission: *Andre Trawick, Jr.*

For the respondents: *Kelvin Wyrick*, Dallas, Tex.

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 C & C Distributing Co., Inc., a corporation, and William Thomas Hall, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, (15 U.S.C. Section 45), and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent C & C Distributing Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at P. O. Box 646, Abner Wilson Road, in the city of Terrell, State of Texas.

Respondent William Thomas Hall is president and a stockholder of the corporate respondent. This individual formulates, directs and controls the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter set forth, and he maintains business offices at the same address as 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 ladies' cologne, and routes, licenses, franchises and distributorships in relation thereto to franchisees and distributors for resale to members of the general public.

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

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products and the other aforesaid business opportunities, respondents have made numerous statements and representations in oral sales presentations to prospective purchasers and in newspaper advertisements and promotional literature respecting profits, locations of routes, character of business, business success, security of investment, and exclusive territories.

Typical and illustrative of the statements and representations con-

tained in said advertising and promotional material, but not all inclusive thereof, are the following:

WHOLESALE
DISTRIBUTORSHIP

Wholesale distributorship to service company established retail and super market accounts. Internationally known product (established in 1927).

PROTECTED ACCOUNTS provide immediate excellent income with high repeat and market acceptance due to national advertising on TV, Radio, Newspapers, and Magazines. NO SELLING REQUIRED.

TO QUALIFY you must have excellent character, good credit and be bondable, a desire for success and $5750 and up investment for inventory. Earnings potentially * * * $20,000 to $40,000 per year. Interested parties only * * * CALL for appointment TODAY!

PAR. 5. 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, and through oral statements and representations to prospective purchasers, respondents now represent, and have represented, directly or by implication, orally, in writing or visually, that:

1. Exclusive franchises or distributorships for established retail and supermarket accounts are offered.

2. Any amount invested is secured by an inventory worth the amount invested and there is no risk of losing any part of the investment.

3. Profitable accounts and routes are established. New accounts and routes when the original location is not profitable are obtained.

4. Persons who purchase any such products or services and engage in business can expect to receive substantial earnings of $20,000 to $40,000 per year.

5. Persons who purchase any such products or services and engage in business must have special qualifications or be specially selected to qualify for purchases of any such products or services and engage in business.

6. Continuing assistance and advice to distributors and franchisees is offered.

PAR. 6. In truth and in fact:

1. Exclusive distributorships or franchises for established retail and supermarket accounts are not available.

2. Invested sums of money are not secured by an inventory worth the amount invested and there is a real and substantial risk assumed by the purchaser of losing all or a substantial portion of the money invested.

3. Profitable accounts or routes are not established. New accounts or routes when the original location is not profitable are not obtained.

4. Persons who purchase any such products or services and engage in business do not make substantial earnings of $20,000 to $40,000 per year.

5. An offer is not made to specially selected persons only, but to anyone who has the money to purchase any such products or services or engage in business.

6. Little or no assistance or advice is given once the purchase price is paid.

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

PAR. 7. Furthermore, it was and is a false, misleading and deceptive act and practice for respondents to seek to sell their products or services, routes, licenses, franchises and distributorships in the manner set forth in Paragraphs Five and Six hereof, while they knew or, as reasonably prudent businessmen, should have known, that their product, route, license, franchise and distributorship would not operate and produce results as represented.

At no time did respondents notify any persons who expended money in reliance upon respondents' statements and representations that their money would be refunded if respondents knew or, as reasonably prudent businessmen, should have known that respondents' products or services, routes, licenses, franchises and distributorships would not operate and produce results as represented, and if, in fact, such persons found in practice that the products or services, routes, licenses, franchises and distributorships did not operate and produce results as represented. Meanwhile, the operations and practices of respondents alleged herein were and are perpetuated for an indeterminate period of time with the monies obtained from such persons who expended sums in reliance upon respondents' statements and representations.

Therefore, the aforesaid failure of respondents to notify and refund to persons who acted in reliance upon said statements and representations set forth in Paragraphs Four and Five hereof, all monies expended by such persons, was and is inherently and unconscionably unfair and deceptive.

PAR. 8. Respondents offered for sale franchises, distributorships, licenses, routes, and products or services intended to establish franchisees or distributors in a lucrative business without disclosing in advertising or through their sales representative: (1) the business experience and background of the franchisor and various key personnel; (2) the number of franchises or distributorships which operated at a loss during the previous year; (3) other material facts relating to the success of the franchises or distributorships sold by the respondents. Knowl-

edge of such facts would indicate the possibility of success and risk involved in the franchises and distributorships. Thus, respondents have failed to disclose material facts, which if known to potential franchisees or distributors would be likely to affect their consideration of whether or not to purchase such franchise or distributorship. Therefore, the aforesaid acts and practices were, and are, false, misleading and deceptive acts or practices.

PAR. 9. In the course and conduct of their business, and at all times mentioned herein, respondents have been and now are in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of franchises, distributorships and products or services of the same general kind and nature as those sold by respondents.

PAR. 10. The use of respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the purchase of substantial numbers of respondents' franchises, distributorships and products or services by reason of said erroneous and mistaken belief.

PAR. 11. 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 (15 U.S.C. Section 45).

DECISION AND ORDER

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

The respondents, their counsel and counsel for the Commission having thereafter executed and agreement containing a consent order, an admission by the respondents of all 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, 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 C & C Distributing Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business at P. O. Box 646, Abner Wilson Road, Terrell, Tex.

Respondent William Thomas Hall, is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his principal place of business is located at the above-stated address.

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

ORDER

It is ordered, That respondents C & C Distributing Company, Inc., a corporation, and its officers, and William Thomas Hall, individually and as an officer of said corporation and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of perfume and ladies' cologne and routes, licenses and franchises in relation thereto, or any other route, franchise, license, product, or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, orally, in writing, or visually, that:

1. Exclusive franchises or distributorships for established retail and supermarket accounts are offered, or misrepresenting in any manner the nature of the franchises or distributorships.

2. Any amount invested is secured by inventory worth the amount invested and there is no risk of losing the money so invested or misrepresenting, in any manner, the amount of security provided by the inventory or the risk of losing all or any part of the investment.

3. Profitable accounts and routes are established. New accounts and routes, when the original location is not profitable are obtained,

or misrepresenting in any manner, the establishing or quality of the accounts and routes.

4. Persons who purchase any such products or services and engage in business can or will derive any stated amount of sales, profits or earnings, or representing directly or by implication, the past or present sales, profits or earnings of purchasers of any such products or services, routes, licenses, franchises or distributorships unless in fact the past sales, or the profits and earnings represented, are those of a substantial number of purchasers and accurately reflect the average sales, profits or earnings of such purchases under circumstances similar to those of the franchisee or distributor or the prospective franchisee or distributor to whom the representation is made or misrepresenting, in any manner, the past, present, or future sales, profits or earnings from the engagement in business and resale of any such products or services.

5. Persons who purchase any such products or services and engage in business must have special qualification or be specially selected to qualify for purchases of any such products or services and engage in business.

6. Continuing assistance and advice to their distributors or franchisees is offered, or misrepresenting, in any manner, the type and duration of assistance and advice offered.

B. Failing to maintain accurate records which substantiate that any past or present sales, profits or earnings represented are accurate and are those of a substantial number of franchisees or distributors and accurately reflect the average sales, profits or earnings, of such franchisees or distributors under circumstances similar to those of the franchisee or distributor or prospective franchisee or distributor to whom the representation is being made.

C. Failing to furnish any prospective franchisee with all of the following information, in a clear, permanent, and straight-forward form, at the time when contact is first established between such prospective franchisee and respondents or their representatives:

1. A factual description of the franchise offered or to be sold.

2. The business experience, stated individually, of each of the franchisor's directors, stockholders owning more than ten percent of the stock, and the chief executive officers for the past ten years; and biographical data concerning all such persons.

3. The business experience of the franchisor, including the length of time the franchisor has conducted a business of the type to be operated by the franchisee; has granted franchises for such business; and has granted franchises in other lines of business.

4. Where such is the case, a statement that the franchisor or any of its directors, stockholders owning more than ten percent of the stock, or chief executive officers:

a. Have been held liable in a civil action, convicted of a felony, or pleaded nolo contendere to a felony charge in any case involving fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

b. Are subject to any currently effective injunctive or restrictive order or ruling relating to business activity as a result of action by any public agency or department; or

c. Have filed bankruptcy or been associated with management of any company that has been involved in bankruptcy or reorganization proceedings; or

d. Are, or have been, a party to any cause of action brought by franchisees against the franchisor.

Such statement shall set forth the identity and location of the court, date of conviction or judgment, any penalty imposed or damages assessed, and the date, nature, and issuer of each such order or ruling.

5. The financial history of the franchisor, including balance sheets and profit and loss statements for the most recent five-year period; and a statement of any material changes in the financial condition of the franchisor since the date of such financial statements.

6. A description of the franchise fee; and a statement indicating whether all or part of the franchise fee may be returned to the franchisee and the conditions under which the fee will be refunded.

7. The formula by which the amount of such franchise fee is determined if the fee is not the same in all cases.

8. A statement of the number of franchises presently operating and the number proposed to be sold, indicating which existing franchises, if any, are company-owned and their addresses.

9. A statement of the number of franchises, if any, that operated at a loss during the previous year.

10. A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor, and a statement of the number of franchisees that fell into each of these categories during the past 12 months.

11. A statement of the conditions and terms under which the franchisor allows the franchisee to sell, lease, assign, or otherwise transfer his franchise, or any interest therein.

12. A statement of the conditions under which the franchisee agreement may be terminated or renewal refused or repurchased at the option of the franchisor, and a statement of the number of franchisees that fell into each of these categories during the past 12 months.

13. A statement of the conditions and terms under which the franchisor allows the franchisee to sell, lease, assign or otherwise transfer his franchise, or any interest therein.

14. A statement of the terms and condition of any financing arrangements offered directly or indirectly by the franchisor or affiliated persons, and a description of any payments received by the franchisor from any persons for the placement of financing with such persons.

15. A list of at least ten representative operating franchises with addresses and telephone numbers, similarly situated to the franchise offered and located in the same geographic area, if possible.

16. A statement of the average length of service of personnel who are responsible for assisting the franchisee at his location, and the average number of hours such personnel spent during the past year with each franchisee that was in business for less than one year.

17. If the franchisor informs the prospective franchisee that it intends to provide him with training, the franchisor must state the number of hours of instruction and furnish the prospective franchisee with a brief biography of the instructors who will conduct the training.

All of the foregoing information 1. to 17. is to be contained in a single disclosure statement, which shall not contain any promotional claims or other information not required by this order. The statement shall carry a distinctive and conspicuous cover sheet with the following notice (and no other) imprinted thereon in bold face type of not less than 10 point size:

INFORMATION FOR PROSPECTIVE FRANCHISEES REQUIRED BY FEDERAL TRADE COMMISSION DECISION AND ORDER

This information is provided for your own protection. It is in your best interest to study it carefully before making any commitment. If you do sign a contract, you may cancel it, and obtain a full refund of any money paid, for any reason, within ten business days after

either signing such contract or receiving this disclosure statement, whichever occurs later. Details appear on the contract itself.

It is further ordered, That respondents shall cease and desist from making any claim:

1. In any advertising, promotional material, or disclosure statement, or in any oral sales presentation, solicitation, or discussion between a franchisor's representative and prospective franchisees for which the franchisor does not have substantiation in its possession, which substantiation shall be made available to prospective franchisees upon demand. This provision applies, but is not limited, to statements concerning the experience or qualifications, or lack of experience or qualifications, needed for success as a franchisee.

2. In any advertising or promotional material, or in any oral sales presentation, solicitation, or discussion between a franchisor's representatives and prospective franchisees, which (directly or by implication) contradicts or exceeds any of the statements required to be disclosed by Para. (B) of this order.

It is further ordered, That respondents herein cease and desist from:

(a) Failing to include immediately above and on the same page as the franchisee's signature line of any contract establishing or confirming a franchise agreement, the following statement in bold face print at least 50 percent larger than any other print in the body of such contract, or in bold face print of a contrasting color:

> NOTICE: YOU ARE ENTITLED TO CERTAIN IMPORTANT INFORMATION CONCERNING THIS TRANSACTION ENTITLED, "INFORMATION FOR PROSPECTIVE FRANCHISEES REQUIRED BY FEDERAL TRADE COMMISSION DECISION AND ORDER." IT IS IN YOUR BEST INTEREST TO DEMAND AND STUDY SUCH INFORMATION. *YOU MAY CANCEL THIS CONTRACT FOR ANY REASON WITHIN TEN BUSINESS DAYS AFTER EITHER SIGNING THIS CONTRACT OR RECEIVING THE REQUIRED INFORMATION, WHICHEVER OCCURS LATER.* If you do choose to cancel, you will be entitled to receive a full refund within ten business days after franchisor receives notice of your cancellation. You may use any reasonable method to notify franchisor of your cancellation within the grace period. For your own protection you may wish to use certified mail with return receipt requested, or a telegram, either of which should be sent to the address below. (Franchisor will insert here the address and telephone number to which such notices should be sent.)

(b) Failing to cancel any contract for which a notice of cancellation was sent by any reasonable means within ten business days after either the contract's execution, or the franchisee's receipt of all required information, whichever occurs later, or to refund any money paid by franchisee within ten business days after the date of receipt of such notice of cancellation.

(c) Failing to furnish the prospective franchisee upon request at any time, and in the absence of any request, before consummation of any agreement, with a copy of the franchise agreement proposed to be used.

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

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

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in any of 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 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 franchises, services, or any other products or services, or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

IN THE MATTER OF

ALBERT'S FURNITURE COMPANY, INC., ET AL.

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

Docket C-2616. Complaint, Dec. 17, 1974—Decision, Dec. 17, 1974

Consent order requiring three Florida furniture dealers, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act and failing to maintain records.

Appearances

For the Commission: *Truett M. Honeycutt.*
For the respondents: *Ronald K. Smith*, Coral Gables, Fla.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Albert's Furniture Company, Inc., a corporation, Albert's 27th Avenue Corporation, a corporation, Albert's Wilton Manor Corporation, a corporation, and Samuel Albert and Carl Nierenburg, individually and as officers of said corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and the implementing regulation promulgated under the Truth in Lending Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Albert's Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal office and place of business located at 1649 Northwest 36th Street, Miami, Fla.

Respondent Albert's 27th Avenue Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal office and place of business located at 14001 Northwest 27th Avenue, Opa Locka, Fla.

Respondent Albert's Wilton Manor Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal office and place of business located at 2097 Wilton Drive, Fort Lauderdale, Fla.

Respondents Samuel Albert and Carl Nierenburg are officers of said corporations. They formulate, direct and control the policies, acts and practices of said corporations and their address is 1649 Northwest 36th Street, Miami, Fla.

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

PAR. 3. In the ordinary course and conduct of their business as aforesaid, respondents regularly extend consumer credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the

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

PAR. 4. Subsequent to July 1, 1969, respondents in the ordinary course of business as aforesaid, and in connection with credit sales, as "credit sale" is defined in Regulation Z, have caused and are causing some customers to execute a binding purchase agreement, hereinafter referred to as the "Agreement." On this agreement, respondents provide certain consumer credit cost information.

Respondents have caused and are causing certain customers to sign retail installment contracts, hereinafter referred to as "installment contract," subsequent to the consummation of the credit sale. On this installment contract, respondents provide certain consumer credit information.

Respondents do not provide any customers with any other consumer credit cost disclosures.

By and through the use of the agreement, respondents:

1. Fail to give to the customer all the cost of credit information required by Section 226.8 of Regulation Z prior to the consummation of the sale, as required by Section 226.8(a) of Regulation Z.

2. Fail 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.

3. Fail to disclose the number, amount, and due dates or periods of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

4. Fail to disclose 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.

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

6. Fail in conjunction with the description or identification of the type of security interest held, retained or acquired, to clearly set forth that future indebtedness is secured by the property in which the security interest is retained, as required by Section 226.8(b)(5) of Regulation Z.

7. 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.

8. 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 furniture which is the subject of the credit sale, as required by Section 226.8(c)(1) of Regulation Z.

9. 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.

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

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

12. 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.

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

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

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

PAR. 5. Respondents have failed to maintain evidence of compliance with Regulation Z for two years after the date of each disclosure, as required by Section 226.6(i) of Regulation Z.

PAR. 6. 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(c) 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 Federal Trade Commission Act, and the Truth in Lending Act and the implementing regulation promulgated thereunder; and

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

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

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

1. Respondent Albert's Furniture Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 1649 Northwest 36th Street, Miami, Fla.

Respondent Albert's 27th Avenue Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 14001 Northwest 27th Avenue, Opa Locka, Fla.

Respondent Albert's Wilton Manor Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 2097 Wilton Drive, Fort Lauderdale, Fla.

Respondents Samuel Albert and Carl Nierenburg are officers of said corporations. They formulate, direct and control the policies, acts and practices of said corporations and their address is 1649 Northwest 36th Street, Miami, Fla.

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 Albert's Furniture Company, Inc., a corporation, Albert's 27th Avenue Corporation, a corporation, and Albert's Wilton Manor Corporation, a corporation, their successors and assigns, and their officers, and Samuel Albert and Carl Nierenburg, individually and as officers of the corporations, and respondents' agents,

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

1. Failing to provide any customer, prior to consummation of the credit transaction, with a copy which the customer may retain, of all disclosures enumerated in Section 226.8 of Regulation Z, in the form and manner prescribed therein, as required by Section 226.8(a) of Regulation Z.

2. 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.

3. Failing to disclose the number, amount and due dates or period of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

4. Failing to disclose 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.

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

6. Failing to disclose in conjunction with the description or identification of the type of security interest held, retained or acquired, that future indebtedness is secured by the property in which the security interest is retained, as required by Section 226.8(b)(5) of Regulation Z.

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

8. Failing to disclose 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 and to describe that price as the "cash price," as required by Section 226.8(c)(1) of Regulation Z.

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

10. Failing to disclose the downpayment in property made in connection with a credit sale and to describe that downpayment as the "trade-in," as required by Section 226.8(c)(2) of Regulation Z.

11. 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.

12. Failing to disclose the difference of the cash price and the total downpayment and to describe that difference as the "unpaid balance of the cash price," as required by Section 226.8(c)(3) of Regulation Z.

13. Failing to disclose the amount of credit extended and to describe that amount as the "amount financed," as required by Section 226.8(c)(7) of Regulation Z.

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

15. Failing to disclose the sum of the cash price, all other 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.

16. Failing to maintain evidence of compliance with Regulation Z for two years after the date of each disclosure, as required by Section 226.6(i) of Regulation Z.

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

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

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale 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 individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

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

IN THE MATTER OF

VICTOR H. GRABER, ET AL.

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

Docket C-2617. Complaint, Dec. 23, 1974—Decision, Dec. 23, 1974

Consent order requiring 11 California corporations, all of which are also known under the common name of Crescent Jewelers Company, retailing jewelry, appliances and related products, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Appearances

For the Commission: *Ralph E. Stone.*

For the respondents: *Robert L. Lofts, Severson, Werson, Berke & Melchior,* San Francisco, Calif.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that the above-named corporations, and Victor H. Graber, individually and as an officer of each of said corporations, hereinafter sometimes referred to as respondents, have violated the provisions of said Acts, and the implementing regulation, and it appearing to the Commission that a

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

PARAGRAPH 1. Respondent Victor H. Graber is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 1111 Washington Street, Oakland, Calif. It is also known as Crescent Jewelers Company.

Respondent Jewelers Distributing Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 22532 Foothill Boulevard, Hayward, Calif. It is also known as Crescent Jewelers Company.

Respondent Kelly Graber Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 2622 Mission Street, San Francisco, Calif. It is also known as Crescent Jewelers Company.

Respondent Steven Jewelry Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 609 Fourth Street, Santa Rosa, Calif. It is also known as Crescent Jewelers Company.

Respondent Vissala Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 213 W. Main Street, Visalia, California. It is also known as Crescent Jewelers Company.

Respondent Barkell, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 2226 South Shore Center, Alameda, Calif. It is also known as Crescent Jewelers Company.

Respondent Milbourn Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 39109 Fremont Hub Shopping Center, Fremont, Calif. It is also known as Crescent Jewelers Company.

Respondent Reyla Jewelry Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 25550 El Camino Real, Mountain View, Calif. It is also known as Crescent Jewelers Company.

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Respondent Lisa Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 817 Market Street, San Francisco, Calif. It is also known as Crescent Jewelers Company.

Respondent Vicgray Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 69 South First Street, San Jose, Calif. It is also known as Crescent Jewelers Company.

Respondent Market Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 776 Market Street, San Francisco, Calif. It is also known as Crescent Jewelers Company.

Respondent Victor H. Graber is an officer, director and wholly owns each of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is 315 - 11th Street, Oakland, Calif.

PAR. 2. Respondents are now, and for some in the past have been, engaged in the advertising, offering for sale, and sale of jewelry, appliances and related products to the public.

PAR. 3. Subsequent to July 1, 1969, respondents, in order to promote the sale of jewelry, appliances and related products, have caused advertisements to be published, as "advertisement" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these products.

By and through the use of the advertisements, respondents stated that no downpayment was required and the amount of the installment payments, without also stating all of the following items in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

1. The cash price;

2. The amount of the downpayment required or that no downpayment is required, as applicable;

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

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

5. The deferred payment price.

PAR. 4. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of Regula-

tion 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 San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

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

1. Respondent Victor H. Graber is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 1111 Washington Street, Oakland, Calif. It is also known as Crescent Jewelers Company.

Respondent Jewelers Distributing Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 22532 Foothill Boulevard, Hayward, Calif. It is also known as Crescent Jewelers Company.

Respondent Kelly Graber Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 2622 Mission Street, San Francisco, Calif. It is also known as Crescent Jewelers Company.

Respondent Steven Jewelry Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 609 Fourth Street, Santa Rosa, Calif. It is also known as Crescent Jewelers Company.

Respondent Vissala Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 213 W. Main Street, Visalia, Calif. It is also known as Crescent Jewelers Company.

Respondent Barkell, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 2226 South Shore Center, Alameda, Calif. It is also known as Crescent Jewelers Company.

Respondent Milbourn, Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 39109 Fremont Hub Shopping Center, Fremont, Calif. It is also known as Crescent Jewelers Company.

Respondent Reyla Jewelry Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 25550 El Camino Real, Mountain View, Calif. It is also known as Crescent Jewelers Company.

Respondent Lisa Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 817 Market Street, San Francisco, Calif. It is also known as Crescent Jewelers Company.

Respondent Vicgray Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 69 South First Street, San Jose, Calif. It is also known as Crescent Jewelers Company.

Respondent Market Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its principal office and place of business located at 776 Market Street, San Francisco, Calif. It is also known as Crescent Jewelers Company.

Respondent Victor H. Graber is an officer, director and wholly owns each of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. His address is 315 - 11th Street, Oakland, Calif.

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 corporations, their successors and assigns, and their officers, and Victor H. Graber, individually and as an officer of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit," and "advertisement" are defined in Regulation Z (12 C.F.R. §226) of the Truth in Lending Act (Pub. L. 90-321, 15 U.S.C. 1601, *et seq.*), do forthwith cease and desist from:

1. Representing, directly or by implication, in any advertisement to promote the sale of jewelry, appliances and related products, as "advertisement" is defined in Regulation Z the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

a. The cash price;

b. The amount of the downpayment required or that no downpayment is required, as applicable;

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

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

e. The deferred payment price.

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

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

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

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

It is further ordered, That the 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 this order.

IN THE MATTER OF

CREDIT BUREAU OF GREATER SYRACUSE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING ACTS

Docket C-2618. Complaint, Dec. 24, 1974—Decision, Dec. 24, 1974

Consent order requiring a Syracuse, N.Y., credit bureau, among other things to cease furnishing credit reports on consumers to persons it had no reason to believe intended to use the information for a permissible purpose; failing to disclose to properly identified consumers information in their files; failing to reinvestigate disputed information within a reasonable period of time; and imposing fees for making required disclosures or when conducting a reinvestigation.

Appearances

For the Commission: *Martin Gorman.*

For the respondents: *Wallace J. McDonald, Bond, Schoeneck & King*, New York, N. Y.

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act 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 Credit Bureau of Greater Syracuse, Inc., a corporation, and Richard W. Viale, individually and as an officer 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 Credit Bureau of Greater Syracuse, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 107 University Building, Syracuse, N. Y.

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

PAR. 2. Respondents are now, and for some time in the past have been, for monetary fees and/or dues, regularly engaged in the practice of assembling or evaluating consumer credit information for the purpose of furnishing to third parties consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act. Respondents regularly use a means or facility of interstate commerce for the purpose of preparing and furnishing said consumer reports. Therefore, respondents are a consumer reporting agency, as "consumer reporting agency" is defined in Section 603(f) of the Fair Credit Reporting Act.

PAR. 3. Respondents in the ordinary course and conduct of their business as aforesaid are now, and subsequent to April 25, 1971 have been, engaged in the preparation, offering for sale, sale and distribution of information on consumers, including consumer reports, as defined in Section 603(d) of the Fair Credit Reporting Act.

PAR. 4. In the ordinary course and conduct of their business, as aforesaid, respondents have furnished, and are furnishing, consumer reports, as that term is defined in Section 603(d) of the Fair Credit Reporting Act, to persons whom they have no reason to believe intend to use the information for one of the permissible purposes set out in Section 604 of the Fair Credit Reporting Act, and respondents thereby were and are in violation of that Section of the Act.

PAR. 5. In the ordinary course and conduct of their business, as aforesaid, respondents have been and are being requested by consumers, who properly identify themselves, to disclose information in their files on the consumers. In response to these requests, in certain instances, respondents fail to clearly and accurately disclose the nature and substance of all information, except medical information as the term "medical information" is defined in Section 603(i) of the Fair Credit Reporting Act, contained in their files, as the term "File" is defined in Section 603(g) of the Fair Credit Reporting Act, at the time of the request.

PAR. 6. By and through the use of the practices described in Paragraph Five above, respondents have violated and are violating the provisions of Section 609 of the Fair Credit Reporting Act.

PAR. 7. In the ordinary course and conduct of their business, as aforesaid, respondents, in certain instances, have failed to disclose the information in consumers' files pursuant to Section 609 of the Fair Credit Reporting Act when requested to do so by telephone or have discouraged such disclosures.

PAR. 8. By and through the use of the practice described in Paragraph Seven above, respondents have violated and are violating the provisions of Section 610 of the Fair Credit Reporting Act.

PAR. 9. In the ordinary course and conduct of their business as aforesaid, respondents, in certain instances:

(1) have failed to reinvestigate items of information, the completeness or accuracy of which is disputed by the consumer;

(2) have failed to record the current status of disputed information and to promptly delete information which can no longer be verified;

(3) have failed to provide notification that an item of information has been deleted or corrected to recipients of previous reports (within the past two years for employment purposes and the past six months for any other purpose) when specifically requested to do so by the consumer.

PAR. 10. By and through the use of the practices described in Paragraph Nine above, respondents have violated and are violating the provisions of Section 611 of the Fair Credit Reporting Act.

PAR. 11. In the ordinary course and conduct of their business, as aforesaid, in certain instances where consumers within thirty days after receipt of a notification pursuant to Section 615 have made a request for disclosures or notification pursuant to Sections 609 and 611(d) respectively, respondents have imposed a charge on consumers for making the disclosures and notification, pursuant to Sections 609 and 611(d) of the Fair Credit Reporting Act.

PAR. 12. By and through the use of the practices described in Paragraph Eleven above, respondents have violated and are violating the provisions of Section 612 of the Fair Credit Reporting Act.

PAR. 13. In the ordinary course and conduct of their business, as aforesaid, respondents, in certain instances, have imposed a charge on consumers when conducting a reinvestigation of disputed information in a consumer's file pursuant to the requirements of Section 611(a) of the Fair Credit Reporting Act.

PAR. 14. By and through the use of the practice described in Paragraph Thirteen above, respondents have violated and are violating the provisions of Section 612 of the Fair Credit Reporting Act.

PAR. 15. The acts and practices set forth in Paragraph Three through Fourteen above, were and are in violation of the Fair Credit Reporting Act, and pursuant to Section 621(a) of that Act, said acts and practices constitute unfair or deceptive acts or practices in commerce in violation of Section 5(a) 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 Fair Credit Reporting Act and the Federal Trade Commission Act; and

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

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

complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Credit Bureau of Greater Syracuse, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 107 University Building, Syracuse, N. Y.

Respondent Richard W. Viale is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporate respondent. His principal office and place of business is located at the above-stated address.

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

ORDER

It is ordered, That respondents Credit Bureau of Greater Syracuse, Inc., a corporation, its successors and assigns, and its officer Richard W. Viale, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collecting, assembling or furnishing of consumer reports, as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act (Pub. L. No. 91-508, 15 U.S.C. 1601, *et seq.*), shall forthwith cease and desist from:

1. Submitting consumer report information to persons whom respondents have no reason to believe intend to use the information for a permissible purpose as set out in Section 604 of the Act.

2. Failing to disclose to any consumer, upon request and proper identification, the nature and substance of all information (including claims information, but excluding medical information) in respondents' files on the consumer at the time of the request, in accordance with Section 609(a) of the Fair Credit Reporting Act.

3. Failing to make the disclosures required by Section 609 of the Fair Credit Reporting Act by telephone as required by Section 610 of the Act, or discouraging such disclosures.

4. Failing within ten working days to:

(a) reinvestigate any item of information, the completeness or accuracy of which is disputed by the consumer and record the current status of the information unless they have reasonable grounds to believe the dispute is frivolous or irrelevant, as required by Section 611(a) of the Act.

(b) delete any information which is found to be inaccurate or can no longer be verified, as required by Section 611(a) of the Act.

5. Failing to provide notification that an item of information has been deleted or corrected to recipients of previous reports (within the past two years for employment purposes and the past six months for any other purpose) when specifically requested to do so by the consumer, as required by Section 611(d) of the Act.

6. Imposing a charge on consumers for making disclosures pursuant to Section 609, and when furnishing consumer reports pursuant to Section 611(d), when requested by consumers within 30 days after receipt of a notification pursuant to Section 615 of some adverse action, in accordance with the requirements of Section 612 of the Fair Credit Reporting Act.

7. Imposing a charge on consumers when conducting a reinvestigation of disputed information in a consumer's files as required by Section 611(a) of the Fair Credit Reporting Act.

It is further ordered, That respondents herein shall deliver a copy of this order to cease and desist to all present and future personnel, including employees and representatives, engaged in the preparation of reports including consumer reports, and engaged in the disclosure and reinvestigation of all information in said reports, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

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

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

It is further ordered, That 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

PHILLIPS PETROLEUM COMPANY

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

Docket 8930. Complaint, May 15, 1973—Final Order, Dec. 27, 1974

Consent order requiring a Bartlesville, Okla., distributor of petroleum, tires, batteries and automobile accessories, among other things to cease engaging in anticompetitive practices with respect to its lessee dealers. Further, with few exceptions allowed, respondent must offer its dealers leases with a term of not less than five years.

Appearances

For the Commission: *Martin A. Rosen* and *Richard L. Williams.*

For the respondent: *Lewis J. Ottaviani*, Bartlesville, Okla., *Robert A. Aitman* and *Carson M. Glass, Clifford, Warnke, Glass, McIlwain & Finney*, Wash., D.C.

COMPLAINT

The Federal Trade Commission having reason to believe that the Phillips Petroleum Company, a corporation, hereinafter sometimes referred to as respondent, has violated and is now violating the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C. Section 45), and it appearing that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

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

1. "Lessee dealer" means a tenant operating a gasoline service station under lease from Phillips Petroleum Company.

2. "Cancel or cancellation" means to terminate, invalidate or refuse to renew any lease of a lessee dealer for any reason whatsoever.

3. "TBA" means tires, batteries and accessories for automobiles.

4. "Petroleum products" means those products produced from petroleum and sold by lessee dealers.

PAR. 2. Respondent, Phillips Petroleum Company, ("Phillips"), is a corporation organized and doing business under the laws of the State of Delaware, with its principal place of business located in Bartlesville, Okla.

PAR. 3. Phillips Petroleum Company is a major oil company primarily engaged in the offering for sale, sale and distribution of petroleum and

TBA products. In 1970, respondent's total assets were $3,057,000,000. In 1970, gross income of the respondent and its consolidated subsidiaries amounted to $2,304,500,000. Respondent's net working capital at the end of 1970 was $378,009,000. Phillips' products are sold through 26,000 outlets, in all 50 states. As of December, 1970, Phillips operated approximately 3,600 lessee dealer outlets throughout the United States.

PAR. 4. Respondent markets its petroleum and TBA products through its owned and operated service stations; through independent lessee-dealer service stations; and through independent distributors. At all times relevant herein, respondent purchased, sold and shipped products in interstate commerce throughout the United States, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Except to the extent that competition has been hindered, lessened, suppressed, or eliminated by the practices alleged in this complaint, respondent has been and is in competition with other corporations, partnerships, individuals or firms engaged in the sale and distribution, in commerce, of petroleum and TBA products.

PAR. 6. In the sale and distribution of its petroleum and TBA products, in commerce, Phillips is a party to contracts which restrain commerce and has engaged and is engaging in, among others, the following unfair methods of competition or unfair acts and practices:

1. Its standard form leases with lessee dealers provide for unreasonably short term leasehold interests, and allow Phillips to arbitrarily cancel on 10 days written notice.

2. Phillips requires by contract or course of dealing that its lessee dealers:

(a) maintain minimum levels of Phillips' TBA and petroleum products to secure gasoline and/or TBA loans from Phillips,

(b) purchase a stated minimum gallonage of gasoline from Phillips in amounts which constitute either a dealer's total requirements or a major percentage of the dealers' total gasoline sales, and

(c) purchase Phillips' TBA products.

3. Phillips' credit card agreements require that lessee dealers may accept charges only for petroleum and TBA products sold or supplied by Phillips.

4. Phillips causes its lessee dealers in the event of cancellation to:

(a) accept cancellations without recourse to an explanation of the reasons for the cancellation, and

(b) accept cancellation without cause.

PAR. 7. The above acts and practices have the capacity and tendency of hindering, lessening, suppressing or eliminating competition with the following effects, among others:

1. Phillips' lessee dealers are intimidated or coerced into agreeing to contracts of adhesion whereby they are deprived of:

(a) control of their business operations,

(b) their choice of suppliers, and

(c) obtaining financing from sources other than Phillips;

2. Phillips' lessee dealers operate under the fear of arbitrary cancellation of their leasehold interests which could result in severe financial loss;

3. Phillips' competitors are substantially foreclosed from distributing TBA products to Phillips' lessee dealers;

4. The consuming public is hindered and restricted in its access to the TBA products of Phillips' competitors and other advantages which would result from the natural and unobstructed flow of commerce.

PAR. 8. The aforesaid acts and practices of respondent constitute unfair methods of competition in commerce and unfair 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 a complaint charging that the respondent named in the caption hereof has violated the provisions of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45; and

Respondent and complaint counsel, by joint application filed July 3, 1974, having moved to have the matter removed from adjudication for the purpose of submitting an executed consent agreement; and

The Commission, by order issued July 16, 1974, having withdrawn this matter from adjudication pursuant to Section 2.34(d) of its rules; and

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

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission

hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Phillips Petroleum Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located in Bartlesville, Okla.

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

ORDER

I

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

1. The term "lessee dealer" refers to a tenant operating a Phillips Petroleum Company trademarked automotive service station leased to such tenant by Phillips Petroleum Company and such tenant being primarily engaged in the business of reselling automotive gasolines, lubricants, tires, batteries and automotive accessories from the leased premises to the motoring public. The term "lessee dealer" does not include nor refer to jobbers or wholesale distributors of gasolines, lubricants, tires, batteries or automotive accessories; persons who lease a service station from jobbers or wholesale distributors or other third parties; persons who own or lease from third parties the facilities they are operating and receive a flat rental or a monthly accumulated gallonage rental from Phillips Petroleum Company; aviation fixed base operators; and marina outlets.

2. The term "refined petroleum products" refers to automotive gasolines and automotive lubricants customarily sold by lessee dealers, which are produced in the refining process of crude oil and natural gas liquids.

3. The term "TBA" refers to automotive tires and tubes, automotive batteries and automotive accessories, including, but not limited to, spark plugs, oil filters, fan belts, auto lamps, fuses, windshield wipers and blades, antifreeze preparations, waxes, polishes, and other items used on or in the minor servicing or minor repairing of highway automotive vehicles.

4. The term "effective date of this Order" refers to the date of issuance of the Commission's Decision and Order with respect to this matter.

II

It is ordered, That respondent, Phillips Petroleum Company, a corporation, its successors and assigns and respondent's officers, agents,

representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the sale or distribution of refined petroleum products and TBA products in commerce, as "commerce" is defined in the Federal Trade Commission Act, shall not:

1. Enter into, renew or initiate an offer to enter into or renew a lease with a lessee dealer for a term of less than five (5) years as a condition to becoming or remaining a lessee dealer; *Provided, however,*

(i) That in any lease with a lessee dealer respondent shall give such dealer the option to cancel such lease upon sixty (60) days written notice to respondent;

(ii) That where respondent holds any premises as lessee and not as owner for a period of less than five (5) years, respondent may condition the five-year lease offered its lessee dealer upon respondent's renewal of the term of the underlying lease on the premises for a period coextensive with the five-year period of the lease offered the lessee dealer. Such condition shall be conspicuously noted on such lease. In the event respondent does not renew the underlying lease, the term of its lease to its lessee dealer may be the same as the term of such underlying lease;

(iii) that with respect to a lessee dealer who has not operated a service station as a dealer in the sale of gasoline for a period of six (6) months prior to the execution of said lease, respondent shall have the right to terminate the five-year lease offered to such dealer at any time without cause and without arbitration within six (6) months after the date such dealer enters into such lease upon advance written notice of not less than thirty (30) days.

2. Coerce, intimidate or prohibit lessee dealers from purchasing TBA products and refined petroleum products, except gasoline, from non-respondent sources, or require, by contract, agreement, understanding, course of dealing, or by any means whatsoever, that lessee dealers:

(i) deal exclusively in such products manufactured, sold, distributed, or sponsored by respondent;

(ii) refrain from handling such products obtained from non-respondent sources.

3. Prohibit lessee dealers from purchasing gasoline from non-respondent sources; *Provided, however,* respondent may require lessee dealers to maintain on the premises a representative amount

of respondent's trademarked and/or trade named gasolines, for resale to the public; and *Provided further*, That respondent may take such measures as are both lawful and necessary to protect respondent's trademark rights and to avoid violations of federal and state statutes, and regulations adopted pursuant thereto, governing the distribution, handling or sale of gasoline.

4. Refuse to accept from all authorized lessee dealers authorized charges on Phillips credit cards by its valid card holders for purchases made at the leased premises of refined petroleum products and TBA regardless of whether or not such products were manufactured, distributed or sponsored by respondent.

5. By contract or course of dealing:

(i) require any of its lessee dealers to accept product financing from respondent; or in any way prevent its lessee dealers from obtaining product financing from sources other than respondent;

(ii) condition or deny financing of the purchase of any product line by lessee dealers on the basis that a lessee dealer who requests financing is (a) selling another product line which is not manufactured, distributed or sponsored by respondent, or (b) is not purchasing or stocking enough of a product line which is manufactured, distributed or sponsored by respondent.

III

It is further ordered, That from and after the date of this order:

(a) All existing leasehold agreements not in conformity with Part II, Paragraph 1, of this order, shall, within ninety (90) days from the effective date of this order, be renewed so as to conform with the provisions of this order.

(b) All leasehold agreements entered into between respondent and any lessee in conformity with Part II, Paragraph 1, of this order shall be automatically renewed for a term of equal duration unless either party, prior to the expiration of the agreement, gives ninety (90) days advance written notice to the other party of his intention to terminate the agreement; *Provided, however*, respondent may give a ninety (90) day advance written notice of its intention to offer a new lease agreement of different terms and conditions not inconsistent with this order and in such event the existing lease shall remain in effect until a new lease agreement is reached or until either party concludes that an impasse exists and in the latter event either party shall give the other party sixty (60) days advance written notice of termination of the existing lease.

IV

It is further ordered, That immediately after the effective date of this order, a cancellation by respondent prior to the expiration of the term of any lease between respondent and a lessee dealer must be pursuant to sixty (60) days advance written notice of intent to cancel said lease; *Provided, however*, respondent may cancel a lessee dealer without advance written notice in the event of the following:

(a) Death or legal incompetency of the lessee dealer;

(b) The institution of insolvency, bankruptcy or receivership proceedings by the lessee dealer or the taking advantage by lessee dealer of any law for the benefit of debtors;

(c) Vacancy or abandonment of the leased premises for a continuous period of five (5) days;

(d) If the premises or a sufficient portion thereof to prevent the use thereof as a service station are condemned to be taken for any public purposes or if Phillips elects to execute a voluntary conveyance or assignment in lieu of such taking by condemnation;

(e) Destruction of the leased premises;

(f) Dealer is convicted of a felony.

Upon receipt of the requisite notice of intent to cancel, either party may elect to invoke arbitration pursuant to the Commercial Arbitration Rules and the Procedures of the American Arbitration Association (AAA), for the purpose of determining whether good cause exists or existed for the cancellation. If respondent cancels a lessee dealer without advance written notice for the reasons set forth in Part IV, Subparagraphs (a) through (f) above, such lessee dealer may not invoke arbitration. The party invoking arbitration shall give the other party written notice of its intent to invoke arbitration within fifteen (15) days from the receipt of the notice of intent to cancel, setting forth the basis for such invocation and filing two (2) copies of said notice with the Regional Office of AAA closest to said lessee dealer's residence. If such written notice of intention to arbitrate is not made within such fifteen (15) day period, arbitration shall be deemed to have been waived. If arbitration is invoked by either party, such arbitration shall be exclusive and in lieu of any other common law rights. The locale for arbitration shall be fixed by the AAA and shall be selected from the standby facilities maintained by the AAA for arbitration. It is understood and anticipated that such locale shall be the closest available to the lessee dealer's residence.

The arbitrator shall be selected by the parties from the panel of arbitrators of the AAA; said arbitrator shall be empowered to deter-

mine the merits of the good cause issue; assess the costs of arbitration; and the decision of said arbitrator shall be final and binding upon the parties and judgment thereon may be entered in any court of competent jurisdiction. Arbitration shall be no cause for delay; and in the event of a default by either party in appearing before the arbitrator, pursuant to advance written notice, the arbitrator is authorized to render a decision upon the testimony of the party appearing.

The lessee dealer may elect to remain in possession of the leased premises pending the decision of the arbitrator, and for an additional thirty (30) days in the event the decision of the arbitrator is against the lessee dealer; *Provided, however*, That upon motion by respondent showing that the lessee dealer has discontinued operations during normal business hours, the arbitrator shall be empowered to order that respondent may take immediate peaceable possession of the premises.

The arbitrator shall have no power or jurisdiction to add to, subtract from, alter, or modify any of the terms of the lease. Except with respect to costs, as provided below, the arbitrator shall only have power and jurisdiction to determine if good cause for cancellation exists or existed under the provisions of the lease. Further, except for costs, as provided below, the sole remedy that the arbitrator has jurisdiction and authority to award is allowing the dealer to continue as a dealer under the terms of the lease, and the arbitrator does not have jurisdiction or authority to award monetary damages or any other affirmative relief.

If the arbitrator fails to find that good cause exists or existed for cancellation, respondent shall allow the lessee dealer to continue as a lessee dealer under the terms of the existing lease arrangement or enter into a new leasehold agreement conforming with the provisions of this order.

At any time during the arbitration proceedings, the arbitrator, upon motion by either party shall be empowered to order the other party to post bond with a reputable bonding or surety company or otherwise provide security to the arbitrator in an amount sufficient to cover any costs of arbitration to be borne by the parties as hereinafter provided and to cover any losses in rent, reimbursement for supplies or other damages which may be sustained by either party, or other damage to the leasehold during the period following the invoking of arbitration.

At the conclusion of the arbitration proceeding, the arbitrator shall be empowered to assess all costs of arbitration as he deems to be just and equitable under the circumstances of the particular case except that in all instances respondent shall pay its attorneys' fees. If the arbitrator fails to find that good cause exists or existed for cancellation, respondent shall bear all costs of the arbitration.

The lessee dealer's right to elect arbitration, including lessee dealer's time limitations, lessee dealer's remedies, AAA's headquarters address and the Regional Office of AAA closest to the lessee dealer's residence as then known, shall be conspicuously noted in all leases subject to the provisions of this order; *Provided, however*, That with respect to those leased premises subject to the Court's jurisdiction in the case of *United States* v. *Phillips Petroleum Company and Tidewater Oil Company*, No. 66-1154 (C.D. Cal., 1966) and permitted to be retained by respondent after the entry of a Final Judgment in that case, the requirements of this last paragraph of Part IV as to conspicuous notice in leases shall not be effective until ninety (90) days after the entry of such Final Judgment; *Provided, further*, That with respect to those leased premises subject to the Court's jurisdiction in the aforesaid case which are to be sold or divested by respondent pursuant to such Final Judgment, the requirements of this last paragraph of Part IV as to conspicuous notice in leases shall not apply; and, *Provided, finally*, That the requirements of this last paragraph of Part IV as to conspicuous notice in leases shall in all other instances be made effective ninety (90) days after the effective date of this order.

V

It is further ordered, That from and after the effective date of this order, respondent shall not, directly or indirectly, require, encourage or suggest that its branded jobbers or wholesale distributors enter into contractual arrangements with their dealers which, if entered into by respondent and its lessee dealers, would contravene the provisions of Part II, Paragraphs 2, 3, 4 and 5 of this order.

VI

It is further ordered, That respondent shall, within ninety (90) days after the effective date of this order, serve upon all of its lessee dealers a letter by certified mail, signed by a responsible official binding the respondent, and on official Phillips Petroleum Company stationery, which shall include the following statement in its first paragraph:

The Federal Trade Commission has entered an Order which, among other things, prohibits Phillips Petroleum Company from coercing, restraining or restricting the rights of lessee dealers to function as independent businessmen, as more fully set forth in the relevant provisions of the Order which are enclosed.

The relevant provisions of this order which shall be enclosed in such letters to such lessee dealers are Parts I-IV thereof. This letter shall be submitted to the Commission for approval before it is mailed to lessee dealers.

VII

It is further ordered, That respondent shall within ninety (90) days after the effective date of this order serve upon all of its branded jobbers and wholesale distributors a letter by certified mail, signed by a responsible official and on official Phillips Petroleum Company stationery, which shall include the following statement in its first paragraph:

The Federal Trade Commission has entered an Order which, among other things, prohibits Phillips Petroleum Company from requiring, encouraging, or suggesting that its branded jobbers or wholesale distributors enter into contractual arrangements with their dealers which, if entered into by Phillips and its lessee dealers would violate Part II, Paragraphs 2, 3, 4 and 5 of the Order. The relevant provisions of the Order are enclosed.

The relevant provisions of this order which shall be enclosed in such letters to branded jobbers and wholesale distributors are Parts I, II, III, and V thereof. This letter shall be submitted to the Commission for approval before it is mailed to jobbers and wholesale distributors.

VIII

It is further ordered, That should respondent during the ninety (90) day period immediately following the effective date of this order send any lessee dealer advance written notice of intent to cancel a lease between respondent and such lessee dealer prior to the expiration of the term of the lease, respondent must simultaneously notify such lessee dealer of the provisions of Part IV of this order.

IX

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

X

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

XI

It is further ordered, That respondent shall, within ninety (90) days after service upon it of this order, and every ninety (90) days thereafter

for a period of one (1) year and thereafter annually at the end of the calendar year for a period of nine (9) years file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order. This order shall remain in effect for twenty (20) years from its effective date.

XII

It is further ordered, That no provision contained in this order shall prohibit respondent from completely divesting itself of any interests in any leased station which is required by a Final Judgment in *United States* v. *Phillips Petroleum Company and Tidewater Oil Company*, No. 66-1154 (C.D. Cal., 1966), and that immediately after the effective date of this order only Paragraphs 2, 3, 4 and 5 of Part II of this order and Part IV of this order shall apply to the respondent's lessee dealers whose leased premises are subject to the Court's jurisdiction in the aforementioned case; *Provided, however*, That in the event respondent is permitted, following entry of a Final Judgment in the aforesaid case, to retain any of the premises presently leased to lessee dealers, thereupon after ninety (90) days all the other provisions of this order shall apply in all respects to such retained, leased premises; *Provided, further*, That no provision of this order shall be binding upon or apply to any of the leased premises of respondent sold or divested pursuant to a Final Judgment in the aforesaid case.

IN THE MATTER OF

TOMORROW'S HERITAGE, INC., TRADING AS HERITAGE, ET AL.

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

Docket C-2619. Complaint, Dec. 31, 1974—Decision, Dec. 31, 1974

Consent order requiring a Beverly Hills, Calif., seller and distributor of photograph albums, coupon books and certificates, sold in connection with photo enlargement and studio portrait plans, among other things to cease misrepresenting the business relationship between respondents and others; misrepresenting the usual and customary prices for its products or services; failing to maintain adequate records; misrepresenting special or limited offers; misrepresenting guarantees and failing to make refunds on a money-back guarantee.