IN THE MATTER OF

H. G. GITTERS, INC.

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

Docket C-1699. Complaint, Feb. 26, 1970—Decision, Feb. 26, 1970

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

COMPLAINT

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

PARAGRAPH 1. Respondent H. G. Gitters, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent manaufactures fur products with its office and principal place of business located at 307 Seventh Avenue, New York, New York.

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

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached,

dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

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

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

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

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

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

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

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 8. Respondent furnished false guaranties that certain of its fur products were not misbranded, falsely invoiced or falsely advertised when respondent in furnishing such guaranties had reason to believe that fur products so falsely guarantied would be introduced, sold, transported or distributed in commerce, in violation of Section 10(b) of the Fur Products Labeling Act.

PAR. 9. The aforesaid acts and practices of the respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

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

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

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

1. Respondent corporation is 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 307 Seventh Avenue, New York, New York.

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

ORDER

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

A. Misbranding any fur product by:

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

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

B. Falsely or deceptively invoicing any fur product by:

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

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

3. Failing to set forth the term "natural" as part of the information required to be disclosed on an invoice under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

4. Failing to set forth on an invoice the item number or mark assigned to such fur product.

It is further ordered, That respondent H. G. Gitters, Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondent has reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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

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

IN THE MATTER OF

WILLIAM FROHLINGER TRADING AS WILLIAM FROHLINGER FURS

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

Docket C-1700. Complaint, Feb. 26, 1970—Decision, Feb. 26, 1970

Consent order requiring a New York City retail furrier to cease falsely invoicing his fur products.

COMPLAINT

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

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

PARAGRAPH 1. Respondent William Frohlinger is an individual trading as William Frohlinger Furs.

Respondent is a fur merchant with his office and principal place of business located at 207 West 29th Street, New York, New York.

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

PAR. 3. Certain of said fur products or furs were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

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

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

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

PAR. 4. Respondent sold and distributed fur products or furs which were bleached, dyed or artificially colored. Certain of these furs or fur products were falsely and deceptively invoiced in violation of Section 5(b)(2) of the Fur Products Labeling Act in that the said fur products were described on invoices as "Dressed Ranch Mink females" without disclosing that said fur products or furs were bleached, dyed or otherwise artificially colored. The respondent's description of the said furs or fur products as "Dressed Ranch Mink females" without a disclosure that the said furs or fur products were bleached, dyed or artificially colored had the tendency and capacity to mislead respondent's customers and others into the erroneous belief that the fur products or furs were not bleached, dyed or

otherwise artificially colored. Such failure to disclose a material fact was to the prejudice of respondent's customers and the purchasing public and constituted false and deceptive invoicing under Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 5. Certain of said furs were falsely and deceptively invoiced with respect to the name of the country of origin of imported furs, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced furs, but not limited thereto, were imported furs covered by invoices which failed to show the country of origin of such imported furs. The omission of the required material fact as to the country of origin of the imported furs implied that the said furs were of domestic origin when in truth and in fact the said furs were of foreign origin, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 6. Certain of said fur products or furs were falsely and deceptively invoiced in violation of Rule 19(a) of the Rules and Regulations promulgated under the Fur Products Labeling Act.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISION AND ORDER

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

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jursidictional 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 hav-

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

1. Respondent William Frohlinger is an individual trading as William Frohlinger Furs.

Respondent is a fur merchant with his office and principal place of business located at 207 West 29th Street, New York, New York.

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

ORDER

It is ordered, That respondent William Frohlinger, an individual trading under William Frohlinger Furs or any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale, in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from falsely or deceptively invoicing furs or fur products by:

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

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

3. Failing when a fur or fur product is pointed or contains or is composed of bleached, dyed or otherwise artificially colored

fur, to disclose such facts as a part of the required information on invoices pertaining thereto.

4. Misrepresenting in any manner on an invoice, directly or by implication, the country of origin of any imported fur.

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

IN THE MATTER OF

WINDSOR DISTRIBUTING COMPANY ET AL.

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

Docket 8773. Complaint, Feb. 3, 1969—Decision, Mar. 6, 1970

Order requiring three companies engaged in distributing vending machines and supplies and six of their individual officers to cease making deceptive representations as to earnings, required qualifications of purchasers, sales routes, machine locations, repurchase of machines and supplies, nature of respondents' businesses, and other misrepresentations in selling their vending machines and supplies.

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 Windsor Distributing Company, a corporation, Pentex Distributing Company, a corporation, Pen-Ida Distributing Company, a corporation, and Roger A. Gerth and Sanford A. Middleman, individually and as officers of said corporations, and John F. Thomas and Frank Halavonic and Jerome Scott and Kenneth Bedingfield, individually and as office managers of said respective corporations hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Windsor Distributing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office

and place of business located at 6 North Balph Avenue, in the city of Pittsburgh, State of Pennsylvania.

Respondent Pentex Distributing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 3130 Stemmons Freeway, in the city of Dallas, State of Texas.

Respondent Pen-Ida Distributing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 2520 South State Street, Suite 202, in the city of Salt Lake City, State of Utah.

Respondents Roger A. Gerth and Sanford A. Middleman are individuals and are officers of each of the corporate respondents. Their address is the same as the corporate respondent, Windsor Distributing Company. Respondent John F. Thomas is an individual and is office manager of Windsor Distributing Company. His address is the same as the said corporate respondent, Windsor Distributing Company. Respondent Frank Halavonic is an individual and is officer manager of Pentex Distributing Company. His address is the same as said corporate respondent, Pentex Distributing Company. Respondent Jerome Scott is an individual and was office manager of Pen-Ida Distributing Company. Respondent Kenneth Bedingfield is an individual and is office manager of Pen-Ida Distributing Company. Their address is the same as said corporate respondent, Pen-Ida Distributing Company.

Respondents Gerth and Middleman together with the aforenamed manager of each of said corporate respondents cooperate and act together to formulate, direct and control the acts and practices of each of said corporate respondents, including the acts and practices hereinafter set forth.

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

PAR. 3. In the course and conduct of their business, as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their respective places of business in the States of Pennsylvania, Texas and Utah 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. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their said products, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers and in promotional material and in oral representations and statements by their salesmen and representatives to prospective purchasers with respect to employment, profits, nature of business, investment, and other business opportunities and benefits to be derived by purchasing said products.

Typical and illustrative of said representations and statements appearing in advertising and promotional material, including "help wanted" and other columns, but not all inclusive thereof, are the following:

SPARE TIME INCOME

Refilling and collecting money for NEW TYPE high quality coin operated dispensers in this area. No selling. To qualify you must have car references, $600 to 1900 cash. Seven to twelve hours weekly can net excellent monthly income. More full time. For personal interview write WINDSOR DISTRIBUTING COMPANY, 6 N. BALPH AVENUE, PITTSBURGH, PENNSYLVANIA, 15202. Include phone number. (Substantially the same advertisement is used by each of the other corporate respondents under its separate corporate name and address).

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements and representations of their salesmen and representatives, the respondents have represented, and are now representing, directly or by implication, that:

1. Respondents offer employment or are making a bona fide offer to sell established businesses to persons who respond to their advertisements.

2. Purchasers of respondents' products must own an automobile, furnish references, have special qualities or be specially selected to qualify for purchase of respondents' products.

3. Persons who purchase respondents' products will not be required to engage in any type of selling activity.

4. Respondents grant exclusive territories to purchasers for the location of their vending machines and sales of respondents' machines will not be made to other persons in such territories.

5. Each vending machine purchased from respondents will produce a minimum $35 gross profit during each month of operation; purchasers of said machines could reasonably expect a return on their investment of $9,000 net per year by purchasing 50 machines.

6. Sales routes have been previously established by respondents for said purchasers; that satisfactory and profitable locations have been, or will be, secured for the purchaser; and that respondents will relocate the machines if the original locations are unsatisfactory.

7. Persons who have previously purchased respondents' machines are making substantial earnings from the operation.

8. Machines purchased from respondents are of specified quality, performance, structural design or type.

9. Respondents will repurchase machines at any time if the purchasers are not satisfied with the vending machine business.

10. Respondents are a nut and candy company; are seeking to establish future markets for said products; and in so doing are selling vending machines to purchasers at or near cost.

PAR. 6. In truth and in fact:

1. Respondents do not offer employment nor are they making a bona fide offer to sell established businesses to persons responding to their advertisements. Their sole purpose is to sell their vending machines and vending machine supplies and equipment to such persons.

2. It is not necessary, for purchasers of respondents' products to own an automobile, to furnish references, have special qualities or be specially selected to qualify for purchase of respondents' products. The only requirement is that the purchase price be paid.

3. Persons who purchase said products are required to engage in extensive selling or soliciting in order to establish, operate and maintain locations for said products.

4. Purchasers of respondent's products are not granted exclusive territories within which machines purchased by them may be placed and operated, and sales of machines are made to other parties in said territories.

5. $35 per machine is greatly in excess of the gross profit that can be expected by purchasers of said machines for each month of operation; $9,000 net per year is greatly in excess of the net income purchasers make from the operation of 50 machines. In a substantial number of instances, persons who purchase respondents' products and engage in said vending machine business make little or no profit.

6. Neither respondents nor their agents have established sales routes for the purchasers prior to the purchase of respondents' machines, and in those instances where respondents' agents do locate or assist in locating the machines for the purchasers, the locations are generally found to be unsatisfactory and unprofitable. Respondents do not relocate machines for purchasers.

7. In most instances persons who purchased respondents' products and engaged in said vending machine business did not make substantial earnings; but made little or no profit.

8. Purchasers frequently find, upon delivery, that the machines sold to them by respondents are of a different quality, performance, structural design, or type than as represented.

9. Respondents will not and do not repurchase the machines sold by them in the event the purchasers are not satisfied or for any other reasons.

10. Respondents are not a nut and candy company; are not seeking to establish future markets for said products; but are primarily engaged in the sale of vending machines for profit and do not sell said machines to purchasers at or near cost.

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

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

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

Mr. Frank P. Dunn and *Mr. Harry G. Shupe* for the Commission.

Mr. Sanford A. Middleman (*Middleman & Dixon*), and *Mr. Patrick J. Basial*, Pittsburgh, Pa., for respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

OCTOBER 21, 1969

PRELIMINARY STATEMENT

A complaint was filed in the above entitled matter on February 3, 1969, and mailed to respondents on February 12, 1969. Issue was joined by the filing of an interim answer on March 13, 1969. This interim answer following respondents' motion for a more definite statement filed on March 25, 1969, subsequently became the final answer of respondents as indicated by the record. Essentially the allegations of the complaint charged respondents under the Federal Trade Commission Act with engaging in deceptive practices emanating from misrepresentations made by them to the public in seeking customers for their vending machines and the products which they dispensed.

A prehearing conference in the above entitled matter was held June 2, 1969. Subsequent thereto hearings were held on June 30, 1969, through July 3, 1969, in Washington, D.C., on July 7, 1969, and July 8, 1969, in Casper, Wyoming, and on July 22 and July 23, 1969, at Pittsburgh, Pennsylvania.

Proposed findings were filed by complaint counsel and counsel for respondents on October 13, 1969.

The hearing examiner has carefully considered the proposed findings of fact and conclusions of complaint counsel and counsel for respondent, and such proposed findings and conclusions if not herein adopted, either in the form proposed or in substance, are rejected as not supported by the record or as involving immaterial matters.

FINDINGS OF FACT

1. Respondent Windsor Distributing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 6 North Balph Avenue, in the city of Pittsburgh, State of Pennsylvania. Admitted by answer. See also Tr. 39–40 and Tr. 588–89 for name change.

2. Respondent Pentex Distributing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 3130 Stemmons Freeway, in the city of Dallas, State of Texas. Admitted by answer. See also Tr. 39–41.

3. Respondent Pen-Ida Distributing Company is a corporation or-

ganized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 2520 South State Street, Suite 202, in the city of Salt Lake City, State of Utah. Admitted by answer. See also Tr. 39–41.

4. United Distributing Company, successor to respondent Windsor Distributing Company (Tr. 588), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 6 North Balph Avenue in the city of Pittsburgh, Pennsylvania. See CX 52 and 54 and Tr. 39 and 42. This corporation as an entity aside from its ownership by respondent Roger A. Gerth has not been made a party to the complaint. Findings holding it to be a participant in the deceptive practices as such a corporate entity would therefore be inappropriate. The complaint counsel's proposed findings in this regard have therefore been disallowed except to the extent that Roger A. Gerth as owner and this corporate entity are one and the same.

5. Respondent Roger A. Gerth, is an individual and is an officer of each of the corporate respondents. His address is the same as the corporate respondent, Windsor Distributing Company. Admitted by answer. See also Tr. 38, 39, 45, 46 and 50.

6. Sanford A. Middleman is an individual and is counsel for each of the corporate respondents, and of United Distributing Company, and was an officer and director of Windsor Distributing Company from March 1965 to March 1968 and of Pentex Distributing Company from May 1966 to September 1967. Admitted by answer in part. See also Tr. 46 and 50. However, the evidence does not establish that the respondent Sanford A. Middleman has acted in a capacity other than as attorney and counsel for respondent corporations in a legal capacity or as a lawyer representing respondent corporations. In fact substantial evidence establishes that the respondent Sanford A. Middleman, at all times acted as an attorney representing the respondents, his clients, as he was professionally and ethically obligated to do. Evidence to this effect was adduced during complaint counsel's case. See Tr .77, 83, 86, 88, 668–69.

7. Respondent John F. Thomas is an individual and was office manager of Windsor Distributing Company from April 1964 to April 1967 during which time his address was the same as the said corporate respondent, Windsor Distributing Company. John F. Thomas was not served with a copy of the complaint and did not participate in these proceedings, and accordingly the complaint must

be dismissed as to him individually and as manager of corporate respondent Windsor since jurisdiction in personam has not been obtained. Admitted in part by answer and established by testimony. See Tr. 52–53 and 95.

8. Respondent Frank Halavonic is an individual and is office manager of Pentex Distributing Company. His address is the same as said corporate respondent, Pentex Distributing Company. Admitted by answer. See also Tr. 54, 100–01 and 696–97.

9. Respondent Jerome Scott is an individual and was an office manager of Pen-Ida Distributing Company, and his address was the same as that of this corporate respondent. Jerome Scott was not served with a copy of the complaint and did not participate in these proceedings. Accordingly, the complaint must be dismissed as to him individually and as a former manager of corporate respondent Pen-Ida since jurisdiction in personam has not been obtained. See Tr. 54–55 and 103–04.

10. Respondent Kenneth Bedingfield is an individual and is office manager of Pen-Ida Distributing Company. His address is the same as said corporate respondent, Pen-Ida Distributing Company. Admitted by answer. See also Tr. 54, 105–06.

11. Respondent Roger A. Gerth, Frank Halavonic of Pentex Distributing Company and Kenneth Bedingfield of Pen-Ida Distributing Company, with the managers of the corporate respondents have cooperated and acted together to formulate, direct and control the acts and practices of each of said corporate respondents. See Tr. 46, 50, 51, 55, 64, 65, 69, 78, 82, 96, 98, 100-09, 600 and 699.

12. Respondents including Windsor Distributing Company and its successor (Tr. 588) United Distributing Company are now, and or for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of vending machines and vending machine supplies to the public. Admitted by answer. See also Tr. 57, 58, 59, 60, 61, 62, 67, 68, 111, 589, 679, 680, 681, 682, 683, 684 and 685. See advertising, CX 1–CX 19, CX 68, CX 69. See sales invoices CX 60, CX 91, CX 113F including United Distributing Company sales, CX 59A–59Z and 109. See distributorship agreements, CX 41A–43–C, and lists of sales representatives, CX 35-CX 39 and CX 74A–74B. For purchasers see Tr. 188-89, 282, 311–12.

13. In the course and conduct of their business, as aforesaid, respondents other than Sanford A. Middleman, and United Distributing Company now cause, and for some time last past have caused, their said products, when sold, to be shipped from their respective places of business in the States of Pennsylvania, Texas and Utah 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. Admitted by answer. See also Tr. 57, 58, 59, 102, 104, 106, 109, 112, 113 and 679–682. See United Distributing Company sales invoices CX 59A-59Z and 109.

14. In the course and conduct of their aforesaid business and for the purpose of inducing the purchase of their said products, the respondents and United Distributing Company have made, and are now making, numerous statements and representations in advertisements inserted in newspapers and in promotional material and in oral representations and statements by their salesmen and representatives to prospective purchasers with respect to employment, profits, nature of business, investment, and other business opportunities and benefits to be derived by purchasing said products. Admitted in part by answer. See also Tr. 62, 63, 67-69, 124, 137-38. For copies of ads and sales presentations see, CX 1-23, 45-50 and CX 69; also, Tr. 141, 143 and 144. For customer experiences see Tr. 194, 290–91, 344-45, 426-27, 472-73, 474, 493, 499-501, 516, 526, 543 and 565.

Typical and illustrative of said representations and statements appearing in foregoing advertising and promotional material, including "help wanted" and other columns, but not all inclusive thereof, are the following:

SPARE TIME INCOME

Refilling and collecting money for NEW TYPE high quality coin operated dispensers in this area. No selling. To qualify you must have car references, $600 to 1900 cash. Seven to twelve hours weekly can net excellent monthly income. More full time. For personal interview write WINDSOR DISTRIBUTING COMPANY, 6 N. BALPH AVENUE, PITTSBURGH, PENNSYLVANIA, 15202. Include phone number. (Substantially the same advertisement is used by each of the other corporate respondents and United Distributing Company under its separate corporate name and address).

15. By and through the use of the foregoing statements and representations, and others of similar import separately and incident to oral and written representations of their salesmen and other agents or nominal successors [1] respondents have represented, and are now representing, directly or by implication as hereinafter set forth in Findings 16 through 25.

16. Respondents represent they offer employment or are making a

[1] *E.g.*, United Distributing Company a nonparty and successor to respondent Windsor Distributing Company in selling vending machines and products is solely owned and controlled by respondent Roger A. Gerth along with other corporations named in the complaint. See CX 52; Tr. 46, 50–51, 182, 372–73, 588–89.

bona fide offer to sell established businesses to persons who respond to their advertisements. This is a reasonable interpretation of the language of the advertisement quoted in Finding 14 and others referred to in CX 1–19, CX 68 and CX 69. Such advertisements were placed under "help wanted" or "wanted" columns. For examples see CX 9, CX 10, CX 12 and CX 13. The language of the second paragraph of the telephone presentation (CX 20) still used (Tr. 143) clearly indicates that an appointment is being offered to the prospective customer. The fourth paragraph leads the prospect to believe that he is applying for some type of employment or distributor arrangement. It is apparent that CX 21A and CX 57A reflect instructions to the salesman to "always remember that you are there to interview them (*i.e.*, the customers) for a job which they must qualify for."

17. Respondents represent purchasers of respondents' products must own an automobile, furnish references, have special qualities or be specially selected to qualify for the purchase of respondents' products. Admitted by answer. See also CX 1–19, 45–50, CX 68 and CX 69.

18. Respondents represent persons who purchase respondents' products will not be required to engage in any type of selling activity. Admitted in part by answer. See also advertisements, and customers' understandings Tr. 194, 282, 312. See sales presentation, CX 21B, where salesman recited advertisement: "no selling—that's right, there is no selling."

19. Respondents represent they grant exclusive territories to purchasers for the location of their vending machines and sales of respondents' machines will not be made to other persons in such territories. Salesmen are instructed to inform prospects as follows: "My job is to appoint a distributor for this area tomorrow." CX 20; also see CX 21A as to the following representation: "My job is to interview until I find a man * * * When I do I will immediately assign him to an area route." The language of the sales presentation in CX 21D is designed to give the impression to the customer that he is being granted an exclusive franchise such as, "It is easier to do business with one person in an area * * * I'm only going to select one." Designations or assignments of exclusive territories, areas or routes appear on the following purchase orders (contracts): CX 69a, CX 79, CX 89, CX 100, CX 102, CX 105, CX 113B, CX 115A, CX 116E, CX 117F, CX 118B, CX 119E, CX 120I, CX 122A, CX 123F, CX 124A, CX 125E, CX 126A, CX 128A, CX 129A–130A. Witnesses also testified to being assigned or granted exclusive territories by respondents' salesmen. See Tr. 238–41, 283, 284, 313-14, 431,

440-41, 485, 493, 518, 526, 545–47, 552 and 562-63. Such words as "focal point" or "assigned area," were understood to mean exclusive territory. CX 86A.

20. Respondents represent each vending machine purchased from respondents will produce a minimum $35 gross profit during each month of operation; purchasers of said machines could reasonably expect a return on their investment of $9,000 net per year by purchasing 50 machines. Various profit figures were quoted to the prospective customers by the respondents' salesmen; and these in particular, by salesman Auslander to customer Scott. See Tr. 204, 205 and 270. Also see Tr. 286-87, 445–46, 475, 500, 526, 544-55 and 564-65. Some customers were shown Revenue Schedules. See CX 25A–25C, CX 28A-29B and CX 76. Customers were lead to believe they could achieve such profits. Tr. 194, 303-31, 427, 516, 543-44 and 762.

21. Respondents represent sales routes have been previously established by respondents for said purchasers; that satisfactory and profitable locations have been, or will be, secured for the purchaser; and that respondents will relocate the machines if the original locations are unsatisfactory. Admitted in part by answer. It is also represented "Satisfactory locations are procurred after the contract is executed." and "Now our Company insists on securing the original locations for these units." See CX 57E and 57G. That these locations will be profitable is communicated to the prospect by telling him: "After that (*i.e.*, securing original locations) the amount of extra profit he makes depends on how he attends to business." See CX 21C, 22B, 57E and 57G. As to the use of these sales presentations see Tr. 142-44. For customer testimony see Tr. 194, 198, 204, 218, 289, 312, 313, 315, 344–45, 381, 399, 427, 473, 497, 516, 519, 526, 549 and 563.

22. Respondents represent persons who have previously purchased respondents' machines are making substantial earnings from the operation. Admitted by answer in part. See also sales presentations, CX 21A-21B, 21C, 21D, 22B, 57B, 57C and 57D. For customer testimony see Tr. 218-19, 291, 324, 344, 445-46, 472, 499–500, 516, 519 and 529.

23. Respondents represent machines purchased from respondents are of specified quality, performance, structural design or type. Admitted by answer. See also sales presentations CX 21C, 22A, 24, 26, 27 and 57D. For representations made to customers see Tr. 219–20, 261-62, 292, 391, 431, 528 and 543–44. All advertisements feature the language: "__New Type, high quality coin operated dispensers. * * *"

24. Respondents represent they will purchase machines at any time if the purchasers are not satisfied with the vending machine business. See Tr. 222, 266 and 336.

25. Respondents represent they are a nut and candy company; are seeking to establish future markets for said products; and in so doing are selling vending machines to purchasers at or near cost. Admitted in answer that respondent companies are nut and candy companies, seeking to establish future markets. Also see CX 21C and 57D. For customer testimony, see Tr. 223–25, 296–97, 353, 389, 448, 504, 535, 555 and 574.

26. Contrary to their representations respondents do not offer employment nor are they making a bona fide offer to sell established businesses to persons responding to their advertisements. Their sole purpose is to sell their vending machines and vending machine supplies and equipment to such persons. Admitted in part by respondents. See Tr. 114-115 and 126-27.

27. Contrary to respondents' representations it is not necessary for purchasers of respondents' products to own an automobile, to furnish references, have special qualities or be specially selected to qualify for the purchase of respondents' products. The only requirement is that the purchase price be paid. Admitted in part by respondent. See also Tr. 116, 117, 119 and 592. For customers' statements see Tr. 202, 284-85 and 386. It is evidenced that respondents' customers were seeking to supplement their incomes, whether they were working full-time or living on retirement pensions. The evidence further indicates respondents sold their machines to anyone who could make the necessary down payment, without regard to qualifications, including several housewives. See Tr. 184, 207-08, 310, 342, 380, 384, 386, 390, 424–26, 491–92, 515 and 541-43. The entire sales presentation is built around the deception that references and special qualifications are needed in order "to be selected as a distributor." See CX 21A, 21D, 57A and 57D.

28. Contrary to respondents' respresentations persons who purchase said products are required to engage in extensive selling or soliciting in order to establish, operate and maintain locations for said products. This part of the finding rests essentially on the experiences of customer-witnesses who were required to do extensive selling in relocating their machines. See Tr. 200, 202–03, 285, 289, 348, 350, 388, 453-54, 501-02, 551 and 573.

29. Contrary to respondents' representations purchasers of respondents' products are not granted exclusive territories within which machines purchased by them may be placed and operated, and

sales of machines are made to other parties in said territories. Testimony is uniformly in accord with this finding since virtually all customers experienced the same deception regarding awards of exclusive territories, distributorships, or assigned routes, or areas. That respondents awarded the same territory or area to more than one person is clearly established. See Tr. 239–41, 314, 348, 384-85, 431-33, 476, 485, 493-94, 511, 518, 521, 526, 528-29, 533, 553 and 565-66; also see CX 86A and 86B. In fact respondents continued to advertise and sell their machines, after "selecting" an area distributor, until the area became saturated, or all leads exhausted. CX 117H, 118D and 118E.

30. Contrary to respondents' representations $35 per machine is greatly in excess of the gross profit that can be expected by purchasers of said machines for each month of operation; $9,000 net per year is greatly in excess of the net income purchasers make from the operation of 50 machines. In a substantial number of instances, persons who purchase respondents' products and engage in said vending machine business make little or no profit. This finding is based on the testimony of all customers. See Tr. 204-06, 288, 295, 321-22, 335, 354-56, 391, 434-35, 449-53, 458-63, 479-83, 502-03, 530-31 and 554. Even if these machines produced the exact number of sales respondents claim as the national average, per week, they would not reach the gross profit figures represented by the salesman. Tr. 736–40.

31. Contrary to respondents' representations neither respondents nor their agents have established sales routes for the purchasers prior to the purchase of respondents' machines, and in those instances where respondents' agents do locate or assist in locating the machines for the purchasers, the locations are usually found to be unsatisfactory and unprofitable. Respondents do not relocate machines for purchasers. This finding is supported by the testimony of several customers. See Tr. 218, 284, 285, 290, 315-17, 319, 348–49, 357, 383-84, 387–88, 429, 443-45, 473, 498-99, 527, 551 and 52. Frequently when relocations were made, they were unsatisfactory (Tr. 398-99) or the location owners had not given permission to the company locator. Tr. 399.

32. Contrary to respondents' representations in most instances persons who purchased respondents' products and engaged in said vending machine business did not make substantial earnings. See transcript references cited under Findings 31; also, see Tr. 433–34 and 436; and CX 82 and 83 for earnings and profits reported by customer Abbott. A typical customer, Mr. Schalk, stated that he invested nearly $3,000 and in three years took only $500 out of the ma-

chines, *i.e.*, his total gross revenue. Tr. 370-91. At the time of his testimony he had five machines out of an original thirty that he had purchased, still on location, Tr. 401, and had to seek other employment in order to live. This witness was led to believe that he would make $7,500 per year from the machines, or at least "an average fixed income." Tr. 405-406.

33. Contrary to respondents' representations purchasers frequently find, upon delivery, that the machines sold to them by respondents are of a different quality, performance, structural design, or type than represented. The testimony in this connection was also consistently uniform. For example witness Scott testified: "He (the salesman) stated that they were the highest quality vending machines on the market. * * * I found by opening the first carton that it was just about the cheapest piece of material that you could possibly get hold of." Tr. 219, also see Tr. 220–21, 292-93, 383, 431, 474-75, 505, 528, 544 and 549.

34. Contrary to their representations respondents will not and do not repurchase the machines sold by them in the event the purchasers are not satisfied or for any other reasons. See Tr. 222–24 and 336.

35. Contrary to their representations respondents are not a nut and candy company. They are not seeking to establish future markets for said products but are primarily engaged in the sale of vending machines for profit and do not sell said machines to purchasers at or near cost. See Tr. 125–27, 131-32, 297, 353, 392 and 448; also CX 59A-59Z and 109.

36. In the course and conduct of their aforesaid business and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of vending machines and supplies of the same general kind and nature as those sold by respondents. See Tr. 134–36.

37. The use by respondents of the aforesaid false, misleading and deceptive statements. representations and practices has had, and now has, the capcity 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 has induced them to purchase substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

CONCLUSIONS

It is well established that officers of a corporate respondent may themselves be individually enjoined from participating in the prac-

tices engaged in between corporations of which they are an officer in violation of the Federal Trade Commission Act. For example in *Federal Trade Commission* v. *Standard Education Society*, Sup. Ct. 1937, 301 U.S. 112 and 86 F.2d 692, 2d Cir. 1936, the authority to hold corporate officers and to prevent them from using unfair methods of competition in commerce, is clear. In *Surf Sales Co. et al.* v. *Federal Trade Commission*, 7th Cir. 1958, 259 F. 2d 744, the corporate manager was held subject to an order regardless of his title because it was found that he did exercise authority, responsibility and direction of the affairs of the company.

Officers and directors were held to be liable where they participated in the deceptive practices and could not avoid individual responsibility on the ground that they were acting on behalf of the corporation only, and although an officer resigned and entirely withdrew from any active roll in the corporation before the order was entered, it did not exclude him from the effect of the order because he had individually engaged in the deceptive acts and practices. *Consumer Sales Corporation* v. *Federal Trade Commission*, 2d Cir. 1952, 198 F.2d 404. The court stated: "Little need be said in answer to the contention that the individual petitioners should not have been included in the order. They had organized the corporate petitioner approximately two years before this proceeding was commenced. They were its officers—they directed and guided the corporation in matters of policy." In reference to the officer's resignation, the court explained that he was held liable not only because he had participated, but also because, "Consumer Sales Corporation is not the only vehicle through which such acts may be accomplished in the future." (*Supra* page 408). The court also rejected the argument that respondent's salesmen were not authorized to make false statements and that the officers had no knowledge of such statements. It was found by the Commission and upheld by the court that the officers furnished the order forms which contained false statements and "actively encouraged and participated in making the said false representations." Also when the respondents sought to avail themselves of the *de minimis* concept concerning the testimony of only fourteen housewives among thousands of purchasers, the court ruled that since all salesmen used the same order blanks and other sales materials, it indicated that the fourteen were but few of the many deceived. (*Supra*, page 407). Also cited in this case is *Steelco Stainless Steel, Inc.* v. *Federal Trade Commission*, 7th Cir. 1951, 187 F. 2d 693, 696.

The corporate responsibility for the representations and acts of its salesmen regardless that they are called independent contractors is also well established. *International Art Co.* v. *Federal Trade Commission*, 7th Cir. 1940, 109 F. 2d 393, *cert. denied*, 310 U.S. 632.

Substantial proof establishes in the present matter that misrepresentations and deceptions are a part of corporate policy which extends to all the corporations named herein. See identical sales presentations CX 21A and CX 57A. The acts and practices are the same for all. CX 44 In *National Trade Publications Service, Inc.* v. *Federal Trade Commission*, 8th Cir. 1962, 300 F. 2d 790, the order was supported against the parties by the pattern of conduct of the salesmen indicating such violations were not isolated. Also the improper practices of the salesmen were approved by the corporation and reflect a consistent pattern of deception. In the present matter the misrepresentations of the salesmen were sanctioned by respondents as evidenced by their acceptance of the contracts containing notations of exclusive territories, and other subsequent correspondence.

Complaint counsel in connection with the participation of respondents' counsel in the deception point out that the Commission in *Wilson Chemical Co. et al.*, Docket 8474 [64 F.T.C. 168], "gives sound precedent for subjecting a corporate attorney to an order based on his role in the deceptive selling scheme." In that case the attorney participated almost passively by permitting the use of his name on collection letters, but the Commission found that he prepared the original form, authorized its use, received compensation for the use and occasionally received responses. Apparently in the *Wilson case supra*, the attorney in question was not participating solely on a professional basis in representing the respondent in that case but was deceptively allowing respondent to utilize his presence as an attorney without in fact acting as counsel exclusively. In the instant case, *i.e.*, Windsor Distributing, Mr. Middleman was not acting under the guise of an attorney representing respondents, but his services and participation were of a completely legal and professional nature and he had no participating relationship with respondent Windsor Distributing or with Mr. Gerth, also a respondent other than as their lawyer. It would indeed be a very unrealistic rule if every lawyer were charged with participating in a wrong committed by his client merely because he represented the client in a bona fide attorney-client relationship, where such a relationship was not a fiction but true in fact. It is of course correct as indicated by complaint counsel that Mr. Gerth one of the respondents rented an office in the offices of Mr. Middleman. This in and of itself does not im-

pute that a relationship other than that of attorney-client existed between Mr. Gerth and Mr. Middleman. In the absence of such evidence it would appear that the charges against Mr. Middleman individually should be dismissed.

It also appears the service of the complaint was not consummated on John F. Thomas and Jerome Scott who were named in the complaint. Since jurisdiction *in personam* has not been obtained as to those named respondents, the complaint as to them must also be dismissed.

As regards the other and remaining respondents named in the complaint, their aforesaid acts and practices are held to be to the prejudice and injury of the public, and respondents' competitors, and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act. See *In the Matter of Atlas Mfg. and Sales Corp. et al.*, Dkt. 6902, 1958 [55 F.T.C. 828]. Accordingly,

ORDER

It is ordered, That respondents Windsor Distributing Company, Pentex Distributing Company and Pen-Ida Distributing Company, corporations, and their officers, and Roger A. Gerth, individually and as an officer of said corporations, and Frank Halavonic, individually and as manager of said Pentex Distributing Company, and Kenneth Bedingfield, individually and as manager of said Pen-Ida Distributing Company, and respondents' agents, representatives and employees, directly or through any nominal successor, corporate or otherwise owned and controlled by respondent Roger A. Gerth or through any other device, in connection with the advertising, offering for sale, sale or distribution of vending machines, vending machine supplies, or other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

(1) Through advertisements published or caused to be published in the "help wanted" or other columns of newspapers or in any manner or by any other means, that employment or a business opportunity is being offered when the real purpose is to obtain leads to prospective purchasers of respondents' products.

(2) Purchasers of respondents' products must own an automobile, furnish references, have special qualities or be specially selected to qualify for purchase of respondents' products; or

misrepresenting, in any manner, the qualifications or requirements for purchase of respondents' products.

(3) Selling or soliciting is not required of those investing in any product or business offered by respondents; or misrepresenting, in any manner, the amount or kind of activity or effort required in connection with any product or business offered by respondents.

(4) Purchasers of respondents' products or businesses are granted exclusive territories within which their machines may be placed for operation; or that sales will not be made to other persons in such territories.

(5) Purchasers of respondents' products will earn any stated or gross or net amount; or representing, in any manner, the past earnings of said purchasers unless in fact the past earnings represented are those of a substantial number of purchasers and accurately reflect the average earnings of these purchasers under the circumstances similar to those of the purchaser or prospective purchaser to whom the representation is made.

(6) Sales routes have been previously established by respondents for purchasers; or that respondents or their sales representatives have obtained or will obtain satisfactory or profitable locations for the purchasers' machines; or that respondents will relocate said machines; or misrepresenting, in any manner, the assistance that will be furnished in obtaining locations or relocations for the product or the business purchased.

(7) Previous purchasers of respondents' vending machines are enjoying substantial earnings from the operation of said machines.

(8) Vending machines or other products sold by respondents are of specified quality, structural design, performance, type or characteristic not actually and fully possesssed by said machines or products.

(9) Respondents will repurchase or otherwise assist in the disposition of vending machines or supplies from purchasers thereof.

(10) Respondents are a nut and candy company; that respondents are seeking to establish a future market for their nuts and candy; or that respondents are selling vending machines to purchasers at or near cost; or misrepresenting, in any manner, the kind or character of respondents' business or the cost or price of respondents' products.

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

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

It is further ordered, That respondents incident to selling their products and services

a. Inform orally all prospective customers and provide in writing in all contracts that (1) the contract may be cancelled for any reason by notification to respondents in writing within three days from the date of execution and (2) that the contract is not final and binding unless and until respondents have completely performed their obligations thereunder by placing the vending machines in locations satisfactory to the customer and said customer has thereafter signed a statement indicating his satisfaction.

b. Refund immediately all monies to (1) customers who have requested contract cancellation in writing within three days from the execution thereof, (2) customers who have refused to sign statements indicating satisfaction with respondents' placement of the machines, and (3) customers showing that respondents' contract, solicitations or performance were attended by or involved violations of any of the provisions of this order.

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

It is further ordered, That the complaint is herein and hereby dismissed as to John F. Thomas, Jerome Scott and Sanford A. Middleman, individually.

Final Order

This matter having been submitted to the Commission on the cross-appeals of complaint counsel and respondents from the hearing examiner's initial decision filed October 21, 1969, holding that respondents, except for Sanford A. Middleman, John F. Thomas, and

Jerome Scott, had violated Section 5 of the Federal Trade Commission Act as charged: and

The Commission, upon oral argument and consideration of the briefs and record, having determined that the appeals should be denied and that the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the appeals of respondents and complaint counsel be, and they hereby are, denied.

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

It is further ordered, That respondents, Windsor Distributing Company, Pentex Distributing Company, Pen-Ida Distributing Company, Roger A. Gerth, individually and as an officer of said corporations, Frank Halavonic, individually and as manager of Pentex Distributing Company, and Kenneth Bedingfield, individually and as manager of Pen-Ida Distributing Company, shall, within sixty (60) days after service of this order upon them, file with the Commission a report, in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

IN THE MATTER OF

MAURICE FINKLESTEIN, TRADING AS MAURICE FURS

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

Docket C-1701. Complaint, Mar. 6, 1970—Decision, Mar. 6, 1970

Consent order requiring a Philadelphia, Pa., manufacturing furrier to cease misbranding and falsely invoicing its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Maurice Finklestein, individually and trading as Maurice Furs, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promul-

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

PARAGRAPH 1. Respondent Maurice Finklestein is an individual trading as Maurice Furs, with his office and principal place of business located at 6710 North Broad Street, Philadelphia, Pennsylvania.

Respondent is engaged in the manufacture and sale of fur products.

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

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

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

PAR. 4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in that required item numbers were not set forth on labels in volation of Rule 40 of said Rules and Regulations.

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

Among such fur products, but not limited thereto, were fur products which were not invoiced, as required by the said Act.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with Rules and Regulations promul-

gated thereunder in that required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are in volation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DECISON AND ORDER

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

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

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

1. Respondent Maurice Finklestein is an individual trading as Maurice Furs, with his office and principal place of business located at 6710 North Borad Street, Philadelphia, Pennsylvania.

Respondent is engaged in the manufacture and sale of fur products.

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

ORDER

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

A. Misbranding any fur product by:

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

2. Failing to set forth on a label the item number or mark assigned to such fur product.

B. Falsely or deceptively invoicing any fur product by:

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

2. Failing to set forth on an invoice the item number or mark assigned to such fur product.

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

Complaint

IN THE MATTER OF

MILLSTEIN-SULAK FURS, INC., ET AL.

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

Docket C-1702. Complaint, Mar. 6, 1970—Decision, Mar. 6, 1970

Consent order requiring a Chicago, Ill., manufacturing furrier to cease misbranding and falsely invoicing its fur products.

COMPLAINT

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

PARAGRAPH 1. Respondent Millstein-Sulak Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois.

Respondents Laurence H. Sulak and Irving Bentley Millstein are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers, wholesalers and retailers of fur products with their office and principal place of business located at 162 North State Street, Chicago, Illinois.

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

which have been shipped and received in commerce, as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

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

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

PAR. 4. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "natural" was not used on labels to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

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

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

1. To show the true animal name of the animal or animals which produced the fur used in such fur products.

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

PAR. 6. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto were fur products which were invoiced as "dyed zorina" when, in fact, the fur contained in such fur products was "dyed skunk."

Also among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products which were invoiced as "Broadtail" thereby implying that the furs contained therein were

entitled to the designation "Broadtail Lamb" when in truth and in fact the furs contained therein were not entitled to such designation.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

a. The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

b. Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

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

DECISION AND ORDER

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

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

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

with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Millstein-Sulak Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 162 North State Street, Chicago, Illinois.

Respondents Laurence H. Sulak and Irving Bentley Millstein are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of said corporation.

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

ORDER

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

A. Misbranding any fur product by:

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

2. Failing to set forth the term "natural" as part of the information required to be disclosed on a label under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to set forth on a label the item number or mark assigned to such fur product.

B. Falsely or deceptively invoicing any fur product by:

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

2. Setting forth on an invoice pertaining to such fur product any false or deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

3. Failing to set forth the term "natural" as part of the information required to be disclosed on an invoice under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe such fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

4. Failing to set forth on an invoice the item number or mark assigned to such fur product.

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

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

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

IN THE MATTER OF

J. F. YOUNG-BOYD BENNETT INC., DOING BUSINESS AS YOUNG-BENNETT CHINCHILLA RANCH, ET AL.

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

Docket C-1703. Complaint, Mar. 9, 1970—Decision, Mar. 9, 1970

Consent order requiring a Louisville, Kentucky, seller of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing the fertility of its stock, and misrepresenting its services to its customers.

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 J. F. Young-Boyd Bennett Inc., a corporation, doing business as Young-Bennett Chinchilla Ranch, and Boyd Bennett and J. F. Young, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent J. F. Young-Boyd Bennett Inc., doing business as Young-Bennett Chinchilla Ranch, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its principal office and place of business located at 1280 Old Fern Valley Road, Louisville, Kentucky.

Respondents J. F. Young and Boyd Bennett are individuals and officers of J. F. Young-Boyd Bennett Inc. They formulate, direct and control the acts and practices of the corporate respondent, including 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, sale and distribution of chinchilla breeding stock to the public.

PAR 3. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused, their said chincillas, when sold, to be shipped from their place of business in the State of Kentucky to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said chinchillas 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 obtaining the names of prospective purchasers and inducing the purchase of chinchillas, the respondents make numerous statements and representations by means of television broadcasts, advertising in newspapers, direct mail advertising, and through oral statements and display of promotional material to prospective purchasers by their salesmen with respect to the breeding of chinchillas for profit without previous experience, the rate of reproduction of said animals, the expected return from the sale of their

pelts and the training and assistance to be made available to purchasers of respondents' chinchillas.

Typical and illustrative, but not all inclusive of the statements and representations made on respondents' television programs, in newspaper advertisements and in promotional material, are the following:

Folks, this is a fabulous chinchilla. . . . you can make many, many extra dollars raising this animal in your home, in a basement or in outbuildings.

* * * * * * *

We deliver to you top-quality animals, tell you how to raise them and everything. You have no disease factor in these animals because they are vaccinated to make sure you have no epidemic type diseases. Chinchillas you buy are guaranteed to live and they are guaranteed to reproduce.

* * * * * * *

The Chinchilla breeding industry is one of the very few existing businesses that is still in its infancy. The annual demand for the precious Chinchilla pelt is growing faster than the supply. . . . Raising chinchillas for profit is not at all complex. Many ranchers have found it not too expensive and very simple for them without interfering with their regular work. Their spare time has become very profitable and the same can be true for you. There are only three main considerations. If you can answer "yes" to the following questions you can qualify to become a successful chinchilla rancher.

1. Do you love animals enough to work with them for about 3 years developing a herd from a small beginning?

2. Do you have a dry, well-ventilated place to keep animals where the temperature can be kept within 50 to 80 degrees F.?

3. Do you have available capital to invest in a new business?

* * * * * * *

Fur value—Empress and good quality up to $65.00 per pelt.

* * * * * * *

The Y & B Ranch is a member of the Empress Chinchilla Breeders Association and all of the animals we sell to you as brood stock are certified by the Breeders Association to be of breeding quality.

* * * * * * *

Certified Breeding Stock—Chinchillas from Young-Bennett Chinchilla Ranch are carefully selected certified brood stock quality.

* * * * * * *

Where and how do I get chinchillas?

A. Directly from our top quality herd. We deliver to you and furnish cages and everything you need.

* * * * * * *

. . . Some females have only one baby while others have litters up to six babies. Normally a female will litter two or three times per year and the national average of babies per litter is almost two (1 9/10).

* * * * * * *

Productivity—111 day gestation period average 1.9 babies per litter (National Average).

* * * * * * *

The YOUNG-BENNETT CHINCHILLA RANCH is the largest producer of fine quality breeding stock East of the Mississippi River. When you buy your stock look to a PRODUCER for quality. . . .

* * * * * * *

. . . The income expected per year can readily be estimated by referring to the chart on the next page. We at Young-Bennett Chinchilla Ranch feel that these figures are very conservative.

Estimated Earnings Chart—Expected yearly income for number of females breeding:

Females:	
50	$3,000
75	4,500
100	6,000
125	7,500
150	9,000
175	10,500
200	12,000

PAR. 5. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not expressly set out herein, separately and in connection with the oral statements and representations made by their salesmen and representatives to prospective purchasers and purchasers, respondents represent, and have represented, directly or by implication, that:

1. It is commercially feasible to breed and raise chinchillas from breeding stock purchased from respondents in homes, basements, or outbuildings, and large profits can be made in this manner.

2. The breeding of chinchillas from breeding stock purchased from respondents, as a commercially profitable enterprise, requires no previous experience in the breeding, caring for and raising of such animals.

3. Chinchillas are hardy animals and are free from disease.

4. Purchasers of respondents' breeding stock receive top quality or "Empress Certified" quality chinchillas.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least 3.8 live offspring per year.

6. Each female chinchilla purchased from respondents and each female offspring will produce successive litters of from one to six live offspring at 111-day intervals.

7. The offspring referred to in Paragraph Five subparagraph (6) above will produce pelts selling for an average price of $30 per pelt and the pelts from offspring of respondents' breeding stock generally sell from $20 to $65 each.

8. A purchaser with fifty females of respondents' chinchilla breeding stock will have a gross yearly income of $3,000 from the sale of pelts.

9. Chinchilla breeding stock purchased from respondents is unconditionally guranteed to live and reproduce.

10. Purchasers of respondents' breeding stock can expect a great demand for the offspring and for the pelts of the offspring of respondents' chinchillas.

11. Through the assistance and advice furnished to purchasers of respondents' breeding stock by respondents, purchasers are able to successfully breed and raise chinchillas as a commercially profitable enterprise.

12. Respondents' operation is the largest producer of chinchillas in the eastern United States.

PAR. 6. In truth and in fact:

1. It is not commercially feasible to breed or raise chinchillas from breeding stock purchased from respondents in homes, basements or outbuildings, and large profits cannot be made in this manner. Such quarters or buildings, unless they have adequate space and the requisite temperature, humidity, ventilation and other necessary environmental conditions are not adaptable to or suitable for the breeding or raising of chinchillas on a commercial basis.

2. The breeding of chinchillas from breeding stock purchased from respondents as a commercially profitable enterprise requires specialized knowledge in the breeding, caring for and raising of said animals much of which must be acquired through actual experience.

3. Chinchillas are not hardy animals and are susceptible to pneumonia and other diseases.

4. Purchasers of breeding stock sold by respondents do not receive top quality or "Empress Certified" quality breeding stock.

5. Each female chinchilla purchased from respondents and each female offspring will not produce at least 3.8 live offspring per year, but generally less than that number.

6. Each female chinchilla purchased from respondents and each female offspring will not produce successive litters of from one to six live offspring at 111-day intervals, but generally less than that number.

7. The offspring referred to in subparagraph (6) of Paragraph Five above will not produce pelts selling for an average price of $30 per pelt but substantially less than that amount; and pelts from

offspring of respondents' breeding stock will generally not sell for $20 to $65 each since some of the pelts are not marketable at all and others would not sell for $20 but for substantially less than that amount.

8. A purchaser with fifty females of respondents' breeding stock will not have a yearly income of $3,000 from the sale of pelts but substantially less than that amount.

9. Chinchilla breeding stock purchased from respondents is not unconditionally guaranteed to live and reproduce but such guarantee as is provided is subject to numerous terms, limitations and conditions.

10. Purchasers of respondents' breeding stock cannot expect a great demand for the offspring of and pelts from respondents' chinchillas.

11. Purchasers of respondents' breeding stock are not able to successfully breed and raise chinchillas as a commercially profitable enterprise through the assistance and advice furnished them by respondents.

12. Respondents' operation is not the largest producer of chinchillas in the eastern United States.

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

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

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

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

DECISION AND ORDER

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

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

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

1. Respondent J. F. Young-Boyd Bennett Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its office and principal place of business located at 1280 Old Fern Valley Road, Louisville, Kentucky.

Respondents Boyd Bennett and J. F. Young are officers of said corporation. They formulate, direct and control the acts and practices of said corporation, including the acts and practices under investigation. Their address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That J. F. Young-Boyd Bennett Inc., a corporation, and its officers, doing business as Young-Bennett Chinchilla Ranch,

or under any other trade name or names, and Boyd Bennett and J. F. Young, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of chinchilla breeding stock or any other products, 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:

1. It is commercially feasible to breed or raise chinchillas in homes, basements or outbuildings, or other quarters or buildings, unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation and other environmental conditions.

2. Breeding chinchillas as a commercially profitable enterprise can be achieved without previous knowledge or experience in the breeding, caring for and raising of such animals.

3. Chinchillas are hardy animals or are not susceptible to disease.

4. Purchasers of respondents' chinchilla breeding stock will receive top quality or "Empress Certified" quality chinchillas.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least 3.8 live young per year.

6. The number of live offspring produced per female chinchilla is any number or range of numbers; or representing, in any manner, the past number or range of numbers of live offspring produced per female chinchilla of purchasers of respondents' breeding stock unless, in fact, the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

7. Each female chinchilla purchased from respondents

and each female offspring will produce successive litters of one to six live offspring at 111-day intervals.

8. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing, in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla of purchasers of respondents' breeding stock unless, in fact, the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

9. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of $30 per pelt; or that pelts from the offspring of respondents' breeding stock generally sell from $20 to $65 each.

10. Chinchilla pelts will sell for any price, average price, or range of prices; or representing, in any manner, the past price, average price or range of prices of pelts of purchasers of respondents' breeding stock unless, in fact, the past price, average price or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

11. A purchaser with fifty females of respondents' breeding stock will have, from the sale of pelts, a yearly income of $3,000.

12. Purchasers of respondents' breeding stock will realize earnings, profits or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits or income of purchasers of respondents' breeding stock unless, in fact, the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

13. Breeding stock purchased from respondents is guaranteed or warranted without clearly and conspicuously dis-

closing, in immediate conjunction therewith, the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder and the identity of the guarantor.

14. Chinchillas or chinchilla pelts are in great demand; or that purchasers of respondents' breeding stock can expect to be able to sell the offspring or the pelts of the offspring of respondents' chinchillas because said chinchillas or pelts are in great demand.

15. The assistance or advice furnished to purchasers of respondents' chinchilla breeding stock by respondents will enable purchasers to successfully breed or raise chinchillas as a commercially profitable enterprise.

16. Respondents' operation is the largest producer of chinchillas in the eastern United States; or misrepresenting, in any manner, the size or kind of respondents' facilities.

B. 1. Misrepresenting, in any manner, the assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

2. Misrepresenting, in any manner, the earnings or profits to purchasers or the quality or reproduction capacity of any chinchilla breeding stock.

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

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

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

Complaint

IN THE MATTER OF

SOUTHERN MOTOR LODGES, INC., DOING BUSINESS AS CHINCHILLA CORPORATION OF AMERICA, ET AL.

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

Docket C-1704. Complaint, Mar. 9, 1970—Decision, Mar. 9, 1970

Consent order requiring a Tifton, Georgia, seller of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing its fertility, implying that its business operations are approved by any Federal agency, that it is a member of any national chinchilla breeders association, and that bank financing is available for purchase of its stock.

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 Southern Motor Lodges, Inc., a corporation, doing business as Chinchilla Corporation of America, a division of said corporation, and Richard B. Winkler, individually and as an officer of said corporation, and Robert A. Lemke, individually and as former general manager of said division, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Southern Motor Lodges, Inc., doing business as Chinchilla Corporation of America, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at Industrial Park, Post Office Box 910, Tifton, Georgia.

Respondent Richard B. Winkler is an individual and an officer of Southern Motor Lodges, Inc. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of said corporation.

Respondent Robert A. Lemke is an individual and former general manager of Chinchilla Corporation of America, a division of the corporate respondent. He supervised and controlled the day-to-day

business activities of Chinchilla Corporation of America, including the acts and practices hereinafter set forth. His address is 2100 Madison, Tifton, Georgia. The activities of respondents insofar as they are applicable to respondent Robert A. Lemke are referred to in the past tense.

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

PAR. 3. In the course and conduct of their aforesaid business, respondents cause, and for some time last past have caused, their said chinchillas, when sold, to be shipped from their place of business in the State of Georgia to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of obtaining the names of prospective purchasers and inducing the purchase of said chinchillas, the respondents have made, and are now making, numerous statements and representations by means of television and radio broadcasts, direct mail, newspaper and magazine advertising and through oral statements and display of promotional materials to prospective purchasers by their salesmen, with respect to the breeding of chinchillas for profit without previous experience, the rate of reproduction of said animals, the expected return from the sale of their pelts, and the training assistance to be made available to purchasers of respondents' chinchillas.

Typical and illustrative, but not all inclusive of said statements and representations made by respondents' television and radio broadcasts, newspaper and magazine advertisements and promotional literature, are the following:

Many beginning ranchers start in their homes. . . .

When starting with a few strings of chinchillas, it is advisable to use existing facilities, let your herd grow and pay for their housing from the sale of your pelts.

Gestation period [of female chinchillas] is 111 days and babies are born in litters of one to five. . . . The parents in most instances will breed back the same day they litter, so it is possible for them to litter every 111 days, although this will not continue indefinitely. . . .

With a 111-day gestation period, it is of course possible for each female [chinchilla] to produce three litters per year.

. . . by following a few simple rules and instructions it [raising chinchillas] is in no way difficult.

We endeavor to instruct and help the new rancher to become successful.

If you would like to add $5,000 or more to your annual farm income write

If you have been looking for the business that will give you additional income, why not mail the coupon below today and learn just how profitable the fascinating field of chinchilla ranching can be.

[Chinchilla Corporation of America is]
member of
E.C.B.C.
U.C.A.
Georgia State Chamber
of Commerce

WE GUARANTEE IN WRITING* that your Chinchilla herd will double within the first 18 months.

WE GUARANTEE IN WRITING* to replace all animals that die during the first 60 days.

WE GUARANTEE IN WRITING* that female chinchillas will reproduce.

WE GUARANTEE IN WRITING* that we will purchase all the chinchillas you produce.

*All guarantees detailed
in printed literature.

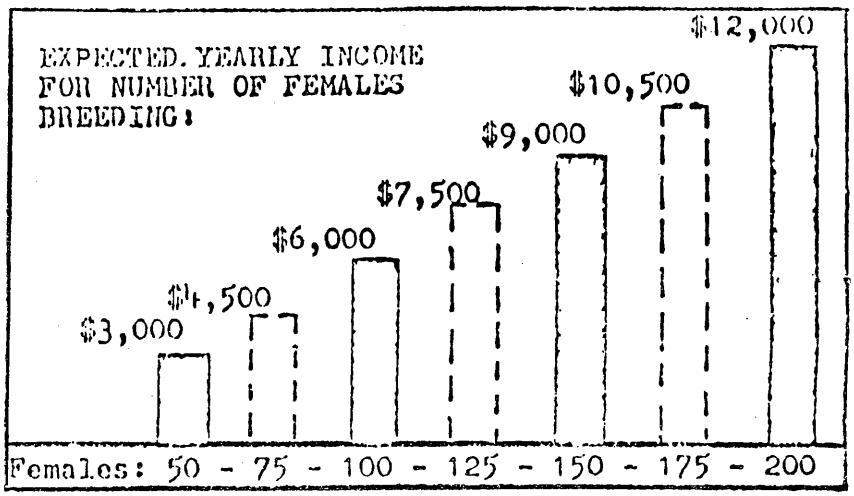
Chinchillas are hardy animals and can be successfully raised anywhere. . . . . Chinchillas are unusually free of serious or contagious illness.

It [chinchilla]has no disagreeable scent. . . . This makes it ideal to raise the animal in or near the home.

We will guarantee to pay a minimum of $40 per mixed pair of standards and $100 each pure beige mutation [chinchillas]. We emphasize that this price is the minimum price; if the current pelt prices . . . are higher, then our price to you will be higher.

CCA may purchase any or all animals consigned for pelting at $40.00 per animal.

ESTIMATED EARNINGS CHART



. . . this heretofore unheard of arrangement [availability of bank financing] means that financial institutions have now recognized the great potential of the chinchilla business.

PAR. 5. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not expressly set out herein, separately and in connection with statements and representations made by their salesmen and representatives, respondents have represented, and are now representing, directly or by implication, that:

1. It is commercially feasible to breed and raise chinchillas from breeding stock purchased from respondents in homes, garages and spare buildings, and large profits can be made in this manner.

2. The breeding of chinchillas from breeding stock purchased from respondents, as a commercially profitable enterprise, requires no previous experience in the breeding, caring for and raising of such animals.

3. Each female chinchilla purchased from respondents and each female offspring will usually litter successively several times annually producing one to seven offspring per litter averaging two to three offspring per litter.

4. The offspring referred to in Paragraph Five, subparagraph 3 above will sell for as much as $120 each and will have pelts selling for an average price of $20 per pelt, and that pelts from offspring of respondents' breeding stock generally sell from $20 to $60 each.

5. A purchaser with 50 females of respondents' chinchilla breeding stock will have a yearly income of $3,000 from the sale of pelts.

6. Chinchilla breeding stock purchased from respondents is unconditionally guaranteed to live and reproduce.

7. The respondents will promptly fulfill all of their obligations and requirements set forth in or represented directly or by implication to be contained in the guarantee applicable to each and every chinchilla.

8. Purchasers of respondents' breeding stock can expect a great demand for the offspring and for the pelts of the offspring of respondents' chinchillas.

9. Respondents will purchase any or all the chinchilla offspring raised by purchasers of respondents' chinchilla breeding stock, without distinction as to the quality or condition of such offspring, for $40 per mixed pair of standard and $100 per beige mutation chinchilla.

10. Through the assistance and advice furnished to purchasers of respondents' breeding stock by respondents, purchasers are able to

successfully breed and raise chinchillas as a commercially profitable enterprise.

11. Respondents' business operations in the sale of respondents' breeding stock are in the purview of and are approved by the Federal Trade Commission, Interstate Commerce Commission and Federal Communications Commission.

12. The purchase price of respondents' chinchilla breeding stock includes chinchilla feed for one year.

13. Chinchilla Corporation of America is a member of Empress Chinchilla Breeders Cooperative, United Chinchilla Association and Georgia State Chamber of Commerce.

14. Bank financing for the purchase of respondents' chinchilla breeding stock is available because financial institutions recognize the great potential of the chinchilla business.

PAR. 6. In truth and in fact:

1. It is not commercially feasible to breed or raise chinchillas from breeding stock purchased from respondents in homes, garages, or spare buildings and large profits cannot be made in this manner. Such quarters or buildings, unless they have adequate space and the requisite temperature, humidity, ventilation and other necessary environmental conditions are not adaptable to or suitable for the breeding or raising of chinchillas on a commercial basis.

2. The breeding of chinchillas from breeding stock purchased from respondents as a commercially profitable enterprise requires specialized knowledge in the breeding, caring for and raising of said animals much of which must be acquired through actual experience.

3. Each female chinchilla purchased from respondents and each female offspring will not usually litter successively several times annually producing one to seven offspring per litter, averaging two to three offspring per litter, but generally less than that number.

4. The offspring referred to in Paragraph Six, subparagraph 3 above will neither sell for $20 to $120 each nor will they produce pelts selling for an average price of $20 per pelt but substantially less than that amount; and pelts from offspring of respondents' breeding stock will generally not sell for $20 to $60 each since some of the pelts are not marketable at all and others would not sell for $20 but substantially less than that amount.

5. A purchaser with 50 females of respondents' chinchilla breeding stock will not have a yearly income of $3,000 from the sale of pelts but substantially less than that amount.

6. Chinchilla breeding stock purchased from respondents is not unconditionally guaranteed to live and reproduce but such guarantee

as is provided is subject to numerous terms, limitations and conditions.

7. Respondents do not in fact promptly fulfill all of their obligations and requirements set forth in or represented directly or by implication to be contained in the guarantee applicable to each and every chinchilla.

8. Purchasers of respondents' breeding stock cannot expect a great demand for the offspring of and pelts from respondents' chinchillas.

9. Respondents will seldom if ever purchase any or all chinchilla offspring raised by purchasers of respondents' breeding stock without distinction as to the quality or condition of such offspring, for $40 per mixed pair of standard and $100 per beige mutation chinchilla.

10. Purchasers of respondents' breeding stock are not able to successfully breed and raise chinchillas as a commercially profitable enterprise through the assistance and advice furnished them by respondents.

11. Respondents' business operations in the sale of respondents' breeding stock are not in the purview of or approved by the Federal Trade Commission, Interstate Commerce Commission and Federal Communications Commission.

12. The purchase price of respondents' chinchilla breeding stock does not include feed for one year, but generally for a lesser period.

13. Chinchilla Corporation of America is not a member of either Empress Chinchilla Breeders Cooperative, United Chinchilla Association or Georgia State Chamber of Commerce.

14. Bank financing for the purchase of respondents' chinchilla breeding stock is not available because financial institutions recognize the great potential of the chinchilla business, but because of respondent Richard B. Winkler's personal endorsement of the sales contracts.

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

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

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the pur-

chasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' chinchillas by reason of said erroneous and mistaken belief.

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

DECISION AND ORDER

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

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

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

1. Respondent Southern Motor Lodges, Inc., doing business as Chinchilla Corporation of America, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at Industrial Park, Post Office Box 910, Tifton, Georgia.

Respondent Richard B. Winkler is an individual and officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, including the acts and practices under investigation. His address is the same as that of the corporate respondent.

Respondent Robert A. Lemke is an individual and former general manager of the division Chinchilla Corporation of America and in that capacity he cooperated and acted together with respondent Richard B. Winkler in the acts and practices referred to. His address is 2100 Madison, Tifton, Georgia.

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 Southern Motor Lodges, Inc., a corporation, doing business as Chinchilla Corporation of America, or trading and doing business under any other name or names, and its officers, and Richard B. Winkler, individually and as an officer of said corporation, and Robert A. Lemke, individually and as former general manager of Chinchilla Corporation of America, a division of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of chinchilla breeding stock or any other products, is commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing directly or by implication that:

1. It is commercially feasible to breed or raise chinchillas in homes, garages or spare buildings, or other quarters or buildings, unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation and other environmental conditions.

2. Breeding chinchillas as a commercially profitable enterprise can be achieved without previous knowledge or experience in the breeding, caring for and raising of such animals.

3. Each female chinchilla purchased from respondents and each female offspring will usually litter successively

several times annually producing one to seven offspring per litter, or an average of two to three offspring per litter.

4. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing, in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla of purchasers of respondents' breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

5. Offspring of respondents' chinchilla breeding stock sell for as much as $120 each and will have pelts that sell for an average price of $20 per pelt; or that pelts from the offspring of respondents' breeding stock generally sell from $20 to $60 each.

6. Chinchilla pelts from respondents' breeding stock will sell for any price, average price or range of prices; or representing, in any manner, the past price, average price or range of prices of purchasers of respondents' breeding stock unless in fact the past price, average price or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

7. A purchaser with 50 females of respondents' chinchilla breeding stock will have a yearly income of $3,000 from the sale of pelts.

8. Purchasers of respondents' breeding stock will realize earnings, profits or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits or income of purchasers of respondents' breeding stock unless in fact the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of those purchasers under circumstances similar to those of the purchaser to whom the representation is made.

9. Breeding stock purchased from respondents is guaranteed or warranted without clearly and conspicuously dis-

closing the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder and the identity of the guarantor.

10. Respondents' chinchillas are guaranteed unless respondents do in fact promptly fulfill all of their obligations and requirements set forth in or represented, directly or by implication, to be contained in any guarantee or warranty applicable to each and every chinchilla.

11. Chinchillas or chinchilla pelts are in great demand; or that purchasers of respondents' breeding stock can expect to be able to sell the offspring of respondents' chinchillas because said chinchillas or pelts are in great demand.

12. Respondents will purchase all or any of the offspring raised by purchasers of respondents' breeding stock for $40 per mixed pair of standard and $100 per beige mutation chinchillas or any other price or prices unless respondents do in fact purchase all of the offspring offered by said purchasers at the prices and on the terms and conditions represented.

13. The assistance or advice furnished to purchasers of respondents' chinchilla breeding stock by respondents will enable purchasers to successfully breed or raise chinchillas as a commercially profitable enterprise.

14. Respondents' business operations in the sale of respondents' breeding stock are in the purview of and approved by the Federal Trade Commission, Interstate Commerce Commission or Federal Communications Commission.

15. The purchase price of respondents' chinchilla breeding stock includes feed for such animals for one year or any other time period unless in fact the feed to be supplied would be sufficient to last for the period represented.

16. Chinchilla Corporation of America is a member of Empress Chinchilla Breeders Cooperative, United Chinchilla Association or Georgia State Chamber of Commerce.

17. Bank financing for the purchase of respondents' chinchilla breeding stock is available because financial institutions recognize the great potential of the chinchilla business.

B. 1. Misrepresenting, in any manner, the assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

2. Misrepresenting, in any manner, the earnings or profits to

purchasers or reproduction capacity of any chinchilla breeding stock.

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

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

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

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

IN THE MATTER OF

MARRIELLO FABRICS, INC., ET AL.

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

Docket C-1705. Complaint, Mar. 10, 1970—Decision, Mar. 10, 1970

Consent order requiring a New York City manufacturer of wool and textile garments to cease misbranding its wool and textile fiber products, deceptively invoicing, falsely guaranteeing its textile fiber products, and failing to maintain required records.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Marriello Fabrics, Inc., a corporation, and Michael J.

Marriello, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Marriello Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its office and principal place of business is located at 347 West 39th Street, New York, New York. Individual respondent Michael J. Marriello is the principal officer of said corporation. He formulates, directs and controls the policies, acts, and practices of said corporation. His office and principal place of business is the same as said corporation.

The respondents are manufacturers of wool and textile products which include, among other items, quilted interlining.

PAR. 2. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

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

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products, namely quilted interlinings, with labels on or affixed thereto which set forth fiber content as:

DACRON
CONTENTS-NYLON 50%
ACET 50%

whereas, in truth and in fact, said products contained different amounts of fibers than represented.

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

Among such misbranded textile fiber products, but not limited thereto, were quilted interlinings with labels which failed:

(1) To disclose the true generic names of the fibers present; and

(2) To disclose the true percentage of the fibers present by weight.

PAR. 5. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) In disclosing required information, words and terms were abbreviated on labels in violation of Rule 5 of the Rules and Regulations in instances other than when permitted by Rule 33(d) of the said Rules and Regulations.

(b) All parts of the required information were not conspicuously and separately set out on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser, in violation of Rule 16(b) of the aforesaid Rules and Regulations.

PAR. 6. Respondents have failed to maintain proper records showing the fiber content of the textile fiber products manufactured by them in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 7. Respondents furnished false guaranties under Section 10(b) of the Textile Fiber Products Identification Act with respect to certain of their textile fiber products by falsely representing in writing that respondents had a continuing guaranty on file with the Federal Trade Commission, when respondents, did not, in fact, have such a guaranty on file.

PAR. 8. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition

and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

PAR. 9. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped, and offered for sale, in commerce, as "commerce" is defined in said Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 10. Certain of said wool products were misbranded by respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were wool products namely quilted interlinings, stamped, tagged, labeled, or otherwise identified by respondents as "DACRON CONTENTS-NYLON 50% ACET 50%," whereas in truth and in fact, such products contained substantially different fibers and amounts of fibers than as represented.

PAR. 11. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

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

PAR. 12. The acts and practices of the respondents as set forth in Paragraphs Ten and Eleven were and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 13. In the course and conduct of their business, respondents

now cause and for some time last past, have caused their said products, when sold, to be shipped from their place of business in the State of New York to purchasers located in various other States of the United States and maintain, and at all times mentioned herein, have maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 14. Respondents in the course and conduct of their business, as aforesaid, have made statements on invoices and shipping memoranda to their customers misrepresenting the fiber content of their said products.

Among such misrepresentations, but not limited thereto, were statements representing the fiber content thereof as "65% Acetate Rayon, 35% Reprocessed Wool Filling," whereas, in truth and in fact, the products contained substantially different fibers and amounts of fibers than represented.

PAR. 15. The acts and practices set out in Paragraph Fourteen have had and now have the tendency and capacity to mislead and deceive the purchasers of said poducts as to the true content thereof and were and are all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939; and

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

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

1. Respondent corporation is 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 347 West 39th Street, New York, New York.

Respondent Michael J. Marriello is the principal officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Marriello Fabrics, Inc., a corporation, and its officers, and Michael J. Marriello, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying any textile fiber product as to the name or amount of constituent fibers contained therein.

2. Failing to affix labels to each such product showing in a clear, legible and conspicuous manner each element of in-

formation required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

3. Setting forth words or terms on labels in disclosing required information, in abbrevaited form except as permitted by Rule 33(d) of said Rules and Regulations.

4. Failing to set out all parts of the required information conspicuously and separately on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser.

B. Failing to maintain and preserve for at least three years proper records showing the fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

It is further ordered, That respondents Marriello Fabrics, Inc., a corporation, and its officers, and Michael J. Marriello, individually and as an officer of said corporation, and the respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any textile fiber product is not misbranded or falsely invoiced.

It is further ordered, That respondents Marriello Fabrics, Inc., a corporation, and its officers, and Michael J. Marriello, individually and as an officer of said corporation, and the respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from:

A. Misbranding wool products by:

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

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

It is further ordered, That respondents Marriello Fabrics, Inc., a corporation, and its officers, and Michael J. Marriello, 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 fabrics or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

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

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 conmplied with this order.

IN THE MATTER OF

MEMBLATT & HAAS TEXTILE CO. INC., ET AL.

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

Docket C-1706. Complaint, Mar. 10, 1970—Decision, Mar. 10, 1970

Consent order requiring a New York City distributor of various fabrics and textile materials to cease marketing dangerously flammable products including a sheer fabric designated as "Spangle."

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Memblatt & Haas Textile Co. Inc., a corporation, and Stephen Memblatt, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof

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

PARAGRAPH 1. Respondent Memblatt & Haas Textile 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 11 West 25th Street, New York, New York.

Respondent Stephen Memblatt is the principal officer of the aforesaid corporation. He formulates, directs and controls the acts, practices and policies of said corporation. His address is the same as that of the corporate respondent.

Respondents sell and distribute various fabrics and materials.

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

Among such fabrics mentioned hereinabove were certain sheer fabrics with a fiber content of approximately 80 percent Acetate and 20 percent Nylon designated as "Spangle."

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

DECISION AND ORDER

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

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

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

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

1. Respondent corporation, Memblatt & Haas Textile Co. Inc., is 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 11 West 25th Street, New York, New York.

Respondent Stephen Memblatt is the principal officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Memblatt & Haas Textile Co. Inc., a corporation, and its officers, and Stephen Memblatt, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any fabric, product or related material as the terms "commerce," "fabric," "product" and "related material" are defined in the Flammable Fabrics Act as amended, which fabric, product or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the

Commission an interim special report in writing setting forth the respondents' intention as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the fabric which gave rise to the complaint, (1) the amount of such fabric in inventory, (2) any action taken to notify customers of the flammability of such fabric and the results thereof and (3) any disposition of such fabric since August 8, 1969. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface and made of silk, rayon and acetate, nylon and acetate, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or with a raised fiber surface and made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

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

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

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

IN THE MATTER OF

STANLEY POLOGEORGIS, INC., ET AL.

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

Docket C-1707. Complaint, Mar. 10, 1970—Decision, Mar. 10, 1970

Consent order requiring a New York City manufacturing furrier to cease falsely invoicing and deceptively guaranteeing its fur products.

467-207—73——18

COMPLAINT

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

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

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

Respondents are manufacturers of fur products with their office and principal place of business located at 333 Seventh Avenue, New York, New York.

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

PAR. 3. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

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

PAR. 4. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the

fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed or othewise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

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

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

DECISION AND ORDER

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

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

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

with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Stanley Pologeorgis, 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 at 333 Seventh Avenue, New York, New York.

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

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

ORDER

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

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

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

It is further ordered, That Stanley Pologeorgis, Inc., a corporation, and Stanley Pologeorgis, individually and as an officer of said corporation, and respondents' representatives, agents and employees,

directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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

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

IN THE MATTER OF

SEKAS BROTHERS, INC., ET AL.

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

Docket C-1708. Complaint, Mar. 10, 1970—Decision, Mar. 10, 1970

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

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Sekas Brothers, Inc., a corporation, and Paul N. Sekas, Gus N. Sekas and George N. Sekas, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect

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

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

Respondents Paul N. Sekas, Gus N. Sekas and George N. Sekas are officers of the corporate respondent. They formulate, direct and control the policies, acts and practices of the corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 224 West 30th Street, New York, New York.

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

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

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

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

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

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

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

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

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

DECISION AND ORDER

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

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

in such complaint, and waivers and other provisions as required by the Commission's Rules; and

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

1. Respondent Sekas Brothers, 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 224 West 30th Street, New York, New York.

Respondents Paul N. Sekas, Gus N. Sekas and George N. Sekas are officers of the said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of said corporation.

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

ORDER

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

A. Misbranding any fur product by:

1. Representing directly or by implication on a label that

the fur contained in such fur product is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

B. Falsely or deceptively invoicing any fur product by:

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

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

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

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

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

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

IN THE MATTER OF

DOWD'S INC., DOING BUSINESS AS DOWD'S TELEVISION & APPLIANCES, ET AL.

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

Docket C-1709. Complaint, Mar. 11, 1970—Decision, Mar. 11, 1970

Consent order requiring a Washington, D.C., retailer of electrical appliances to cease using bait and switch tactics, false pricing and savings claims, failing to maintain records adequate to justify its pricing claims, and deceptively using the words "No Money Down."

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 Dowd's, Inc., a corporation, trading and doing business as Dowd's Television & Appliances, and Robert T. Dowd, individually and as an officer of said corporation, and James Wilder, individually, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Dowd's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 4418 Connecticut Avenue, N.W., Washington, D.C.

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

Respondent James Wilder is an individual and a former officer of the corporate respondent. He formulated, directed, and controlled the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth.

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

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their place of

business in the District of Columbia 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 merchandise 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 merchandise, the respondents have made, and are now making, numerous statements and representations in advertisements inserted in newspapers and telephone directories of which the following are typical and illustrative but not all inclusive thereof.*

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the oral statements and representations of their salesmen and representatives, the respondents have represented, and are now representing, directly or by implication that:

1. The offers set forth in said advertisements are bona fide offers to sell the advertised products at the prices and on the terms and conditions stated.

2. The respondents have sufficient quantities of the advertised products available for purchase to meet reasonably anticipated demands.

3. The advertised products are as pictorially represented.

4. The merchandise advertised and offered for sale by respondents is of the current model year.

5. During the period of the advertised "Pre-Inventory CLEARANCE," "LABOR DAY SALE," or words of similar import and meaning, the advertised price of any merchandise represents a reduction from the price at which respondents have made a bona fide offer to sell and have sold said merchandise on a regular basis for a reasonably substantial period of time in the recent regular course of business.

6. By the phrase "Color TV Savings" or by words of similar import and meaning and for the period of time so advertised, purchasers would realize a savings from the actual price at which the advertised merchandise was offered for sale or sold by respondents in good faith for a reasonably substantial period of time in the recent, regular course of their business.

7. The prices represented as being reduced are offered only during the limited period of the advertised sale, and such reduced prices

* Three pictorial newspaper advertisements omitted in printing.

will return to respondents regular presale bona fide offering price or to some other substantially higher amount immediately upon conclusion of the advertised sale.

8. All purchases of the advertised products may be made with "NO MONEY DOWN."

PAR. 6. In truth and in fact:

1. The offers set forth in said advertisements are not bona fide offers to sell the advertised products at the prices and on the terms and conditions stated. Instead, respondents' salesmen disparaged the advertised products and attempted to induce the purchase of higher priced products. By these and other tactics, purchase of an advertised product was discouraged and respondents frequently sold higher priced products.

2. In a number of instances, the respondents did not have sufficient quantities of the advertised products available for purchase to meet reasonably anticipated demands.

3. In a number of instances the advertised products were not as pictorially represented. Frequently, respondents' advertising portrayed particular merchandise for sale at a specified price, while respondent was actually selling a less expensive model than the one pictured.

4. In a number of instances the merchandise advertised and offered for sale by respondents was not of the current model year.

5. During the period of the advertised "Pre-Inventory CLEARANCE," "LABOR DAY SALE," or words of similar import and meaning, the advertised price of any merchandise did not represent a reduction from the price at which respondents had made a bona fide offer to sell or had sold said merchandise on a regular basis for a reasonably substantial period of time in the recent, regular course of business.

6. Purchasers of merchandise advertised as "Color TV Savings" or by words of similar import and meaning, and for the period of time so advertised, did not realize a savings from the actual price at which the advertised merchandise was offered for sale or sold by respondents in good faith for a reasonably substantial period of time in the recent, regular course of their business.

7. The prices represented as being reduced are not offered only during the limited period of the advertised sale, but are the prices at which respondents have sold or offer to sell their merchandise on a regular basis for a reasonably substantial period of time in the recent regular course of their business.

8. In a number of instances, purchases of the advertised product could not be made with "NO MONEY DOWN."

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

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

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

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices 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 jursidictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

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

1. Respondent Dowd's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 4418 Connecticut Avenue, N.W., Washington, D.C.

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

Respondent James Wilder is an individual and a former officer of the said corporation. He formulated, directed and controlled the policies, acts and practices of said corporation.

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

ORDER

It is ordered, That respondents Dowd's, Inc., a corporation, doing business under its own name or as Dowd's Television & Appliances, or under any other name or names and its officers, and Robert T. Dowd, individually, and as an officer of said corporation, and James Wilder, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of television sets, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

2. Discouraging the purchase of, or disparaging, any products which are advertised or offered for sale.

3. Representing, directly or by implication, that any products are offered for sale when such offer is not a bona fide offer to sell such products.

4. Representing, directly or by implication, that any products are offered for sale, unless sufficient quantities of such products are available in stock to satisfy reasonably anticipated demands: *Provided, however*, That items available only in limited supply may be advertised if such advertising clearly and conspicuously discloses the number of units in stock and the duration of the offer.

5. Using pictorial representations in advertising to represent that respondents' merchandise contains certain features or construction which are not in fact supplied by respondent for the price advertised.

6. Misrepresenting directly or by implication, that merchandise advertised and offered for sale by respondents is of the current model year.

7. Using the words "Pre-Inventory Clearance," "LABOR DAY SALE," or any other word or words of similar import or meaning unless the price of such merchandise being offered for sale constitutes a reduction, in an amount not so insignificant as to be meaningless, from the actual bona fide price at which such merchandise was sold or offered for sale to the public on a regular basis by respondents for a reasonably substantial period of time in the recent, regular course of their business.

8. Using the words "Save" or "Savings" or any other word or words of similar import or meaning in conjunction with a stated dollar amount or percentage amount of savings, unless the stated dollar or percentage amount of savings actually represents the difference between the offering price and the actual bona fide price at which such merchandise has been sold or offered for sale on a regular basis to the public by the respondents for a reasonably substantial period of time in the recent regular course of their business.

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

(b) Representing, in any manner, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise at the compared price or some higher price.

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

10. Misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

11. Failing to maintain adequate records (1) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Paragraphs 7, 8, 9(a)–(c) and 10 of this order are based, and (2) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in Pargraphs 7, 8, 9(a)–(c) and 10 of this order can be determined.

12. Representing, directly or by implication, that any offer is limited in point of time or restricted in any manner, unless the represented limitation or restriction is actually imposed and in good faith adhered to by respondents.

13. Using the words "No Money Down" or any other word or words of similar import or meaning, unless in immediate conjunction therewith, respondents truthfully and nondeceptively describe the category of purchasers to which they will sell their product or products without requiring a down payment.

14. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to se-

cure from each such salesmen or other person a signed statement acknowledging receipt of said order.

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

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

It is further ordered, That the 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

GOLDEN FIFTY PHARMACEUTICAL CO., INC., ET AL.

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

Docket 8792. Complaint, July 17, 1969—Decision, March 16, 1970

Order requiring a Chicago, Ill., distributor of a vitamin and mineral preparation to cease falsely advertising that respondent manufactures its vitamin-mineral products, that additional quantities may be obtained "free," that offers are made only to a limited customer group, deceptively guaranteeing its products, shipping unordered merchandise, or attempting to collect therefor when recipient has refused delivery.

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

PARAGRAPH 1. Respondent Golden Fifty Pharmaceutical Co., Inc., is a corporation organized, existing and doing business under and by

virtue of the laws of the State of Illinois, with its principal office and place of business located at 5320 North Kedzie Avenue in the city of Chicago, State of Illinois.

Respondent Michael Posen 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 the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent. For several years prior to the formation of the respondent corporation in 1967, he did business as Golden 50 Pharmaceutical Co., with his principal office and place of business at 5401 North Tripp Avenue, Chicago, Illinois.

PAR. 2. Respondents are now, and have been for some time last past, engaged in the sale and distribution of preparations containing ingredients which come within the classification of drugs and food as the terms "drug" and "food" are defined in the Federal Trade Commission Act.

The designation used by respondent for said preparation, the formula thereof and directions for use are as follows:

Designation: Golden 50 Tabulets—A high potency vitamin and mineral food supplement.

Formula (One tablet):	Percent M.A.D.R.
Vitamin A (palmitate) 10,000 USP units	250
Vitamin D (irr-ergosteral) 400 USP Units	100
Vitamin B–1 (mononitrate) 2 mg.	200
Vitamin B–2 (riboflavin) 2 mg.	157
Vitamin B–6 (pyridoxine Hcl) 2 mg.	X
Vitamin B–12 (cyanocobalamine) 5 meg.	X
Vitamin C (ascorbic acid) 100 mg.	333
Niacinamide 20 mg.	200
Vitamin E (succinate) 20 I.U.	X
Calcium pantothenate 10 mg.	X
Iron (as ferrous fumarate) 20 mg.	200
Iodine (as potassium iodide) 0.15 mg.	150
Copper (as copper sulfate) 2.0 mg.	X
Manganese (as manganese sulfate) 1.0 mg.	XX
Chloline bitartrate 50 mg.	XX
Inositol 30 mg.	XX
Biotin 30 mcg.	XX
Dried yeast 25 mg.	
Calcium (Di-Cal-Phos) 100 mg.	13.3
Phosphorus (Di-Cal?Phos) 75 mg.	10.0

Percent M.A.D.R.—Percent minimum adult daily requirement—Supplied.
X—M.A.D.R. not as yet established.
XX—Need in human nutrition is not as yet established.

Directions: ONE TABULET DURING OR AFTER BREAKFAST.

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

PAR. 4. In the course and conduct of their business as aforesaid, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and have disseminated, and caused the dissemination of, advertisements concerning said preparations by various means for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the said advertisements disseminated as hereinabove set forth are those which were reproduced and attached to this complaint as attachments 1A–1B and 2A–2B [pp. 281–285 herein].

PAR. 6. Through the use of said advertisements and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication:

1. That Golden Fifty Pharmaceutical Co., Inc., is a manufacturer of vitamin and/or mineral preparations with appropriate laboratory facilities to thereby assure the potency, purity and performance of such preparations.

2. That a 30-day supply of Golden 50 Tabulets will be sent free to persons responding to respondents' advertisements.

3. That persons answering said advertisements will be under no obligation to purchase additional supplies of respondents' products.

4. That the "free" offer is good for only fifteen days.

5. That the Golden 50 Tabulets are guaranteed.

6. That the drug "gift" package contains "14 famous name brand products."

7. That the products in the drug "gift" package are regular commercial size items.

PAR. 7. In truth and in fact:

1. Golden Fifty Pharmaceutical Co., Inc., is not engaged in the manufacture of vitamin and/or mineral preparations, and has no laboratory facilities to assure the potency, purity and performance of such preparations.

2. The 30-day supply of respondents' product is not "free" for the reason that such offer is an inseparable part of a plan or scheme under which respondents, after the receipt of the 30-day supply by those who accept the offer, ships additional monthly supplies of their product to said persons and attempt to collect the price thereof.

3. Persons answering said adverstisements are under an obligation to purchase additional supplies or to notify respondents to cancel further shipments. After the 30-day supply has been shipped, respondents ship additional supplies each month, mail statements requesting payment therefor and threaten a visit by "Our Representative in your Area" in an attempt to collect payment. In many instances persons who have received the 30-day supply of said product have notified respondents that they did not wish additional supplies to be sent and, in many instances have notified respondents that they wished the monthly shipments to be discontinued. Respondents have, in spite of such notification, continued to ship supplies of said product to such persons and attempted to collect the price thereof, in the manner set out above.

4. There is no time limit on respondents' "free" offer.

5. Respondents do not offer a meaningful guarantee to the purchasers of Golden 50 Tabulets. Such purchasers cannot normally determine for themselves the potency or purity of such products. Nor do respondents set forth the nature and extent of the guarantee, the identity of the guarantor, or the manner in which the guarantor will perform thereunder.

6. The drug "gift" package does not contain 14 items nor does it contain all of the famous name brand items listed.

7. The products contained in the drug "gift" package are not regular commercial size items but are samples or trial size items.

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

PAR. 8. Respondents have engaged in the deceptive and misleading practice of causing shipments of said preparation to be sent to persons located in various States of the United States who have not ordered such merchandise and to persons located in various States of the United States who have notified respondents not to ship such

merchandise, and attempt, or cause to be attempted, the collection of the price thereof.

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

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination of the false advertisements as aforesaid 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 Sections 5 and 12 of the Federal Trade Commission Act.

ATTACHMENT 2B

THE BIG DIFFERENCE IN "GOLDEN–50"

ONE SINGLE "GOLDEN–50" TABULET gives folks over 50 more than the Minimum Daily Requirement for EVERY SINGLE VITAMIN LISTED ESSENTIAL FOR GOOD HEALTH, AND each Tabulet contains less than one calorie!

WHEN WILL YOU START TO FEEL BETTER?

If you follow this ONCE-A-DAY Rule you can feel assured of a high level of nutritional intake—THE ONLY SECRET IS *NEVER* MISS A SINGLE DAY—your body must have a constant supply of all the essential nutrients. If you do have a deficiency and you follow this ONCE-A-DAY Rule you may find that you feel HEALTHIER, STRONGER, PEPPIER within two or three weeks:

Our FREE GIFT gives YOU the chance—*at our expense*—to prove to yourself what a wonderful difference proper nutrition can make in your HEALTH AND HAPPINESS. We make this Valuable Gift because WE KNOW that once you try them—once you learn the amazing difference possible in your outlook on life—you'll become a "GOLDEN–50" Program Member for life—and bless the day you did! !

YOUR DOCTOR KNOWS BEST

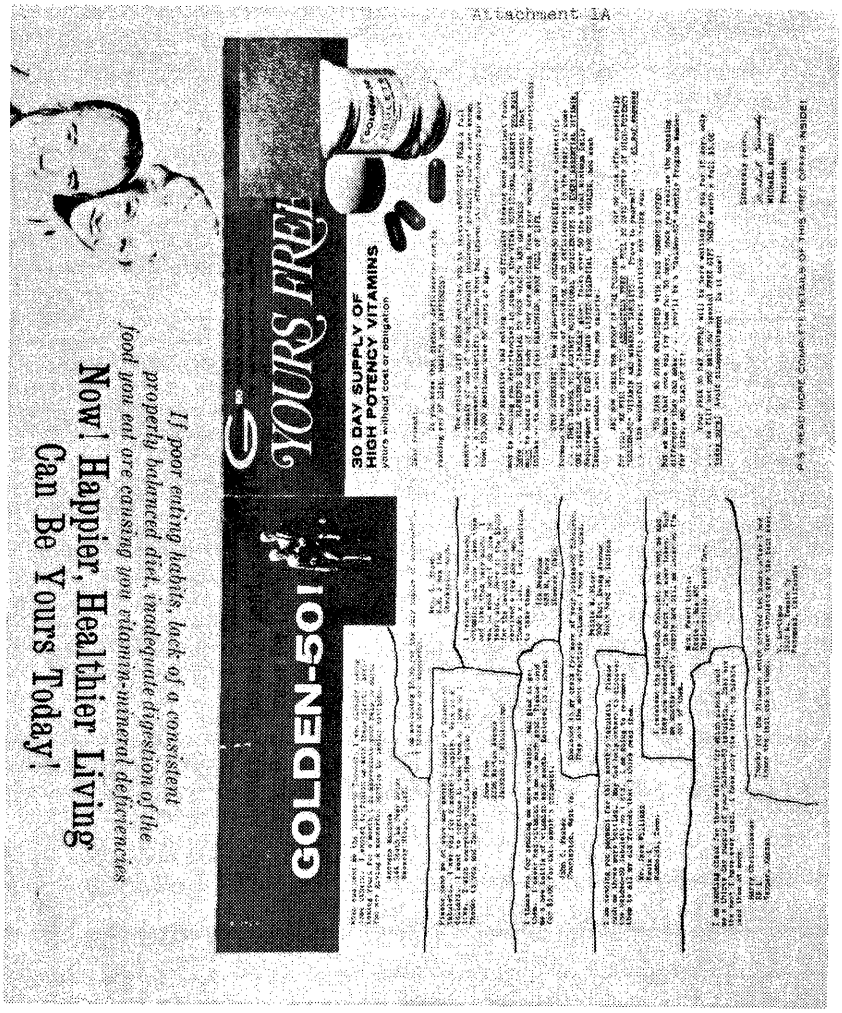
"GOLDEN–50" TABULETS are different from the ordinary vitamin tablets available everywhere—THERE IS NO IDENTICAL FORMULA AVAILABLE ANYWHERE! Compare the "GOLDEN–50" Formulation with the most expensive vitamin-mineral preparations that you can find in a drug store—ASK YOUR DOCTOR IF THERE IS A BETTER FORMULA ANYWHERE.

YOUR EXTRA "GOLDEN–50" BENEFITS

As a Member you NEVER need pay in advance—you will be billed at the low price of $3.00 made possible only through this Direct Buying Plan. If you had to purchase this "GOLDEN–50" Formulation in a store you would pay FAR MORE—for middlemen's profits, for salesmen's salaries, for store rents and high overhead. *We pass all these savings on to you as a club Member.*

(Attachment 2B continued on p. 285.)

ATTACHMENT 1A



ATTACHMENT 1B

ATTACHMENT 2A

Attachment 2A

REMARKABLE GIFT PACKAGE

14 FAMOUS NAME BRAND PRODUCTS FOR ONLY $1.00

Dear Friend:

Here's an unbelievable bargain you cannot afford to pass up. We make this remarkable offer to you as a final, irresistable incentive for you to re-join the "GOLDEN-50" Automatic Monthly Program.

YOU RECEIVE ALL THIS FOR ONLY $1.00:

PLUS

ABSORBINE, JR.	BUFFERIN
SUCARYL TABLETS	CHOOZ ANTIACID GUM
PHILLIPS MILK OF MAGNESIA	QUINSANA
F & F COUGH LOZENGES	LUDENS COUGH DROPS
MUM DEODORANT	SCORE HAIR CREAM
SEA AND SKI LOTION	AQUA VELVA

and many more useful items.

NOW - like more than a quarter of a million other Americans over the age of 50 - YOU can prove to yourself "GOLDEN-50's " simple inexpensive road to proper nutrition for HAPPIER, HEALTHIER more ENERGETIC LIVING!

Poor appetite, bad eating habits, difficulty chewing many important foods, may be causing you deficiencies in some of the VITAL NUTRITIONAL ELEMENTS you must have . . . ELEMENTS ESSENTIAL TO YOUR HEALTH AND HAPPINESS . . . elements that must be added to your body if they are missing from your normal everyday nutritional intake - to make you feel HEALTHIER, STRONGER, more ENERGETIC!

For some time scientists have known that many precious nutrients were often missing from diets formerly considered satisfactory. These missing food elements - vitamins and minerals - help us stay HEALTHY, HAPPY, and ENERGETIC. In many important cases these VITAL NUTRIENTS can't be stored up in the body. This means that they must be obtained, in sufficient quantity, EACH DAY-EVERY DAY!!!

(Attachment 2B Continued from p. 281.)

"GOLDEN-50" Tabulets *never* sit on a store shelf or in a warehouse for months—growing old and stale—before they reach your home. As a Club Plan Member, "GOLDEN-50" Tabulets—PURE, POTENT and FRESH from a Laboratory—are delivered right to your door each month by your postman, "regular as clockwork." The Club Guarantees you a Laboratory Fresh Supply of Super-Potency Tabulets without ever missing even a single day. *That's why Tens of Thousands of folks like yourself are so thankful for our Automatic Monthly Program.*

Yours for better health,

MICHAEL KENNEDY, *President.*

P.S. Your Valuable GIFT PACKAGE—*AND*—your full month's supply of Super-Potency "GOLDEN-50" Tabulets will be here waiting for you *for 14 days only*—don't miss out on this remarkable offer—mail your special GIFT CERTIFICATE TODAY SURE! ! Avoid disappointment—DO IT NOW! ! !

Mr. Leroy M. Yarnoff and *Mr. Wallace S. Snyder*, for the Commission.

Mr. R. Quincy White, Jr., *Mr. Stephen P. Durschlag* and *Mr. Elroy H. Wolff*, *Liebman, Williams, Bennett, Baird and Minow*, Chicago, Ill., attorneys for respondent, Golden Fifty Pharmaceutical Co., Inc.

Mr. William F. Weigel, *Rogers, Hoge & Hills*, New York, N.Y., attorney for respondent, Mr. Michael Posen.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

FEBRUARY 9, 1970

The complaint in this proceeding issued on July 17, 1969, charges that Golden Fifty Pharmaceutical Co., Inc., a corporation, and Michael Posen, individually and as an officer of said corporation, hereinafter called respondents, violated Sections 5 and 12 of the Federal Trade Commission Act.

Respondents, by and through their respective counsel, filed answers denying in substantial part the charging allegations of the complaint. At a prehearing conference held on October 14, 1969, hearings were scheduled to be held in Chicago, Illinois, beginning on December 9, 1969, and in Milwaukee, Wisconsin, on December 16, 1969.

A few days prior to the date hearings were to begin in Chicago, Illinois, counsel for one of the respondents informed the hearing examiner by long distance telephone that counsel for respondents and counsel supporting the complaint had reached an agreement to stipulate the facts and an order to be entered herein, thus rendering a formal hearing unnecessary.

467-207—73——20

After satisfying himself that the facts to be stipulated were those as alleged in the complaint herein and that the order agreed to by counsel was, in substantial part, the same as the order requested in the complaint issued herein, the hearing examiner cancelled the hearings which had been previously scheduled.

Subsequently, counsel executed and delivered to the hearing examiner the original and two copies of what counsel describe as a "Stipulation of Facts and Agreed Order" containing eight pages, a copy of which is attached hereto as an appendix.* The original was filed with the Secretary of the Commission on January 19, 1970. Said stipulation provides, among other things, that, upon its acceptance by the hearing examiner, respondents rest their cases and waive their rights to any further hearing before the hearing examiner.

Numbered Paragraphs 1 through 9 of the stipulation contain a recitation of the factual allegations as set forth in Paragraph 1 through 9 of the complaint herein. The form of order agreed to, beginning at the bottom of page 5 of the stipulation, is identical with the form of the order requested in the complaint, but with the addition of a provision that the respondents shall notify the Commission at least thirty days prior to any proposed change in the makeup of corporate respondent, which might affect the compliance obligations arising from the provisions of the order.

Being of the opinion that the acceptance of the "Stipulation of Facts and Agreed Order" will be in the public interest, the hearing examiner accepts such stipulation and, upon the basis of the entire record, makes the following findings of fact and conclusions of law, and issues the following order:

FINDINGS OF FACT

1. Respondent Golden Fifty Pharmaceutical Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 5320 North Kedzie Avenue in the city of Chicago, State of Illinois.

2. Respondent Michael Posen is an individual and is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent. For several years prior to the formation of the respondent corporation in 1967, he did business

* Appendix A was omitted in printing.

as Golden 50 Pharmaceutical Co., with his principal office and place of business at 5401 North Tripp Avenue, Chicago, Illinois.

3. Respondents are now, and have been for some time last past, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs and food as the terms "drug" and "food" are defined in the Federal Trade Commission Act.

The designation used by respondents for said preparation, the formula thereof and directions for the use are as follows:

Designation: Golden 50 Tabulets A high potency vitamin and mineral food supplement.

Formula (one tablet):	Percent M.A.D.R.
Vitamin A (palmitate) 10,000 USP units	250
Vitamin D (irr-ergosteral) 400 USP units	100
Vitamin B–1 (Mononitrate) 2 mg	200
Vitamin B–2 (Riboflavin) 2 mg	157
Vitamin B–6 (Pyridoxine Hcl) 2 mg	X
Vitamin B–12 (Cyanocoblalamine) 5 mcg	X
Vitamin C (Ascorbic Acid) 100 mg	333
Niacinamide 20 mg	200
Vitamin E (Succinate) 20 I.U	X
Calcium Pantothenate 10 mg	X
Iron (as ferrous fumarate) 20 mg	200
Iodine (as potassium iodide) 0.15 mg	150
Copper (as copper sulfate) 2.0 mg	X
Manganese (as manganese sulfate) 1.0 mg	XX
Chloline bitartrate 50 mg	XX
Inositol 30 mg	XX
Biotin 30 mcg	XX
Dried Yeast 25 mg	
Calcium (Di-Cal-Phos) 100 mg	13.3
Phosphorus (Di-Cal-Phos) 75 mg	10.0

Percent M.A.D.R.—Per cent minimum adult daily requirement—Supplied.
X—M.A.D.R. not as yet established.
XX—Need in human nutrition is not as yet established.

Directions: ONE TABULET DURING OR AFTER BREAKFAST.

4. Respondents cause the said preparation, when sold, to be transported from its place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained a course of trade in said preparation in commerce as "commerce" is defined in the Fed-

eral Trade Commission Act. The volume of business in such commerce has been and is substantial.

5. In the course and conduct of their business as aforesaid, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and have disseminated, and caused the dissemination of advertisements concerning said preparation by various means for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

6. Among and typical of the said advertisements disseminated as hereinabove set forth are those which were reproduced and attached to the complaint in this matter as attachments 1A–1B and 2A–2B [pp. 281–285 herein].

7. Through the use of said advertisements and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication:

a. That Golden Fifty Pharmaceutical Co., Inc., is a manufacturer of vitamin and/or mineral preparations with appropriate laboratory facilities to thereby assure the potency, purity and performance of such preparations.

b. That a 30-day supply of Golden 50 Tabulets will be sent free to persons responding to respondents' advertisements.

c. That persons answering said advertisements will be under no obligation to purchase additional supplies of respondents' products.

d. That the "free" offer is good for only fifteen days.

e. That the Golden 50 Tabulets are guaranteed.

f. That the drug "gift" package contains "14 famous name brand products."

g. That the products in the drug "gift" package are regular commercial size items.

8. In truth and in fact:

a. Golden Fifty Pharmaceutical Co., Inc. is not engaged in the manufacture of vitamin and/or mineral preparations, and has no laboratory facilities to assure the potency, purity and performance of such preparations.

b. The 30-day supply of respondents' product is not "free" for the reason that such offer is an inseparable part of a plan under which

respondents, after the receipt of the 30-day supply by those who accept the offer, ship additional monthly supplies of their product to said persons and attempt to collect the price thereof.

c. Persons answering said advertisements are under an obligation to purchase additional supplies or to notify respondents to cancel further shipments. After the 30-day supply has been shipped, respondents ship additional supplies each month, mail statements requesting payment therefor and threaten a visit by "Our Representative in your Area" in an attempt to collect payment. In many instances persons who have received the 30-day supply of said product have notified respondents that they did not wish additional supplies to be sent and, in many instances have notified respondents that they wished the monthly shipments to be discontinued. Respondents have, in spite of such notification, continued to ship supplies of said product to such persons and have attempted to collect the price thereof, in the manner set out above.

d. There is no time limit on respondents' "free" offer.

e. Respondents do not offer a meaningful guarantee to the purchasers of Golden 50 Tabulets. Such purchasers cannot normally determine for themselves the potency or purity of such products. Nor do respondents set forth the nature and extent of the guarantee, the identity of the guarantor, or the manner in which the guarantor will perform thereunder.

f. The drug "gift" package does not contain 14 items nor does it contain all of the famous name brand items listed.

g. The products contained in the drug "gift" package are not regular commercial size items but are samples or trial size items.

9. Respondents have engaged in the practice of causing shipments of said preparation to be sent to persons located in various States of the United States who have not ordered such merchandise and to persons located in various States of the United States who have notified respondents not to ship such merchandise, and attempt, or cause to be attempted, the collection of the price thereof.

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

CONCLUSIONS

It is concluded that the facts hereinabove found constituted, and now constitute, unfair methods of competition and unfair and decep-

tive acts and practices, in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act; and that this proceeding is in the public interest.

ORDER

It is ordered, That respondents Golden Fifty Pharmaceutical Co., Inc., a corporation, and its officers, and Michael Posen, individually and as an officer of said corporation, and its agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of the preparation designated "Golden 50 Tabulets," or any food, drug, device or cosmetic do forthwith cease and desist from directly or indirectly:

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

(a) Represents directly or by implication that respondents are manufacturers of vitamin and/or mineral preparations or maintain laboratory facilities concerned with the formulation, testing or performance of vitamin and/or mineral preparations.

(b) Represents directly or by implication that any product is offered free or under any other terms when the offer is used as a means of enrolling those who accept the offer in a plan whereby additional supplies of the product are shipped at an additional charge unless all of the conditions of the plan are disclosed clearly and conspicuously and within close proximity to the "free" or other offer.

(c) Represents directly or by implication that an offer is made without "further obligation," or with "no risk," or words of similar import denoting or implying the absence of any obligation on the part of the recipient of such offer when in fact there is an obligation incurred by the recipient.

(d) Represents directly or by implication that an offer is made to only a limited customer group or for only a limited period of time when no such limitations are imposed by respondents.

(e) Represents directly or by implication that such products are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor and the manner in

which said guarantor will perform thereunder are clearly and conspicuously disclosed therewith.

(f) Represents directly or indirectly that any product or combination of products identified, described or specified, directly or by implication, is being offered for sale, as a "gift" or otherwise, unless such offer does contain the items as specified, described or otherwise identified.

(g) Represents directly or indirectly that any product or combination of products which are offered for sale, "free," as a "gift," or otherwise is or are of regular commercial size when such product or products are of "trial," "sample," or otherwise less than regular commercial size.

2. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' products in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations or misrepresentations prohibited by Paragraph 1 hereof.

It is further ordered, That respondents Golden Fifty Pharmaceutical Co., Inc., a corporation, and its officers, and Michael Posen, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of "Golden 50 Tabulets" or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Shipping or sending any merchandise to any person without the prior authorization or prior consent of the person to whom such merchandise is sent and attempting, or causing to attempt, the collection of the price thereof.

2. Shipping or sending any merchandise to any person and attempting, or causing to attempt, the collection of the price thereof when a notification of refusal of such merchandise, or a notification of cancellation for any further shipments of merchandise, has been sent by such persons and received by respondents.

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

DECISION AND ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.51 of the Commission's Rules of Practice (effective July 1, 1967), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 16th day of March, 1970, become the decision of the Commission.

It is further ordered, That respondents, Golden Fifty Pharmaceutical Company, Inc., a corporation, and Michael Posen, individually and as an officer of said corporation shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

IN THE MATTER OF

ATLEE FABRICS, INC., ET AL.

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

Docket C-1710. Complaint, Mar. 18, 1970—Decision, Mar. 18, 1970

Consent order requiring a New York City clothing manufacturer to cease misbranding certain of its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Atlee Fabrics, Inc., a corporation, and Hy Fuhrman and Mike Kaminer, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complant stating its charges in that resepct as follows:

PARAGRAPH 1. Respondent Atlee Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its office and principal place of business is located at 335 West 35th Street, New York, New York.

Respondents Hy Fuhrman and Mike Kaminer are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of said corporation. Their address is the same as that of said corporation.

Respondents are manufacturers of wool products.

PAR. 2. Respondents, now and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shippped and offered for sale, in commerce, as "commerce" is defined in said Act, wool products as "wool product" is defined therein.

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

Among such misbranded wool products, but not limited thereto, were certain wool products which were stamped, tagged, labeled, or otherwise identified as containing "Wool and Rabbit Hair," whereas in truth and in fact, said wool products contained other fibers than represented.

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

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

PAR. 5. The acts and practices of the respondents as set forth above were, and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and prac-

tices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

Decision and Order

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939; and

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

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

1. Respondent corporation is 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 335 West 35th Street, New York, New York.

Respondents Hy Fuhrman and Mike Kaminer are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of said corporation and their address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Atlee Fabrics, Inc., a corporation, and its officers, and Hy Fuhrman and Mike Kaminer, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the manufacture for introduction, into commerce, or the offering for sale, sale, tranportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

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

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

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

IN THE MATTER OF

LEPSHIRE MFG. CO., ET AL.

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

Docket C-1711. Complaint, Mar. 19, 1970—Decision, Mar. 19, 1970

Consent order requiring a Chicago, Ill., manufacturer of ladies' coats and fur trimmed coats to cease misbranding its wool products and failing to maintain required records on its textile fiber products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Lepshire Mfg. Co., a corporation, and Harold Lepp, Fay Dudovitz and Sol M. Dudovitz, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisons of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Lepshire Mfg. Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 337 South Franklin, Chicago, Illinois.

Individual respondents Harold Lepp, Fay Dudovitz and Sol M. Dudovitz are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of the corporate respondent.

Respondents are manufacturers of ladies' coats and fur trimmed coats.

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

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

Among such misbranded wool products, but not limited thereto, were ladies' coats, stamped, tagged, labeled, or otherwise identified as containing 100 percent Wool, whereas in truth and in fact, such coats contained substantially different fibers and amounts of fibers than represented.

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

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

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

PAR. 6. Respondents are now and for some time last past have been engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported after shipment in commerce, textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 7. Respondents have failed to maintain and preserve proper records showing the fiber content of textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations promulgated thereunder.

PAR. 8. The acts and practices of respondents as set forth above in Paragraph Seven were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act; and

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

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

1. Respondent Lepshire Mfg. Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 337 S. Franklin, Chicago, Illinois.

Respondents Harold Lepp, Fay Dudovitz and Sol M. Dudovitz are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents Lepshire Mfg. Co., a corporation, and its officers, and Harold Lepp, Fay Dudovitz and Sol M. Dudo-

vitz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding wool products by:

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

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

It is further ordered, That respondents Lepshire Mfg. Co., a corporation, and its officers, and Harold Lepp, Fay Dudovitz and Sol M. Dudovitz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from failing to maintain and preserve proper records of fiber content of textile fiber products manufactured by respondents, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations promulgated thereunder.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsid-

iaries or any other change in the corporation which may affect compliance obligations arising out of this order.

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

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

IN THE MATTER OF

KING-SEELEY THERMOS CO.

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

Docket C-1712. Complaint, Mar. 24, 1970—Decision, Mar. 24, 1970

Consent order requiring an Ann Arbor, Mich., manufacturer of tents, sleeping bags, cot pads, camp pads and sleeping bag mattresses to cease using exaggerated retail prices of its products as regular and customary in any trade area, furnishing means of deception to others, and failing to maintain pricing records.

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 King-Seeley Thermos Co., a Michigan corporation hereinafter referred to as "Predecessor" which Predecessor has been acquired by a new corporate subsidiary of Household Finance Corporation created for that specific purpose under the laws of Delaware, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that 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 King-Seeley Thermos Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3853 Research Park Drive, Ann Arbor, Michigan.

PAR. 2. Respondent or Predecessor is now and for some time last