FINDINGS, OPINIONS, AND ORDERS, JULY 1, 1971, TO DECEMBER 31, 1971

IN THE MATTER OF

GERALD BLANCHARD TRADING AS DOMESTIC SEWING CENTER

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

Docket C-1966. Complaint, July 7, 1971—Decision, July 7, 1971

Consent order requiring a Memphis, Tenn., individual selling and distributing new and used sewing machines and other merchandise to cease using deceptive games of chance, misrepresenting the customary retail price of his merchandise, failing to maintain records to support savings claims, using "bait" methods of selling, implying that articles offered for sale have been repossessed, misusing the word "automatic" to describe any sewing machine, falsely guaranteeing any of his products, failing to notify purchaser that his promissory note may be discounted to a finance company, and making any sales or credit instrument which shall become effective prior to midnight of the third day after execution.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Gerald Blanchard, an individual, trading and doing business as Domestic Sewing Center, and formerly trading and doing business as National Electronics and as National Electronics Distributors, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Gerald Blanchard is an individual,

trading and doing business as Domestic Sewing Center with his principal place of business located at 3290 Commercial Parkway in the city of Memphis, State of Tennessee, and formerly trading and doing business as National Electronics and as National Electronics Distributors with his principal place of business located at 468 North Watkins Street in the city of Memphis, State of Tennessee.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of new and used sewing machines and other merchandise to the public and was formerly engaged in the advertising, offering for sale, sale and distribution of stereo sets, television sets, record albums and similar merchandise to the public.

PAR. 3. In the course and conduct of his business, as aforesaid, respondent now causes, and for some time last past has caused, his said merchandise, when sold, to be shipped from his places of business in the State of Tennessee to purchasers thereof located in various other States of the United States and has been, and now is, engaged in causing to be disseminated in newspapers of interstate circulation, by the United States mails and radio commercials of interstate transmission, advertisements designed and intended to induce sales of his merchandise, and thereby maintains, and at all times mentioned herein has maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. One of respondent's sales plans is to invite persons to register for a drawing, offering as a prize a new sewing machine. After this prize is awarded, registrants in the drawing receive from respondent a letter offering an opportunity to win a credit or allowance of specific monetary value to be applied to the purchase of a sewing machine by their participation in a lucky number contest. Although respondent advertises low price merchandise in this letter and other letters, in newspaper ads and radio commercials, his salesmen undertake to sell and, in many instances, do sell higher priced merchandise to customers who respond to such offers.

PAR. 5. In the course and conduct of his aforesaid business and for the purpose of inducing the purchase of his merchandise, respondent has made, and is now making, numerous statements and representations in letters, newspapers and other media with respect to his drawings, contests, games of chance, prizes, promotions, prices, savings, limitations to offers, the status, kind, quality, characteristics and guarantees of his merchandise.

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

A. In connection with respondent's contests, drawings or games of chance:

Thank you for entering our recent drawing.

You have been chosen to receive a 1969 Deluxe Zig Zag Sewing Machine. * * *

* * * * * * *

Lucky Number
Pull Tab

Congratulations:

You have been selected to participate in the all new
DOMESTIC SWEEPSTAKES

HERE is your opportunity. Compare the serial number on your letter against the enclosed list of lucky numbers by removing the tab. It may mean extra savings to you.

Your letter may be used toward the purchase of the famous DOMESTIC MODEL ROBIN 164 SEWING MACHINE. * * * It is especially priced at $149.00.

Here is an example of your savings if your serial number appears in group number 3 (GRAND PRIZE). You pay only $9.95 for the machine itself (freight and set-up cost) and take out our new 5-year service and instructional policy at a cost of $12.95 per year. * * *

Group No. 1 winners are eligible for $59.95 discount on any machine, and Group No. 2, $29.95.

Since this is an advertising promotion, the time limit offer is good only for one (1) demonstration or 10 days.

B. In connection with respondent's newspaper advertisements of sewing machines:

1969 Singer in walnut cabinet (good shape). Makes zig zag stitches automatically * * * Guaranteed. Assume monthly notes of $5.21 or pay total finance bill of $53.12.

* * * * * * *

1969 Zig Zag in nice console . . . Assume notes of $1.50 per week or pay final balance of $34.75.

PAR. 6. By and through the use of the above-quoted statements and representations, and others of similar import and meaning not specifically set out herein, separately and in conjunction with oral sales presentations by respondent's salesmen to purchasers and prospective purchasers, respondent has represented, and is now representing, directly or by implication:

A. In connection with respondent's contests, drawings or games of chance:

1. That he is conducting bona fide drawings and bona fide contests to determine the identity of persons eligible to purchase his merchandise at reduced or discount prices.

2. That his Domestic Sweepstakes is a bona fide game of chance and that in connection therewith, he is awarding valuable prizes of specific amounts, such as the aforesaid $59.95 and $29.95, as credits or allowances to be deducted from his regular price of any sewing machine he sells and a valuable grand prize, which entitles the winner thereof to purchase a Domestic Model Robin 164 sewing machine and a 5-year service and instructional policy at a bargain price of $9.95 plus $12.95 per year for 5 years.

3. That his aforestated price of $149 for the Domestic Model Robin 164 sewing machine is the price at which it was sold or offered for sale in good faith by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business.

4. By use of the words "extra savings," "example of your savings" or other words or word of similar import or meaning, that respondent's offering prices for certain sewing machines constitutes a substantial reduction from a higher price or prices at which such machines were sold or offered in good faith for sale by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business and that the difference between such higher price or prices and the corresponding lower offering price or prices for the said machines represents a savings to the purchaser.

5. That his said awards of credits or allowances are made only to a limited number of selected persons for one demonstration or for a limited period of ten days.

B. In connection with respondent's newspaper advertisements of sewing machines:

1. That he is making bona fide offers to sell used sewing machines for $53.12, $34.75 and various other prices not set out herein.

2. Through the use of the statements, "assume monthly notes" "pay total finance bill" and statements or words of similar import or meaning, that sewing machines, partially paid for by the previous purchaser, are being offered for sale by respondent for the unpaid balance of the purchase price.

3. That the 1969 Singer sewing machine makes zig zag stitches automatically, by self-operation and by self-regulation.

4. That the 1969 Singer sewing machine is guaranteed without condition or limitation.

PAR. 7. In truth and in fact:

A. In connection with respondent's contests, drawings or games of chance:

1. Respondent is not conducting bona fide drawings or bona fide

contests to determine the identity of persons eligible to purchase his merchandise at reduced or discount prices. His purpose in conducting such drawings and contests is to attract prospective purchasers of his higher priced merchandise.

2. Respondent's Domestic Sweepstakes is not a bona fide game of chance and in connection therewith, respondent does not award valuable prizes of specific amounts, such as $59.95 or $29.95, as credits or allowances to be deducted from his regular price of any sewing machine he sells, nor does his grand prize entitle a winner thereof to purchase a Domestic Model Robin 164 sewing machine and a 5-year service and instructional policy at a bargain price of $9.95 plus $12.95 per year for 5 years. Such credits or allowances, granted pursuant to the said promotional program and a similar program conducted by respondent, are awarded to all contest participants who failed to win respondent's new sewing machine and are not deducted from respondent's regular retail prices for his sewing machines but from fictitious higher prices and therefore, such prizes are illusory. Moreover, a purchaser of respondent's 5-year service and instructional policy must pay a total sum of $64.75 at the time of accepting his offer rather than $12.95 each year for 5 years.

3. Respondent's price of $149 for the Domestic Model Robin 164 sewing machine is not the price at which it was sold or offered for sale in good faith by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business but is considerably in excess of that price.

4. The prices referred to in respondent's offers of sewing machines in connection with the words "extra savings," "example of your savings" or other words or word of similar import or meaning do not constitute a substantial reduction from a higher price or prices at which such machines were sold or offered for sale in good faith by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business and purchasers are not afforded savings between such higher price or prices and the corresponding lower offering price or prices for the said machines.

5. Respondent's awards of credits or allowances were not made only to a limited number of selected persons but were made generally to members of the purchasing public. Said offers were not limited to one demonstration or to ten days but were available for additional demonstrations and after the ten day period of time.

B. In connection with respondent's newspaper advertisements of sewing machines:

1. Respondent's advertised offers of used sewing machines for

$53.12, $34.75 and various other prices not set out herein are not bona fide offers, but are made for the purpose of obtaining leads to persons interested in the purchase of sewing machines. After obtaining these leads, through responses to the said advertisements, respondent or his salesmen call upon such persons but make no effort to sell the advertised sewing machine. Instead they exhibit what they represent to be the advertised sewing machine which, because of its poor appearance and condition, is usually rejected on sight by the prospective purchaser. Concurrently, a higher priced sewing machine of superior appearance and condition is presented, which by comparison disparages and demeans the advertised machine. By these and other tactics, the purchase of the advertised machine is discouraged, and respondent or his salesmen attempt to and frequently do sell the higher priced machine.

2. Respondent's sewing machines, offered by use of the statements "assume monthly notes" or "pay total finance bill" and statements or words of similar import or meaning, are not partially paid for by the previous purchaser nor are they being offered for sale by the respondent for the unpaid balance of the purchase price.

3. The 1969 Singer sewing machine does not make zig zag stitches automatically, by self-operation or by self-regulation.

4. The guarantee of the 1969 Singer sewing machine is subject to numerous conditions and limitations which are not disclosed in respondent's advertising.

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

PAR. 8. In the course and conduct of his aforesaid business, respondent and his salesmen have, in many instances, failed to disclose orally or in writing certain material facts to purchasers, including, but not limited to the fact that, at respondent's option, conditional sales contracts, promissory notes or other instruments of indebtendess executed by such purchasers in connection with their credit purchase agreements may be discounted, negotiated or assigned to a finance company or other third party to whom the purchaser is thereafter indebted and against whom defenses may not be available.

Therefore, respondent's failure to disclose such material facts, both orally and in writing prior to the time of sale, was and is misleading and deceptive, and constituted, and now constitutes, an unfair or deceptive act or practice.

PAR. 9. By and through the use of the aforesaid acts and practices,

respondent places in the hands of salesmen and others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 10. In the course and conduct of his aforesaid business, and at all times mentioned herein, respondent has been, and now is, in substantial competition in commerce with corporations, firms, and individuals in the sale of sewing machines and other merchandise of the same general kind and nature as those sold by respondent.

PAR. 11. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of the merchandise and services offered by respondent by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

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

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the 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

470-883 O—73——2

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

1. Respondent Gerald Blanchard is an individual, trading and doing business as Domestic Sewing Center, with his principal place of business located at 3290 Commercial Parkway in the city of Memphis, State of Tennessee and formerly trading and doing business as National Electronics and as National Electronics Distributors, with his principal place of business located at 468 North Watkins Street in the city of Memphis, State of Tennessee.

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 Gerald Blanchard, an individual, trading and doing business as Domestic Sewing Center, and formerly trading and doing business as National Electronics and as National Electronics Distributors or under any other trade name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of sewing machines or other products or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that names of winners are obtained through drawings, contests or by chance when all of the names selected are not chosen by lot; or misrepresenting, in any manner, the method by which names are selected.

2. Representing, directly or by implication, that a sweepstakes or other type of game of chance is being conducted to determine a winner or winners of a prize or prizes, unless such sweepstakes or other type of game of chance is in fact designed to select a winner or winners of a bona fide prize or prizes.

3. Representing, directly or by implication, that awards or prizes are of a certain value or worth when recipients thereof are not in fact benefited by or do not save the amount of the represented value of such awards or prizes.

4. Representing, directly or by implication, that any amount is respondent's usual and customery retail price for an article of merchandise, product or service when such amount is in excess of the price or prices at which such article of merchandise, product or service has been sold or offered for sale in good faith by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business.

5. Representing, directly or by implication, that any savings, discount, credit or allowance is given purchasers as a reduction from respondent's selling price for a specified article of merchandise, product or service unless such selling price is the amount at which said article of merchandise, product or service has been sold or offered for sale in good faith by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business.

6. Using the words "extra savings," "example of your savings" or any other words or word of similar import or meaning as descriptive of any price amount: *Provided, however*, That nothing herein shall be construed to prohibit the use of such words or word where such price constitutes a substantial reduction from the price at which an article of merchandise, product or service was sold or offered for sale in good faith by respondent at retail for a reasonably substantial period of time in the recent, regular course of his business.

7. Failing to maintain adequate records (a) 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 3 through 6 of this order are based, and (b) from which the validity of any savings claims and comparative value claims, and similar representations of the type described in Paragraphs 3 through 6 of this order can be determined.

8. Representing, directly or by implication, that an offer of any article of merchandise, product or service is, (a) limited as to time; (b) made to a limited number of persons; or (c) restricted or limited in any other manner, unless such represented limitations or restrictions were actually in force and in good faith adhered to.

9. Advertising or offering any products for sale for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered and

respondent maintains an adequate and readily available stock of said products.

10. Disparaging in any manner or refusing to sell any product advertised.

11. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations which are designed to obtain leads or prospects for the sale of other merchandise.

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

13. Representing, directly or by implication, that any article of merchandise or product has been repossessed, has been partially paid for by the previous purchaser or is being offered for sale for the unpaid balance of the purchase price, unless such representations are true and factual; or misrepresenting, in any manner, the status, kind, quality or price of an article of merchandise or product being offered.

14. Using the word "automatic" or any other word or term of similar import or meaning to describe any sewing machine either in its entirety or as to its over-all function or operation, or using any illustration or depiction which represents that such a machine is automatic in its entirety or as to its over-all function or operation: *Provided, however*, That nothing herein shall be construed to prohibit the use of the word or term "automatic" in describing a sewing machine's specific attachment or component or function thereof, which after activation and by self-operation, will perform without human intervention the mechanical function indicated.

15. Representing, directly or by implication, that respondent's products are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; and unless respondent does in fact perform each of his obligations directly or impliedly represented under the terms of such guarantee.

16. Failing to disclose orally prior to the time of sale of any article of merchandise, product or service that an instrument of indebtedness executed by a purchaser may, at respondent's option and without notice to the purchaser, be discounted, negotiated or assigned to a finance company or other third party to

which the purchaser will thereafter be indebted and against which the purchaser's claims or defenses may not be available.

17. Failing to obtain their customers' signed statement saying that they have received, read and understood the following:

"Important Notice"

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

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

(b) Negotiating any conditional sales contract, promissory note, trade acceptance, or other instrument of indebtedness to a finance company or other third party prior to midnight of the third day, excluding Sundays and legal holidays, after the date of execution by the buyer.

19. Placing in the hands of others any means or instrumentalities whereby they may mislead purchasers or prospective purchasers as to any of the matters or things prohibited by this order.

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

It is further ordered, That the respondent shall notify the Commission within fifteeen (15) days subsequent to any change in this business organization such as dissolution, assignment, incorporation or sale resulting in the emergence of a successor corporation or partnership or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent herein shall, within

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

IN THE MATTER OF

NELSON JAMES, INC., DOING BUSINESS AS SPECTRUM PENS, ETC.

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

Docket C-1967. Complaint, July 7, 1971—Decision, July 7, 1971

Consent order requiring a San Mateo, Calif., corporation engaged in the advertising and selling of distributorships to sell pens to cease understating the amount of money required for its distributorships, exaggerating profits to prospective buyers, failing to disclose in its advertising that it is subject to an FTC consent order, exaggerating the consumer demand for its pens, and misrepresenting that the franchises are limited in number or that the pens are easy to sell; respondents must also disclose to future investors in any business venture for ten (10) years the amount of their unpaid debts, and notify the Commission of plans to enter any contemplated business.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Nelson James, Inc., a corporation, doing business as Spectrum Pens, Nelson James Division of R. B. Springer & Co., Inc., a copartnership, Tiffany Writing Instruments, Inc., a corporation, and Glen M. Nelson and James R. DeGraw, individually and as officers of said corporations and as copartners in Nelson James Division of R. B. Springer & Co., Inc., 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 Nelson James, Inc., doing business under the name of Spectrum Pens, is a California corporation with its principal office and place of business formerly located at 2075 Pioneer Court, San Mateo, California.

Respondent Nelson James Division of R. B. Springer & Co., Inc., also doing business as Nelson James, is a copartnership, formerly

doing business with its principal office and place of business formerly at 2075 Pioneer Court, San Mateo, California.

Respondent Tiffany Writing Instruments, Inc., is a California corporation with its principal office and place of business formerly located at 2075 Pioneer Court, San Mateo, California.

Respondent Glen M. Nelson is an individual and is an officer of Nelson James, Inc., and Tiffany Writing Instruments, Inc., and a copartner of the Nelson James Division of R. B. Springer & Co., Inc. He resides at 1256 Edgewood Road, Redwood City, California.

Respondent James R. DeGraw is an individual and is an officer of Nelson James, Inc., and Tiffany Writing Instruments, Inc., and a copartner of the Nelson James Division of R. B. Springer & Co., Inc. He resides at 364 Malcolm Avenue, Belmont, California.

Respondents Nelson and DeGraw have been and are primarily responsible for establishing, supervising, directing, and controlling the acts and practices of each of said corporate respondents. They originally engaged in the business activities alleged herein under the name of corporate respondent Nelson James Division of R. B. Springer & Co., Inc., and said activities were transferred to, and have been continued under, the names of corporate respondents Nelson James, Inc., and Tiffany Writing Instruments, Inc.

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

PAR. 2. Respondents engaged in the advertising and selling of distributorships to sell writing instruments (pens).

Respondents have sold lists of names of potential customers to persons desiring to be distributors. These persons invest substantial sums of money, in return for which each receives the mailing list, sample writing instruments, and promotional and advertising material. Each distributor must mail sample pens and promotional material to each account on the mailing list once every three months and must pay for postage. These mailings include incentives, such as S & H Green Stamps and a sweepstakes contest. When a distributor receives orders from persons to whom he has sent respondents' materials, the orders are sent to respondents' San Mateo, California, address; and the orders are then filled and sent to the consumer. The consumer sends a check to the distributor, who forwards it, in its entirety, to respondents. The distributor receives a commission of twenty-five percent (25%) on all sales. The shipment of pens to consumers is done by respondents' pen suppliers.

PAR. 3. In the course and conduct of their business, respondents were causing their advertising matter to be published in newspapers

of interstate circulation and their sales and promotional materials to be mailed or otherwise conveyed from their place of business in the State of California to persons in various other States of the United States. Included among these materials are advertising matter, applications, distributorship contracts and supply orders, and pens. Letters, checks, and other written instruments and communications have been sent and have been received between the respondents at their place of business in California, and persons in various other States of the United States.

As a result of said interstate advertising, promotion, and sales, and as a result of said transmission and receipt of said written instruments and communications, respondents have maintained a substantial course of trade in said distributorships and pens in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the conduct of their business, and the purpose of inducing prospective distributors to invest in their operations, respondents and their agents have made, directly or by implication, numerous false and misleading statements and representations, concerning the investment to be made, the investor's earnings potential, and various aspects of the operation itself.

PAR. 5. Typical and illustrative of said statements and representations, but not all-inclusive thereof, are the following:

CASH BY MAIL

How can you get rich some day? Make a hit record * * * a killing on the stock market * * * or invent a gadget like the hula hoop? For most of us, these are just dreams. But have you ever stopped to think that there *is* a way to get rich—possibly only one sure way? Most fortunes, as you know, are made by people who own their own business * * * The business is Mail Order —and it's fabulous. Come up with a "hot" new item * * * and WHAM! It strikes like a bolt of lightning! Suddenly, you are deluged with cash orders from all over the country * * * MORE MONEY than you could make in a lifetime! * * * There is no other business where you can make a fortune so quickly!

* * * * * * *

The secret in Mail Order lies in financial leverage. It's a little-known, almost secret method. Repeat orders alone, just from mailing, could bring you a steady income for the rest of your life! * * * Now, with the help and backing of SPECTRUM PENS, you can follow the same proven steps to Mail Order success—using the "secret" of financial leverage!

* * * * * * *

Projected Sales—1000 Computer Selected Accounts—Example: Banks, Offices, Stores, Contractors, Suppliers, Schools, Manufacturers, Governmental, Auto, Trailer Dealers, Hotels, Motels, All Rental Agencies, Travel/Employment Agencies. Projected orders received per 1000 accounts: 23 * * * Distributor's Projected Net Profit: $432.26.

6,000 Accounts Projected Net to Distributor * * * $2,593.56. 12,000 Accounts Projected Sales—1000 Computer Selected Accounts—Example: Banks, Offices,

* * * * * * *

Revenue to Associate on projected order is calculated at $30.62.

* * * * * * *

DISTRIBUTOR INVESTMENT

Distributor is required to put up his share of first mailing supply cost plus his one time investment for lifetime exclusive computerized account operational and maintenance agreement. This totals $424.25 *FOR EVERY 1000 ACCOUNTS.*

* * * * * * *

An investment of $1,697.00 to $4,487.00 for supplies is required.

* * * * * * *

Your account list stays up-to-date by avoiding individual names.

* * * * * * *

You're in business with your first mailing.

* * * * * * *

You're backed by Tiffany's successful marketing program.

* * * * * * *

Depression-proof business.

* * * * * * *

Your accounts are qualified prospects * * * right in your own area of the country!

* * * * * * *

From your 25% you pay only supplies and postage. All The Rest Is Profit!

* * * * * * *

Several hundred associates are into their third and fourth mailings and are making good profits. An average order is $122.00, and the average return is from 10 to 12 percent.

* * * * * * *

There is no doubt whatsoever that you will get your money back in 90 days, *plus* enough profit to pay for the second mailing.

* * * * * * *

Every quarterly mailing makes a new impression.

* * * * * * *

Now let me tell you about Tiffany. First, for competitive reasons, we can't reveal our unique marketing strategy to just anyone, or would you please read and sign this information waiver before I tell you more.

* * * * * * *

Then I can determine if you are qualified for this distributorship.

* * * * * * *

Mr. Nelson did 600 million in total sales, nation's leader in all sales of writing instruments.

PAR. 6. By making statements and represenations in Paragraph Five, and others similar thereto but not expressly set out herein, and in the course of oral sales presentations by respondents' agents, representatives, and employees, respondents represent, and have represented, directly or by implication, that:

(1) An investment of from $1,697 to $4,487 is the total amount required of distributors, and there is no requirement for additional future investments.

(2) A distributor's initial investment will pay for the cost of repeat mailings, at least for the rest of his first year of operation.

(3) Distributors will earn at least enough in commissions from the first mailing to recoup their initial investments.

(4) National figures show that each 1,000 accounts on a distributor's mailing list will spend $300,000 per year for respondents' products, of which the distributor would earn $75,000 in commissions.

(5) Out of each 1,000 Spectrum Pen accounts, the average amount of return on the initial mailing is $1,729.04, of which the distributor would earn $432.26 in commissions. The average profit on each order is $30.62.

(6) A distributor can make a great deal of money in a very short period of time, and repeat business will provide a steady income for the rest of his life.

(7) Several hundred distributors have made three or four mailings and are receiving an average return in orders of ten to twelve percent.

(8) Because everybody uses pens, respondents' pens will be very easy to sell by mail.

(9) Respondents' mail-order operation uses "secret" or otherwise unique methods which make it more successful than other mail-order sales operations.

(10) Persons answering respondents' advertisements were sent a letter of reference signed by Republic Corporation which described respondents' program as "unique and successful."

(11) All accounts on distributors' mailing lists are fairly substantial businesses or institutions which will need and order pens in great quantity.

(12) Respondents use widespread national advertising to promote the sale of their products, and consumer demand has been created for said products.

(13) Respondents offer only a limited number of distributorships, and only to qualified individuals, who are chosen on the basis of their merit as businessmen.

(14) Distributors receive lists of accounts located in their own geographical areas, for which they will be the exclusive distributors.

PAR. 7. In truth and in fact:

(1) A distributor's investment of from $1,697 to $4,487 is only an initial investment. The "associate distributor" contract requires this

investment, plus an investment of an amount equal to one-half of the distributor's initial investment, payable once every three months for an indefinite period of time. These facts are not disclosed to prospective investors in respondents' advertising or sales presentation materials.

(2) A distributor's initial investment will not pay for the cost of repeat mailings; additional investments for supplies are required for each mailing. This fact is not disclosed to prospective investors in respondents' advertising or sales presentation materials.

(3) Distributors do not earn enough money in commissions from the first mailing to recoup their initial investments. The average earned commissions per distributor from the first mailing was less than $50.

(4) National figures do not show that each 1,000 accounts on a distributor's mailing list will spend $300,000 per year for respondents' products, nor do they show that the distributor would earn $75,000 in commissions. The "national figures" used in respondents' advertising and promotional materials reflect monies spent for all kinds of pens, and not just respondents'.

(5) Out of each 1,000 Spectrum Pen accounts, the average amount of return on the initial mailing is not $1,729.04, and the distributor does not earn $432.26 in commissions. The average profit on each order is not $30.62.

(6) A distributor cannot make a great deal of money in a very short period; no distributor recouped his initial investment. Repeat business will not provide a distributor with a steady income for the rest of his life; in all instances, distributors have received very minimal incomes or none at all.

(7) The average return in orders for those distributors making more than one mailing has been less than one-half of one percent.

(8) Respondents' pens are not easy to sell by mail, regardless of the fact that everybody uses pens.

(9) Respondents' mail-order operation does not use "secret" or otherwise unique methods which make it more successful than other mail-order sales.

(10) Respondents' program was not unique or successful.

(11) Many accounts on distributor mailing lists are very small businesses, such as dry cleaners, restaurants, and service stations, which do not need or order pens in great quantity. In addition, many entries on the mailing lists are individuals, and the lists contain numerous incomplete names or addresses.

(12) Respondents do not use national advertising to promote the

sale of their products, and there is little, if any consumer demand for those products. Respondents' advertising and promotional efforts are directed almost exclusively to prospective distributors.

(13) Respondents do not limit the number of distributorships offered, and they do not screen prospects on the basis of merit or of their qualifications as businessmen. The sole requirement for acceptance as a distributor is the investment of money in a distributorship.

(14) In a substantial number of instances, distributors have received mailing lists covering geographical areas far from their own, often in different states. Exclusive distributorships for particular areas are not given.

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

PAR. 8. It was an unfair and deceptive practice for respondents to sell distributorships in the manner set forth in Paragraphs Five and Six when they knew, or reasonably prudent businessmen should have known, that distributors would not receive the results that were represented.

PAR. 9. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices has had the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said representations were true and into investing substantial sums of money in becoming distributors in respondents' mail-order sales operation by reason of said erroneous and mistaken belief.

PAR. 10. The foregoing acts and practices of respondents were to the prejudice and injury of the public and constituted 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 San Francisco Field Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

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

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

1. Respondent Nelson James, Inc., is a California corporation, with its office and principal place of business formerly located at 2075 Pioneer Court, San Mateo, California.

Respondent Nelson James Division of R. B. Springer & Co., Inc., is a copartnership, with its office and principal place of business formerly located at 2075 Pioneer Court, San Mateo, California.

Respondent Tiffany Writing Instruments, Inc., is a California corporation with its office and principal place of business formerly located at 2075 Pioneer Court, San Mateo, California.

Respondents Glen M. Nelson and James R. DeGraw are copartners in said copartnership and are officers of said corporations. They formulate, direct, and control the policies, acts, and practices of said copartnership and of said corporations. Glen M. Nelson formerly resided at 1256 Edgewood Road, Redwood City, California; James R. DeGraw resides at 364 Malcolm Avenue, Belmont, California.

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 Nelson James, Inc., a corporation, Nelson James Division of R. B. Springer & Co., Inc., a copartnership, Tiffany Writing Instruments, Inc., a corporation, and Glen M. Nelson and James R. DeGraw, individually and as copartners in said copartnership and as officers in said corporations, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offer-

ing for sale, or sale of Spectrum Pen or Tiffany Pen distributorships or any other distributorships, franchises, or investment opportunities, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist, directly or by implication, from:

(1) Representing that any certain amount of money required is the total amount required, when additional sums of money are necessary.

(2) Representing or projecting returns or profits to investors that are not the actual average returns or profits of all investors for the preceding twelve-month period.

(3) Offering such distributorships, franchises, or other investment opportunities for sale without disclosing in all advertisements and sales presentations that respondents are subject to a Federal Trade Commission Consent Order Agreement, and affording an opportunity to each investor to read the Agreement, with the proposed complaint attached prior to entering into any agreements or accepting any money from them.

(4) Misrepresenting that there is a consumer demand for their products or services, or misrepresenting the character or extent of advertising used to promote a demand for respondents' products or services.

(5) Representing that distributorships, franchises, or investment opportunities are limited in number, or that the applicant must have qualifications other than financial, or that exclusive geographical areas are granted.

(6) Representing that their method of operation is unique or secret, or that their products or services are easy to sell.

It is further ordered that respondents:

(7) Disclose to any prospective investors in future business ventures which respondents may enter into for the next ten years that they left an aggregate of $277,768 in unpaid debts as a result of the Spectrum and Tiffany operations.

(8) When entering into any business in a financial, managerial, or sales capacity, involving mail-order sales, door-to-door sales, or other forms of direct selling, or any business involving the sale of distributorships, franchises, memberships, or services, or any business utilizing multi-level sales or marketing techniques, during the ten years following the date of this order, notify the Commission of their plans and intentions before entering into the contemplated business endeavor.

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

(10) Distribute a copy of this Consent Order Agreement to each advertising agent or agency with which they do business, directly or indirectly, and do likewise with any such person or organization with which it does business in the future, immediately upon beginning such undertaking.

(11) 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

NATIONAL FURNITURE STORES, INC., ET AL.

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

Docket C-1968. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a Spokane, Wash., seller and distributor of furniture and other merchandise to cease misrepresenting the customary retail price of its merchandise, deceptively using the words "half price" and "less than half price," using such words as "unprecedented public sale" and similar expressions to import distress selling, misrepresenting savings available to purchasers, and failing to maintain records adequate to justify pricing claims.

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 National Furniture Stores, Inc., a corporation, and Arnold W. Barnes and Leonard St. Marie, 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 National Furniture Stores, Inc., is a corporation organized, existing and doing business under and by vir-

tue of the laws of the State of Washington, with its principal office and place of business located at North 1230 Division Street, Spokane, Washington.

Respondents Arnold W. Barnes and Leonard St. Marie are individuals and are officers and directors of the corporation. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business 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 furniture and other merchandise at retail to members of the public.

PAR. 3. In the course and conduct of their business as aforesaid, respondents caused, and for some time last past have caused, their said merchandise, when sold, to be shipped from their places of business in the States of Washington and Idaho to purchasers thereof located in various other States of the United States, and continue to cause their said merchandise, when sold, to be shipped from places of business in the State of Washington to purchasers thereof located in other States of the United States, 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 furniture and other merchandise, the respondents have made and are now making numerous statements and representations in advertisements inserted in newspapers of general interstate circulation, and on radio and television signals broadcast interstate.

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

UNPRECEDENTED PUBLIC SALE!
100% Total Stock Sale * * *
ENTIRE CONTENTS UP FOR PUBLIC GRABS * * *
FORCED TO SELL All Surplus FURNITURE!
Regardless of Costs or Losses
* * * must be sold at whatever price is available on the public market * * *
Certified Store-Wide Reductions up to 78% Off!
One-of-a-kind Door Busters:

* * *
$269.95 Hide-Away Sofa Sleeper w/Full Size Mattress---------- $100
$229.95 Admiral Family Size Refrigerator---------- $125

Entire Stock LAMPS ½ PRICE!
$19.95 Full or Twin-Size Padded Headboards, $8
Less than ½ Price!
$79.95 Maple Bunk Beds, $38
Less than ½ Price!

MATTRESS AND BOX SPRINGS, NAME BRANDS
PRICED AS LOW AS * * * $18

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning not expressly set out herein, respondents represent and have represented, directly or by implication:

1. That the higher stated prices, accompanied by the words "Regular" or "Reg.," or unaccompanied by descriptive language, were the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably substantial period of time by the respondents, in the recent regular course of their business, and that purchasers of such articles would save an amount equal to the difference between the advertised higher prices and the lower offering prices corresponding thereto.

2. That purchasers of merchandise advertised in conjunction with the phrases, "½ price," "less than ½ price," "up to 78% off," or terms of comparable import and meaning, would realize a savings of the stated fractional or percentage amount from the actual prices at which the merchandise so advertised was sold or offered for sale in good faith for a reasonably substantial period of time, by respondents, in the recent regular course of their business.

3. That, during the period advertised as "Unprecedented Public Sale . . . regardless of costs or losses," and by other terminology importing circumstances of distress, substantially all merchandise at the respondents' premises was for sale at prices or amounts representing a substantial and significant reduction from the prices at which such merchandise was sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business.

4. That widely recognized makes of mattress and box springs were for sale for as little as $18, and that other articles advertised for sale at stated offering prices were available for retail purchase at such stated prices, at the advertised premises.

PAR. 6. In truth and in fact:

1. The higher stated prices, accompanied or unaccompanied by descriptive language, were not the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably sub-

stantial period of time by respondents, in the recent regular course of their business, and purchasers thereof would not save amounts equal to the difference between the advertised higher prices and the lower offering prices corresponding thereto.

2. Purchasers of merchandise advertised in conjunction with the phrases, "½ price," "less than ½ price," "up to 78% off," or terms of comparable import and meaning, did not realize savings of the stated fractional or percentage amount from the actual prices at which the merchandise so advertised was sold or offered for sale in good faith for a reasonable substantial period of time, by respondents, in the recent regular course of their business.

3. During the period advertised as "Unprecedented Public Sale . . . regardless of costs or losses," and by other terminology importing circumstances of distress, substantially all merchandise at the respondents' premises was not in fact for sale at prices or amounts representing a substantial and significant reduction from the prices at which such merchandise was sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business.

4. Widely recognized makes of mattress and box springs were not in fact available for sale for as little as $18 at the respondents' premises during the advertised sale, and certain other articles advertised for sale at stated offering prices were not then available for retail purchase at such stated prices, but at higher prices.

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 the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition in commerce with corporations, firms and individuals engaged in the sale of furniture and other merchandise 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, acts and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of substantial quantities of respondents' merchandise 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 Seattle Field Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of 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 National Furniture Stores, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at North 1230 Division Street, Spokane, Washington.

Respondents Arnold W. Barnes and Leonard St. Marie 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 National Furniture Stores, Inc., a corporation, and their officers, and Arnold W. Barnes and Leonard St. Marie, 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 furniture or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that any amount, accompanied or unaccompanied by descriptive language, is respondents' usual and customary retail price of merchandise unless such amount is the price at which the merchandise has in fact been usually and customarily sold at retail by respondents in the recent regular course of their business.

2. Using the words "half price," "less than half price," "up to 78% off," or words or symbols of comparable import and meaning, except in specific reference to articles which have been sold or offered for sale in good faith for a reasonably substantial period of time, by respondents, in the recent regular course of business, at prices not less than the indicated multiple of the offering price so described or alluded to.

3. Using the words "Unprecedented Public Sale," "Forced to Sell Regardless of Costs or Losses," "Up for Public Grabs," or other words or symbols importing circumstances of distress, unless the merchandise so described or alluded to has been reduced in price, by an amount or proportion of practical significance to respondents' customers and prospective customers, from the actual bona fide price or prices at which it has been offered for sale in good faith by respondents for a reasonably substantial period of time in the recent, regular course of their business.

4. Misrepresenting in any manner that savings are available to purchasers of respondents' merchandise, or the amount of such savings.

5. Failing to maintain, for at least six months after publication and dissemination of all advertising they are relied upon to support, business records (a) which disclose the facts upon which are based any and all savings claims by or for respondents, including comparisons to respondents' former prices and to trade area prices or values of the same or comparable merchandise, and similar representations of the type described in Para-

graphs 1–4 of this order, and (b) from which the validity of any and all such savings claims and representations can be determined.

6. Representing in advertising that any article is for sale at a stated offering price when such article is not, in fact, conspicuously and readily available for retail purchase at such price at respondents' advertised premises.

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

TOMMY M. BUFFINGTON DOING BUSINESS AS T. BUFF SALES, ETC.

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

Docket C–1969. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a Littleton, Colo., individual engaged in the business of an advertising and promotional consultant for operators of furniture and other retail stores to cease misrepresenting the customary retail price of his customers' merchandise, deceptively using the words "half price" and "less than half price," using such words as "unprecedented public sale" and similar expressions to import distress selling, and misrepresenting savings available to purchasers.

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 Tommy M. Buffington, an individual doing business as T. Buff Sales and as T. Buff & Associates, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Tommy M. Buffington is an individual residing and doing business at 6861 South Prince Circle, Littleton, Colorado, under the names of T. Buff Sales and T. Buff & Associates. He maintains an alternative business address at 2318 Moser Avenue, Dallas, Texas.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the business of an advertising and promotional consultant, developing and selling promotional plans and services to operators of furniture stores and other retail stores. In such capacity he engages and has engaged in the preparation and placement for publication of advertising material, including but not limited to the advertising referred to herein, and in the determination of prices at which merchandise will be offered for sale by his client retailers, in connection with and in order to promote the sale of merchandise at said retailers' stores.

PAR. 3. In the course and conduct of his business as aforesaid, the respondent performs and has performed his said services for client retailers who maintain, and at all times mentioned herein have maintained, a substantial course of trade in furniture and other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act. In carrying out his aforesaid business, respondent travels from his places of business in the States of Colorado and Texas to premises of client retailers in various other States of the United States, causes the transmission of advertising copy and payments among and between such States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his aforesaid business, and for the purpose of inducing the purchase of furniture and other merchandise offered for sale by client retailers, the respondent has made and caused to be made numerous statements and representations in advertisements published in media of substantial interstate dissemination.

For example, the following statements and representations, among others, were inserted by respondent in newspaper advertising of National Furniture Stores, Inc., Spokane, Washington:

UNPRECEDENTED PUBLIC SALE!
100% Total Stock Sale * * *
ENTIRE CONTENTS UP FOR PUBLIC GRABS * * *
FORCED TO SELL All Surplus FURNITURE!
Regardless of Costs or Losses

* * * must be sold at whatever price is available on the public market * * *
Certified Store-Wide Reductions up to 78% Off!
One-of-a-kind Door Busters:

* * *

$269.95 Hide-Away Sofa Sleeper w/Full Size Mattress $100
$229.95 Admiral Family Size Refrigerator $125

Entire Stock LAMPS ½ PRICE!
$19.95 Full or Twin-Size Padded Headboards, $8
Less than ½ Price!
$79.95 Maple Bunk Beds, $38
Less than ½ Price!

MATTRESS AND BOX SPRINGS, NAME BRANDS
PRICED AS LOW AS * * * $18

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning not expressly set out herein, respondent represents and has represented, directly or by implication:

1. That the higher stated prices, accompanied by the words "Regular" or "Reg.," or unaccompanied by descriptive language, were the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably substantial period of time by his client retailer, in the recent regular course of business, and that purchasers of such articles would save an amount equal to the difference between the advertised higher prices and the lower offering prices corresponding thereto.

2. That purchasers of merchandise advertised in conjunction with the phrases, "½ price," "less than ½ price," "up to 78% off," or terms of comparable import and meaning, would realize a savings of the stated fractional or percentage amount from the actual prices at which the merchandise so advertised was sold or offered for sale in good faith for a reasonably substantial period of time, by his client retailer, in the recent regular course of business.

3. That, during the period advertised as "Unprecedented Public Sale . . . regardless of costs or losses," and by other terminology importing circumstances of distress, substantially all merchandise at his client retailer's premises was for sale at prices or amounts representing a substantial and significant reduction from the prices at which such merchandise was sold or offered for sale in good faith by

such retailer for a reasonably substantial period of time in the recent, regular course of business.

4. That widely recognized makes of mattress and box springs were for sale for as little as $18, and that other articles advertised for sale at stated offering prices were available for retail purchase at such stated prices, at the advertised premises.

PAR. 6. In truth and in fact:

1. The higher stated prices, accompanied or unaccompanied by descriptive language, were not the prices at which the advertised articles were sold or offered for sale in good faith for a reasonably substantial period of time by his client retailer, in the recent regular course of business, and purchasers thereof would not save amounts equal to the difference between the advertised higher prices and the lower offering prices corresponding thereto.

2. Purchasers of merchandise advertised in conjunction with the phrases, "½ price," "less than ½ price," "up to 78% off," or terms of comparable import and meaning, did not realize savings of the stated fractional or percentage amount from the actual prices at which the merchandise so advertised was sold or offered for sale in good faith for a reasonably substantial period of time, by his client retailer, in the recent regular course of business.

3. During the period advertised as "Unprecedented Public Sale . . . regardless of costs or losses," and by other terminology importing circumstances of distress, substantially all merchandise at his client retailer's premises was not in fact for sale at prices or amounts representing a substantial and significant reduction from the prices at which such merchandise was sold or offered for sale in good faith by such retailer for a reasonably substantial period of time in the recent regular course of business.

4. Widely recognized makes of mattress and box springs were not in fact available for sale for as little as $18 at his client retailer's premises during the advertised sale, and certain other articles advertised for sale at stated offering prices were not then available for retail purchase at such stated prices, but at higher prices.

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 his aforesaid business, and at all times mentioned herein, respondent has been, and now is, in substantial competition in commerce with corporations, firms and individuals engaged in the advertising and promotion business.

In the course and conduct of their aforesaid businesses, and at all

times mentioned herein, National Furniture Stores, Inc., and other client retailers of respondent's have been, and now are, in substantial competition in commerce with corporations, firms and individuals engaged in the sale of furniture and other merchandise of the same general kind and nature as that sold by such client retailers.

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

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

DECISION AND ORDER

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

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

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, not 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 Tommy M. Buffington is an individual doing business as T. Buff Sales and T. Buff & Associates, with his principal offices and places of business located at 6861 South Prince Circle, Littleton, Colorado, and 2318 Moser Avenue, Dallas, Texas.

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 Tommy M. Buffington, an individual doing business as T. Buff Sales, T. Buff & Associates, or under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of furniture or other articles of merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing or causing to be represented, directly or by implication, that any amount, accompanied or unaccompanied by descriptive language, is a retailer's usual and customary retail price of merchandise unless said amount is the price at which the merchandise has in fact been usually and customarily sold or offered for sale in good faith by such retailer in the recent regular course of business.

2. Using or causing to be used the words "half price," "less than half price," "up to 78% off," or words or symbols of comparable import or meaning, except in specific reference to articles usually and customarily sold or offered for sale in good faith by the advertising retailer, in the recent regular course of business, at prices not less than the indicated multiple of the offering price so described or alluded to.

3. Using or causing to be used the words "Unprecedented Public Sale," "Forced to Sell Regardless of Costs or Losses," "Up for Public Grabs," or other words or symbols importing circumstances of distress, unless the merchandise so described or alluded to has been reduced in price, by an amount or proportion of practical significance to customers and prospective customers, from the actual bona fide price or prices at which it has been usually and customarily sold or offered for sale in good

faith by the advertising retailer in the recent, regular course of business.

4. Misrepresenting or causing to be misrepresented in any manner that savings are available to purchasers of a retailer's merchandise, or the amount of such savings.

5. Representing or causing to be represented in advertising that any article is for sale at a stated offering price when such article is not, in fact, conspicuously and readily available for retail purchase at such price at the advertised premises.

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

R. H. MACY & CO., INC.

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

Docket C-1970. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a New York City department store with branches in other States to cease representing that its mattress pads, covers and pillow cases are flame retardant unless all exposed parts of such articles are treated with a retardant finish.

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 R. H. Macy & Co., Inc., a corporation, sometimes hereinafter referred to as "respondent," has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent R. H. Macy & 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 at 151 West 34th Street, New York, New York.

Respondent operates a department store at Herald Square in New

York City, under the name of Macy's New York, with eleven branch stores in the State of New York and one branch store in the State of Connecticut and department stores in other States known as Bamberger's in Newark, New Jersey, Davison-Paxon's in Atlanta, Georgia, LaSalle & Koch in Toledo, Ohio, Macy's California in San Francisco and Macy's Missouri-Kansas in Kansas City along with branches thereof.

PAR. 2. Respondent in the course and conduct of its business has been, and is now, engaged in the sale, advertising and offering for sale in commerce of merchandise it ships or causes to be shipped, when sold, from the State of New York to purchasers located in various other States and maintains and has maintained a course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent's volume of business in the retail sale of general merchandise is and has been substantial. Among such merchandise so sold and shipped are mattress pads.

PAR. 3. Respondent is now, and at all times mentioned herein, has been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads.

PAR. 4. In the course and conduct of its business in commerce, and for the purpose of inducing the purchase of said mattress pads, respondent has made representations with respect to the flame retardant characteristics of said product.

Statements and representations in certain of said advertising include, but are not limited to, the following:

* * * no burn flame-retardant mattress pads filled with bonded Dacron 88 polyester.

FLAME-RETARDANT MACHINE-WASHABLE MATTRESS PADS * * * .

Protect your bedding with new flame-retardant cotton-covered mattress pads. Tops and skirt (in fitted styles) are treated to resist flare, flame, smolder * * *.

Said advertising material did not clearly and conspicuously disclose that only the top and skirt portions of said mattress pads had been treated with the flame retardant finish.

PAR. 5. Through the use of the aforesaid representations and others of similar import and meaning, but not specifically set out herein, respondent has represented, directly or by implication, that the said mattress pads are completely flame retardant and thus provide a degree of safety and protection when in fact the only portions which have been treated with the flame retardant finish have been the top and skirt portions thereof.

PAR. 6. Said product consists of a dacron polyester filling inserted between two identical layers of an all cotton quilted fabric with a skirt attached thereto by means of a binding sewn around the edges. By virtue of its construction and appearance, in the course of normal use, it may be reversed and expose that portion of the mattress pad which has not been treated with the flame retardant finish. Thus, said representations may mislead prospective purchasers of said mattress pads as to the extent of protection afforded.

PAR. 7. The use by respondent of the foregoing false, misleading and deceptive representations set forth in Pargraph Four above has had, and now has, the tendency and capacity to mislead and deceive members of the public into the purchase of said product under the erroneous and mistaken belief that such statements and representations are true.

PAR. 8. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

Respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all 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 considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34 (b) of its Rules, the Commission hereby issues its

complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent R. H. Macy & 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 151 West 34th 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, R. H. Macy & Co., Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of mattress covers, mattress pads, sheets and pillow cases, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads) will retard and resist flame, flare and smouldering, or have been treated with a finish which will retard and resist flame, flare and smouldering.

It is further ordered, That in all instances where respondent represents said products to be flame retardant or treated with a flame retardant finish, warnings be provided in or on the packaging in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the said products securely and with sufficient permanency to remain in a conspicuous, clear and plainly legible condition, of any danger from flammability which may result if these products be dry cleaned or washed by other than the recommended means or in excess of a stated number of times.

It is further ordered, That respondent make every reasonable effort to immediately notify in writing all of its customers who have purchased or to whom have been delivered the mattress pads which gave rise to this complaint to alert them to the fact that only the top and skirt portions have been treated with the flame retardant finish.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed changes in the corporate re-

spondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other changes in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all personnel of respondent responsible for the preparation, creation, production or publication of advertising, packaging or labeling of all products covered by this order.

It is further ordered, That 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 of its compliance with this order.

IN THE MATTER OF

BARCLAY HOME PRODUCTS, INC., ET AL.

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

Docket C-1971. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a New York City retail seller of general merchandise, including mattress pads, sheets, and pillow cases to cease representing that such products are flame retardant unless all exposed parts of such articles have been treated with a retardant finish.

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 Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, corporations, and Alex Buchman, individually and as president of said corporations, sometimes 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 thereto would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, are corporations, organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondent Alex Buchman is presi-

dent of said corporate respondents. Respondent Alex Buchman formulates, directs and controls the acts, practices and policies of the said corporate respondents. Barclay Home Products Sales Corporation, 245 Fifth Avenue, New York, New York, is the selling agent for Barclay Home Products, Inc., 100 North Mohawk Street, Cohoes, New York, which performs the manufacturing and invoicing functions.

PAR. 2. Respondents in the course and conduct of their business have been, and are now, engaged in the sale, advertising and offering for sale in commerce of merchandise they ship or cause to be shipped, when sold, from the State of New York to purchasers located in various other states and maintain and have maintained a course of trade in said merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act. Respondents' volume of business in the retail sale of general merchandise is and has been substantial. Among such merchandise so sold and shipped are mattress pads.

PAR. 3. Respondents are now, and at all times mentioned herein, have been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads.

PAR. 4. In the course and conduct of their business in commerce, and for the purpose of inducing the purchase of said mattress pads, respondents have made representations in the packaging, labeling and advertising of said product with respect to its flame retardant characteristics.

Typical and illustrative of the statements and representations in said advertising material, are the following:

NO BURN
DURABLE FLAME RETARDANT

This pad has a durable treated flame retardant top which will protect you even in the event of accidental contact with open flame

DURABLE FLAME RETARDANT WON'T WASH OUT
RESISTS FLAME, FLARE AND SMOULDERING
FLAME RETARDANT MATTRESS PROTECTOR PAD FITTED

PAR. 5. That said advertising material did not clearly and conspicuously disclose that only the top and skirt portions of said mattress pads had been treated with the flame retardant finish; that the bottom, dacron polyester filling, as well as threads running throughout the quilted fabric and binding had not been treated so as to provide a flame retardant finish.

PAR. 6. Through the use of the aforesaid representations and oth-

ers of similar import and meaning but not specifically set out herein, respondents represent and have represented, directly or by implication, that the said mattress pads are completely flame retardant and thus provide a degree of safety and protection when in fact the only portions which have been treated with the flame retardant finish have been the top and skirt portions thereof.

PAR. 7. That said product consists of a dacron polyester filling inserted between two identical layers of an all cotton quilted fabric with a skirt attached thereto by means of a binding sewn around the edges.

PAR. 8. That said product, by virtue of its construction and appearance in the course of normal use, may be reversed thus exposing that portion of the mattress pad which has not been treated with the flame retardant finish.

PAR. 9. In truth and in fact, said representations mislead prospective purchasers of said mattress pads as to the extent of protection afforded.

PAR. 10. The use by respondents of the foregoing false, misleading and deceptive representations set forth in Pargraph Four above has had, and now has, the tendency and capacity to mislead and deceive members of the public into the purchase of said product under the erroneous and mistaken belief that such statements and representations are true.

PAR. 11. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

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

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

1. Respondents Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, are corporations organized, existing and doing business under and by virtue of the laws of the State of New York with their offices and principal places of business respectively located at 100 North Mohawk Street, Cohoes, New York, and 245 Fifth Avenue, New York, New York.

2. Respondent Alex Buchman is president of both corporate respondents and formulates, directs and controls the acts, practices and policies of said corporate respondents.

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

ORDER

It is ordered, That respondents Barclay Home Products, Inc., and Barclay Home Products Sales Corporation, corporations, and respondent Alex Buchman, individually and as President of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of mattress covers, mattress pads, sheets and pillow cases, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads) will retard and resist flame, flare and smouldering, or have been treated with a finish which will retard and resist flame, flare and smouldering.

It is further ordered, That in all instances where respondents represent said products to be flame retardant or treated with a flame re-

tardant finish, that warnings be provided in or on the packaging in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the products securely and with sufficient permanency to remain in a conspicuous, clear and plainly legible condition, of any danger from flammability which may result if these products be dry cleaned or washed by other than the recommended means or in excess of a stated number of times.

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

It is further ordered, That respondents deliver a copy of this order to cease and desist to all personnel of respondents responsible for the preparation, creation, production or publication of advertising, packaging or labeling of all products covered by this order.

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

IN THE MATTER OF

PRF CORPORATION DOING BUSINESS AS PERFECT FIT INDUSTRIES, INC.

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

Docket C-1972. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a New York City manufacturer and seller of home furnishings, including mattress pads, sheets and pillow cases to cease representing that such products are flame retardant unless all exposed parts of such articles have been treated with a retardant finish.

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 PRF Corporation,

a corporation, doing business as Perfect Fit Industries, Inc., sometimes hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent PRF Corporation is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business at 303 Fifth Avenue, New York, New York. Its principal business is to manufacture a complete line of home furnishings including bedroom, bathroom, table accessories and tufted rugs and carpeting. Other operations include computer programming services, franchised security alarm systems, amd music-equipment leasing. These businesses constitute a minor portion of respondent's total volume.

PAR. 2. Respondent in the course and conduct of its business has been, and is now, engaged in the sale and offering for sale in commerce of merchandise it ships or causes to be shipped, when sold, from the State of North Carolina to purchasers located in various other states and maintains and has maintained a course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act. Respondent's volume of business in the sale of the said merchandise is and has been substantial. Among such merchandise so sold and shipped are mattress pads.

PAR. 3. Respondent is now, and at all times mentioned herein, has been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads.

PAR. 4. In the course and conduct of its business in commerce, and for the purpose of inducing the purchase of said mattress pads, respondent has made representations in packaging, as well as in other advertising material, with respect to the flame retardant characteristics of its product.

Typical and illustrative of the statements and representations in said packaging, are the following:

This mattress pad could actually SAVE YOUR LIFE
FLAME RETARDANT FITTED MATTRESS PAD AND COVER
Resists flare
Resists flame
Resists smouldering
Even lighted matches can burn themselves out

PAR. 5. That said packaging included an insert containing a photograph of a man reclining in bed on a mattress pad while reading a book and smoking a cigarette. A smoked cigarette is shown in an ashtray at his side on the bed. The headline above said photograph states as follows:

This mattress pad could actually SAVE YOUR LIFE!

PAR. 6. That said advertising material did not clearly and conspicuously disclose that only the top and skirt portions of said mattress pads had been treated with the flame retardant finish and that the bottom and dacron polyester filling had not been treated so as to provide a flame retardant finish.

PAR. 7. That said product consists of a dacron polyester filling inserted between two identical layers of an all cotton quilted fabric with a skirt attached thereto by means of a binding sewn around the edges.

That said product, by virtue of its construction and appearance, in the course of normal use, may be reversed thus exposing that portion of the mattress pad which had not been treated with the flame retardant finish.

PAR. 8. Through the use of the aforesaid representations and depictions, and others of similar import and meaning, but not specifically set out herein, and by virtue of the construction and appearance of said mattress pads, respondent represents and has represented, directly or by implication, that the said mattress pads are completely flame retardant and thus provide a degree of safety and protection when in fact the only portions which have been treated with the flame retardant finish have been the top and skirt portions thereof.

PAR. 9. In truth and in fact, said representations mislead prospective purchasers into the mistaken belief that the mattress pads are completely flame retardant, and further mislead prospective purchasers as to the degree of safety and protection afforded in preventing injury caused by or resulting from flame, flare or smouldering.

PAR. 10. The use by respondent of the foregoing false, misleading and deceptive representations and depictions set forth above has had, and now has, the tendency and capacity to mislead and deceive members of the public into the purchase of said product under the erroneous and mistaken belief that such statements and representations are true.

PAR. 11. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

1. Respondent PRF Corporation, a corporation, doing business as Perfect Fit Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its office and principal place of business at 303 Fifth Avenue, New York, New York.

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

ORDER

It is ordered, That the respondent PRF Corporation, a corporation doing business as Perfect Fit Industries, Inc., directly or through any corporate or other device in connection with the offer-

ing for sale, sale, and distribution of mattress covers, mattress pads, sheets and pillow cases, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads) will retard and resist flame, flare and smouldering, or have been treated with a finish which will retard and resist flame, flare and smouldering.

It is further ordered, That in all instances where respondent represents said products to be flame retardant or treated with a flame retardant finish, that warnings be provided in or on the packaging in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the products securely and with sufficient permanency to remain in a conspicuous, clear and plainly legible condition, of any danger from flammability which may result if these products be dry cleaned or washed by other than the recommended means or in excess of a stated number of times.

It is further ordered, That respondent make every reasonable effort to immediately notify in writing all of its customers who have purchased or to whom have been delivered the mattress pads which gave rise to this complaint to alert them to the fact that only the top and skirt portions have been treated with the flame retardant finish.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed changes 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 changes in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all personnel of respondent responsible for the preparation, creation, production or publication of advertising, packaging or labeling of all products covered by this order.

It is further ordered, That 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 of its compliance with this order.

IN THE MATTER OF

MONTGOMERY WARD & CO., INC.

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

Docket C-1973. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring the third largest retail merchandiser in the country with headquarters in Chicago, Ill., to cease representing that its mattress pads, sheets and pillow cases are flame retardant unless all exposed parts of such articles have been treated with a retardant finish.

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 Montgomery Ward & Co., Inc., a corporation, sometimes hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Montgomery Ward & Co., 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 at 619 West Chicago Avenue, Chicago, Illinois.

Respondent is the third largest retail merchandiser in the country. It operates approximately 475 retail stores, 590 catalog stores and 698 catalog agencies throughout the United States. Its New York buying office is located at 393 Seventh Avenue, New York, New York. Nine warehouses are operated in the States of New York, Maryland, Texas, California, Minnesota, Illinois, Colorado, Missouri and Oregon. Twice a year, respondent publishes a mail order catalog, each issue of which has a circulation of over six million copies which are mailed to customers throughout the United States.

PAR. 2. Respondent in the course and conduct of its business has been, and is now, engaged in the sale, advertising and offering for sale in commerce of merchandise it ships or causes to be shipped, when sold, from the State of New York and other states to purchasers located throughout the country and maintains and has maintained a course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Respondent's volume of business in the retail sale of general merchandise is and has been substantial. Among such merchandise so sold and shipped are mattress pads.

PAR. 3. Respondent is now, and at all times mentioned herein, has been in substantial competition in commerce with other corporations, firms and individuals engaged in the sale and distribution of mattress pads.

PAR. 4. In the course and conduct of its business in commerce, and for the purpose of inducing the purchase of said mattress pads, respondent has made representations in advertisements, in its mail order catalog circulated throughout the United States, in packaging, as well as in other advertising material with respect to the flame retardant characteristics of said product.

Typical and illustrative of the statements and representations in said advertising and packaging, are the following:

This mattress pad could actually SAVE YOUR LIFE!

FIRE IN THE NIGHT! Thousands each year, even in the best-run homes. Costly destruction from heat, water, suffocating smoke. That's why cotton top is FLAME RETARDANT TREATED.

Resists flare!

Resists flame!

Resists smouldering!

Even lighted matches can burn themselves out.

Fill is polyester, which by its very nature is also flame retardant.

FLAME RETARDANT FITTED MATTRESS PAD AND COVER

PAR. 5. That said advertisements which appeared in two successive Montgomery Ward mail order catalogs contained a photograph of a man reclining in bed on a mattress pad while reading a book and smoking a cigarette. A smoked cigarette is shown in an ash tray at his side on the bed. The advertisement also contains a drawing of a lighted match which is either just about to drop, or has dropped, on the mattress pad. The same match is then shown with its flame extinguished after coming in contact with the mattress pad. A slight charring of the mattress pad, less than the length of the match, is shown in the drawing. The headline above said photograph states as follows:

This mattress pad could actually SAVE YOUR LIFE!

PAR. 6. That said advertising material did not clearly and conspicuously disclose that only the top and skirt portions of said mattress pads had been treated with the flame retardant finish and that

the bottom and dacron polyester filling had not been treated so as to provide a flame retardant finish.

PAR. 7. That said product consists of a dacron polyester filling inserted between two identical layers of an all cotton quilted fabric with a skirt attached thereto by means of a binding sewn around the edges.

That said product, by virtue of its construction and appearance, in the course of normal use, may be reversed thus exposing that portion of the mattress pad which had not been treated with the flame retardant finish.

PAR. 8. Through the use of the aforesaid representations and depictions, and others of similar import and meaning, but not specifically set out herein, and by virtue of the construction and appearance of said mattress pads, respondent represents and has represented, directly or by implication, that the said mattress pads are completely flame retardant and thus provide a degree of safety and protection when in fact the only portions which have been treated with the flame retardant finish have been the top and skirt portions thereof.

PAR. 9. In truth and in fact, said representations mislead prospective purchasers into the mistaken belief that the mattress pads are completely flame retardant, and further mislead prospective purchasers as to the degree of safety and protection afforded in preventing injury caused by or resulting from flame, flare or smouldering.

PAR. 10. The use by respondent of the foregoing false, misleading and deceptive representations and depictions set forth above has had, and now has, the tendency and capacity to mislead and deceive members of the public into the purchase of said product under the erroneous and mistaken belief that such statements and representations are true.

PAR. 11. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and 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 respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and

which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

1. Respondent Montgomery Ward & Co., 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 619 West Chicago Avenue, Chicago, Illinois.

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

ORDER

It is ordered, That respondent, Montgomery Ward & Co., Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of mattress covers, mattress pads, sheets and pillow cases, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that said products are flame retardant, or have been treated with a flame retardant finish, and from utilizing any words or depictions of similar import or meaning in connection therewith, unless all uncovered or exposed parts (except sewing threads) will retard and resist flame, flare and smouldering, or have been treated with a finish which will retard and resist flame, flare and smouldering.

It is further ordered, That in all instances where respondent represents said products to be flame retardant or treated with a flame retardant finish, that warnings be provided in or on the packaging

in immediate conjunction with said representations and in type or lettering of equal size and conspicuousness, and on a label affixed to the products securely and with sufficient permanency to remain in a conspicuous, clear and plainly legible condition, of any danger from flammability which may result if these products be dry cleaned or washed by other than the recommended means or in excess of a stated number of times.

It is further ordered, That respondent make every reasonable effort to immediately notify in writing all of its customers who have purchased or to whom have been delivered the mattress pads which gave rise to this complaint to alert them to the fact that only the top and skirt portions have been treated with the flame retardant finish.

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 respondent deliver a copy of this order to cease and desist to all personnel of respondent responsible for the preparation, creation, production or publication of advertising, packaging or labeling of all products covered by this order.

It is further ordered, That 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 of its compliance with this order.

IN THE MATTER OF

R. L. DRAKE COMPANY

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

Docket C-1974. Complaint, July 12, 1971—Decision, July 12, 1971

Consent order requiring a Miamisburg, Ohio, manufacturer and seller of amateur radio equipment to cease discriminating in the price of such products in violation of Section 2(a) of the Clayton Act by selling to any purchaser at net prices higher than the net prices charged any competing purchaser.

COMPLAINT

The Federal Trade Commission, having reason to believe that R. L. Drake Co., a corporation, has violated the provisions of subsection (a) of Section 2 of the Clayton Act, as amended (15 U.S.C. Sec. 13), hereby issues its complaint stating its charges with respect thereto, as follows:

PARAGRAPH 1. Respondent R. L. Drake Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its headquarters and principal place of business located at 540 Richard Street, Miamisburg, Ohio.

PAR. 2. Respondent is now, and for some time last past has been, a manufacturer, distributor and seller of assembled amateur radio equipment, including, but not limited to transmitters, receivers and transceivers. Respondent manufactures its amateur radio equipment at its plant located at Miamisburg, Ohio.

Respondent distributes and sells its said products of like grade and quality to a large number of purchasers located throughout many States of the United States purchasing such products for use and resale therein.

Respondent's sales of its products are substantial, exceeding $2,600,000 for the fiscal year 1969.

PAR. 3. In the course and conduct of its said business, respondent is now, and for some time last past has been, shipping its products from the State of Ohio to purchasers located in other states in commerce, as "commerce" is defined in the Clayton Act, as amended.

PAR. 4. In the course and conduct of its business in commerce, respondent sells its products of like grade and quality to purchasers who are in substantial competition with each other in the resale and distribution of respondent's like products.

PAR. 5. In the course and conduct of its business in commerce, respondent has been discriminating in price between different purchasers of its products of like grade and quality by selling said products to some purchasers at higher and less favorable prices than the prices charged competing purchasers for such products of like grade and quality.

Illustrative of respondent's discriminatory pricing practices is the following:

Respondent, for approximately two years prior to June 1, 1970, separated its retail dealers, many of whom compete with each other in the sale of its amateur radio equipment, into three classes, "A,"

"AA" and "AAA," with members of each such class having purchased respondent's said products of like grade and quality at different prices as follows:

Retail dealer class	*% of discount from suggested retail price*
A	30
AA	25
AAA	20

Once respondent had assigned a retail dealer to one or another of the above classifications for pricing purposes, that dealer had been required to purchase, and had purchased, respondent's said products at the assigned discount from suggested retail price, unless and until such dealer had been reassigned to another classification. Pursuant to the above discount schedule, some retail dealers were charged higher and less favorable prices than the prices charged competing retail dealers for such products of like grade and quality.

PAR. 6. The effect of such discriminations in price made by respondent in the sale of its products, as hereinbefore set forth, has been or may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which the favored purchasers from respondent are engaged, or to injure, destroy or prevent competition with the favored purchasers from respondent who have received the discriminatory lower prices.

PAR. 7. The discriminations in price made by respondent in the sale of its products, as hereinbefore alleged, are in violation of subsection (a) of Section 2 of the Clayton Act, as amended.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the R. L. Drake Company, respondent herein, with violation of subsection (a) of Section 2 of the Clayton Act, as amended, and respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such com-

plaint, and waivers and provisions as required by the Commission's rules; and

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

1. Respondent R. L. Drake Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 540 Richard Street in the city of Miamisburg, State of Ohio.

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

ORDER

It is ordered, That respondent R. L. Drake Company, a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the sale of its amateur radio equipment in commerce, as "commerce" is defined in the Clayton Act, as amended, forthwith cease and desist from discriminating, directly or indirectly, in the price of such amateur radio equipment of like grade and quality, by selling to any purchaser at net prices higher than the net prices charged any other purchaser competing in fact with such unfavored purchaser in the resale and distribution of such amateur radio equipment.

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

It is further ordered, That respondent herein shall 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 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 in which it has complied with this order.

IN THE MATTER OF

BORDEN, INC.

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

Docket 8809. Complaint, Mar. 9, 1970—Decision, July 13, 1971

Order adopting the initial decision of the hearing examiner which dismissed a complaint against a New York City seller of ice cream and other frozen desserts in the Little Rock, Ark., area which charged price discrimination between competing retailers. Newly discovered evidence revealed that respondent had omitted certain basic pricing information from the material furnished on the Commission's investigational request.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Borden, Inc., has violated the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C., Title 15, Section 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint charging as follows:

PARAGRAPH 1. Respondent Borden, Inc., formerly The Borden Co. and hereinafter referred to as "Borden," is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 350 Madison Avenue, New York, New York.

PAR. 2. Respondent Borden is a holding and operating company having on December 31, 1967, a 100 percent voting power in approximately 22 subsidiary corporations.

Respondent Borden has approximately 200 plants in the United States and Canada that are managed by five operating divisions. A diversified dairy business, including virtually all branches thereof, is conducted by Borden's Dairy and Services Division (formerly the Milk and Ice Cream Division). For this division, Borden's chief trade name is "Borden." Borden also uses several other labels, including "Glacier Club."

Respondent Borden owns, maintains and operates a large number of receiving stations, processing and manufacturing plants and distribution depots located in various States of the United States from which it sells and distributes its said products to purchasers.

Borden's net sales amounted to $1,669,405,399 in 1968, $1,588,426,036 in 1967 and $1,545,509,820 in 1966.

PAR. 3. Respondent Borden sells ice cream and other frozen dessert products of like grade and quality to a large number of purchasers located throughout the States of the United States, including the States of Arkansas and Texas, for use, consumption or resale therein.

PAR. 4. In the course and conduct of its business, respondent Borden is now, and for many years past has been, transporting raw milk, or causing the same to be transported, from dairy farms and other points of origin to said respondent's receiving stations, processing and manufacturing plants and distribution depots located in states other than the state of origin.

Respondent Borden is now, and for many years past has been, transporting ice cream and other frozen dessert products, or causing the same to be transported, from the State or States where such products are manufactured or stored in anticipation of sale or shipment to purchasers located in other States of the United States.

Respondent Borden also sells and distributes its said ice cream and other frozen dessert products to purchasers located in the same states and places where such products are manufactured or stored in anticipation of sale.

All of the matters and things, including the acts, practices, sales and distribution by respondent Borden of its said ice cream and other frozen dessert products, as hereinbefore alleged, were and are performed and done in a constant current of commerce, as "commerce" is defined in the Clayton Act.

PAR. 5. Respondent Borden sells its ice cream and other frozen dessert products to retailers. Borden's retailer-purchasers resell to consumers. Many of said respondent's retailer-purchasers are in competition with other retailer-purchasers of Borden.

PAR. 6. In the course and conduct of its business in commerce, respondent Borden has discriminated in price in the sale of ice cream and other frozen dessert products by selling such products of like grade and quality at different prices to different retailer-purchasers.

Beginning on or about May 4, 1964, Borden has discriminated in price in the sale of said products by charging many retailer-purchasers, who were and are in competition with the retail stores of The Kroger Co.'s Little Rock division (approximately 37 Kroger stores located in the States of Arkansas and Texas), higher prices than it charged Kroger's said retail stores. For example, such differences in price often ranged in excess of 10 cents per half gallon unit of ice cream, resulting in discriminations ranging as high as 23 per-

cent and more off the price paid by the competitors of the Kroger retail stores.

PAR. 7. The effect of such discriminations in price by respondent Borden in the sale of ice cream and other frozen dessert products has been or may be substantially to lessen competition or tend to create a monopoly in the sale of said products or to injure, destroy or prevent competition between retailers that paid higher prices and competing Kroger stores that paid lower prices for Borden's said products.

PAR. 8. The discriminations in price, as herein alleged, are in violation of subsection (a) of Section 2 of the Clayton Act, as amended.

Mr. F. P. Favarella, *Mr. John J. Mathias*, *Mr. Rafe H. Cloe* and *Mr. John Ohanian* supporting the complaint.

Mr. H. Blair White and *Mr. William G. Schaefer, Jr.*, *Sidley & Austin*, Chicago, Ill., *Mr. Walter W. Kocher*, Borden, Inc., New York, N.Y., attorneys for Borden, Inc.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

MAY 25, 1971

STATEMENT OF THE PROCEEDINGS

The Federal Trade Commission on March 9, 1970, issued its complaint charging respondent Borden, Inc., with violation of Section 2(a) of the amended Clayton Act. Answer was filed April 15, 1970. Stenographically reported prehearing conferences were held in Washington, D.C., on May 14, June 17, August 27, October 12 and November 16, 1970. Complaint counsel and counsel for respondent on May 11, 1971, filed Joint Motion to Dismiss the Complaint pursuant to Rule 3.22(e) of the Commission's Rules of Practice for Adjudicative Proceedings.

The joint motion states that an error by respondent Borden in responding to the Commission's investigational request, during the pre-complaint investigation, has resulted in the issuance of complaint herein on an erroneous factual basis. Newly discovered evidence, which came to light following issuance of the complaint, during extensive pre-trial proceedings, now reveals a factual situation materially different from that found in the pre-complaint investigation and alleged in the complaint.

The joint motion requests that the examiner dismiss the complaint, without prejudice to the Commission's right to take such fur-

ther action, in the future, as the public interest may require and further points out that, if the Commission should later decide, on the basis of information which is now available and which may subsequently be obtained, that a new proceeding is warranted, it can issue a new complaint. In that event the new complaint will, of course, contain allegations based upon information which then appears to be accurate and complete, and will not rely upon the inaccurate information which now underlies the present complaint.

FINDINGS OF FACT

1. The complaint in this matter charges respondent Borden with a violation of Section 2(a) of the amended Clayton Act in its sales of ice cream and other frozen desserts to the stores of the Little Rock, Arkansas division of The Kroger Co. (hereafter Kroger) as compared to its sales of such products of like grade and quality to retailer-purchasers who competed with said Kroger stores. As an example, the complaint alleges that "such differences in price often ranged in excess of 10 cents per half-gallon unit of ice cream, resulting in discriminations ranging as high as 23% or more off the price paid by the competitors of the Kroger retail stores." (Complaint, Paragraph Six.)

2. During the course of the pre-complaint investigation herein, respondent Borden mistakenly and against its own interests, omitted certain basic pricing information from its return on the Commission's investigational request. As a result of this error, Commission counsel were materially misled as to the extent of the discrimination between alleged favored (Kroger) and alleged unfavored customers. (See affidavit of Borden's counsel attached.)

3. In Borden's investigatory return, it had supplied volumes of purchases and the prices charged to various retail grocers who competed with Kroger. In doing so, it overlooked certain special prices which were granted to purchasers *other than Kroger* on a monthly basis. These special prices were granted on the principal volume items. Many retail grocers apparently concentrated the bulk of their monthly purchases into the time period each month when these prices were available. Their omission from the investigational return exaggerated the apparent price differences between Kroger and competing purchasers to a very great degree.

4. Borden's error was first discovered in connection with complaint counsel's Request for Admission By Borden Of The Genuineness and Truthfulness of Certain Documents, filed April 16, 1970.

At first it appeared that the special pricing would not have a very great effect and would involve only a few of the customers involved in the proof of the complaint. (Tr. pp. 18 and 19.) However, in the course of subsequent pre-trial proceedings it gradually developed that this was not the case.

5. The discovery of Borden's error required an arduous review of respondent's basic records, including invoices, rebate records and underlying work papers. These records were scribbled and confusing, thus requiring a number of conferences, both on an off the record, between complaint counsel and Borden's counsel, along with their respective accountants, in order to arrive at a correct tabulation of the pricing involved. Most of the 50 charts showing price comparisons between Kroger and competing retailer-purchasers, had to be completely redone.

6. It was apparent very early that three of the largest volume competing purchasers were no longer substantially disfavored. These three customers were then eliminated on the pre-trial record from consideration as "injured competitors." These three competing stores were Crow's Grocery, Gibson and Community Foods. (Tr. 121.) As the records were reviewed and the summary price charts were revised, it became clear that the other customers were similarly affected.

7. Moreover, Borden has very recently completed a cost study of the differences in the cost of service and delivery to Kroger as compared to competing purchasers within the area of Kroger's Little Rock Division. During the course of the investigation, prior to complaint, it was requested that Borden supply copies of any cost studies it had in its possession. However, at that time and up to the issuance of the complaint, no such study existed. In fact, Borden did not undertake such a cost study until late in the pre-trial proceedings. In October 1970, it announced that it would prepare a cost study. (Tr. 165.) In late January 1971, a cost study was completed and forwarded to complaint counsel as part of Borden's pretrial submittal of evidence.

8. Although there may be some disagreement between complaint counsel and counsel for Borden concerning the methodology used in Borden's cost study, it is clear that some cost justification exists, especially in the areas of advertising costs [1] and the cost of equipment provided to most of the competing purchasers. The effects of this

[1] The bulk of the sales to Kroger involved in this matter were of private label ice cream and frozen desserts. Borden did not contribute toward the advertising and promotion of the private label products.

cost justification, when compared to the now greatly reduced price differences between Kroger and the competing purchasers, are quite substantial.

9. In light of the above facts, it now appears that substantial price discriminations did not exist in Borden's sales to the stores of Kroger's Little Rock division, as compared to its sales to competing retailer-purchasers during the time period covered by the evidence herein.

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and over the respondent.

2. The complaint herein should be dismissed without prejudice.

ORDER

It is ordered, That the complaint herein be, and the same hereby is, dismissed without prejudice.

ATTACHMENT TO INITIAL DECISION

STATE OF ILLINOIS,
County of Cook:

AFFIDAVIT

Now comes H. Blair White, attorney of record for Borden, Inc., respondent in F.T.C. Docket No. 8809, and states under oath as follows:

1. By letter dated May 29, 1969 addressed to affiant, Borden was asked to provide certain information concerning ice cream sales to twenty-two stores in Arkansas for the period July 1, 1968 through March 31, 1969. The letter requested that Borden, among other things:

> List the net price per unit charged each store for the ice cream and other frozen dessert products recorded on Attachment II. Net price is hereby defined as the price Borden charged the involved stores minus any discount, rebate or other type of price reduction.

In the course of the collection of this information, certain special price reductions were mistakenly omitted. These price reductions, it was discovered following complaint and during pretrial procedures, were granted on a regular basis to customers other than Kroger and had a material effect on the actual net price paid by Borden customers other than Kroger.

2. When the May 29, 1969 letter was originally received, copies were sent to the Borden personnel at the locations involved who had participated in collecting documents for the earlier investigation subpoena served on Borden, and they were asked to compile the requested information. These Borden personnel prepared detailed schedules of the information requested by the May 29 letter, including schedules of net pricing to each customer. This information was forwarded to Commission counsel by letter of July 11, 1969.

3. After service of the formal complaint in this proceeding, complaint counsel served a Request for Admission by Borden of the Genuineness and Truthfulness of Certain Documents. The request covered various documents submitted at the 1967 investigational hearing and some of the schedules forwarded with affiant's letter of July 11, 1969. In preparing to respond to the request Borden personnel were asked to verify the accuracy of each of the schedules submitted with affiant's letter of July 11, 1969. In the course of this review it was discovered that the schedules of "net pricing" failed to include special price reductions for specified products. It was determined that these reductions were not given to the Kroger stores.

4. Borden informed complaint counsel of this newly discovered information, and proceeded to collect the individual store delivery tickets and rebate records from which the price on each sale could be determined. As the newly discovered special price reductions were reviewed, it became apparent that the impact of these price reductions was substantial. This resulted from the fact that many of the listed stores bought ice cream products from more than one supplier, and that they apparently brought from Borden primarily the products offered at the reduced prices. Thus the failure to reflect the special pricing in the schedules originally submitted to Commission counsel artificially exaggerated the price differences between the net prices paid by such customers and the Kroger Company.

5. During the hearings held in this proceeding affiant has explained to the Hearing Examiner the background of the confusion created by the failure to include the special pricing in the schedules and apologized to Commission for this misunderstanding.

(s) H. BLAIR WHITE.

Subscribed and sworn to before me this 17th day of March, 1971.

(s) JACQUELINE A. SCHADER,
Notary Public.

FINAL 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, pursuant to Section 3.51 of the Commission's Rules of Practice (effective July 1, 1970);

It is ordered, That the initial decision of the hearing examiner shall, on the 13th day of July, 1971, become the decision of the Commission.

IN THE MATTER OF

THE TELEX CORPORATION

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

Docket C-1975. Complaint, July 20, 1971—Decision, July, 20, 1971

Consent order requiring a Tulsa, Okla., distributor of hearing aids to cease misrepresenting that its hearing aid is a new invention, is invisible when worn, will benefit all persons with hearing difficulty, failing to disclose that respondent or its salesmen are engaged in selling hearing aids, or misrepresenting in any manner the nature of respondent's business and the merits of its hearing aids.

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

PARAGRAPH 1. Respondent The Telex Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal place of business located at 41st and Sheridan Road, Box 1526, Tulsa, Oklahoma.

PAR. 2. Respondent is now, and for some time last past has been, through its operating division, at times referred to as Telex Acoustics, Telex Acoustic Products, and/or The Telex Communications

Division, 9600 Aldrich Avenue South, Minneapolis, Minnesota, engaged in the advertising, offering for sale, sale and distribution of hearing aids which come within the classification of "device," as the term "device" is defined in the Federal Trade Commission Act, to dealers and distributors for resale to the public.

PAR. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused, its said devices when sold to be shipped from its place of business in Minnesota to purchasers thereof located in various other States of the United States, and maintains and at all times mentioned herein has maintained, a substantial course of trade in said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, and at all times mentioned herein, respondent has been, and is now, in substantial competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of hearing aids of the same general kind and nature as the devices sold by respondent.

PAR. 5. Respondent in the course and conduct of its business for the purpose of inducing the purchase of said devices has furnished and supplied to dealers and distributors, and to the agents and representatives thereof, who sell said devices to the public, various types of advertising literature, including but not limited to, sales manuals, brochures, advertising mailers, ad mats, and other sales aid materials.

Respondent has assisted, aided, and cooperated with its dealers and distributors in the advertising of said devices in newspapers and periodicals of general circulation, as well as in radio and television broadcasts.

Advertising brochures and sales aid material furnished by respondent to its dealers and distributors are displayed by them, and by their agents and representatives, to prospective purchasers of hearing aids, are used by them as sales aids in the display and demonstration of said devices, and/or are distributed by them to persons with hearing disabilities to interest such persons in the purchase of one or more of respondent's devices. Statements and representations, made by said dealers and distributors and their agents and representatives to prospective purchasers to induce the purchase of one or more of respondent's hearing aids, are therefore, in large part suggested by, and have the expressed or implied approval of the respondent; and sales made in the course, or as a result of said sales

talks, displays and demonstrations inure to the benefit of the respondent.

PAR. 6. In the course and conduct of its business respondent has disseminated, and does now disseminate, certain advertisements by the United States mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements inserted in periodicals of general circulation, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of its said devices; and has disseminated and caused the dissemination of advertisements concerning said devices by various means, including those aforesaid, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said devices in commerce as "commerce" is defined in the Federal Trade Commission Act.

Through the above advertisements disseminated as aforesaid and through the advertising material distributed to its dealers and distributors, as described in Paragraph Five hereof, and otherwise, respondent has represented directly and by implication that:

1. It merchandises a hearing aid which is a new invention or involves a new mechanical or scientific principle.

2. Its hearing aids are invisible or indiscernible when worn.

3. Its hearing aids will be beneficial regardless of an individual's type of hearing disability.

4. Its hearing aids will enable purchasers thereof to consistently distinguish and understand sounds in group situations or when background noise is present.

PAR. 7. In truth and in fact:

1. The hearing aids merchandised by respondent are not new inventions nor do they involve new mechanical or scientific principles.

2. The hearing aids merchandised by respondent are not invisible or indiscernible when worn.

3. Respondent's hearing aids will not prove beneficial to all persons with a hearing disability.

4. Respondent's hearing aids will not enable many individuals with hearing disabilities to consistently distinguish and understand sounds in group situations or when background noise is present.

Therefore, the advertisements referred to in Paragraphs Five and Six 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; and the aforesaid statements and representations referred to in Paragraph Six were false, misleading and deceptive.

PAR. 8. In the course and conduct of its business respondent by the use of advertising mailers including reply cards attached thereto, by advertisements placed in periodicals of general circulation, and otherwise, invite and have invited, the addressees and/or readers of the said advertisements to return the reply cards or to respond to the advertisements in order to receive a "free" book on ways to improve their hearing, a "free" booklet on nerve deafness, and/or other publications represented as informative and helpful to persons with hearing disabilities. Such mailers and advertisements are so designed as to give the impression and to lead recipients thereof to believe that such "free" book and other "free" information offers by respondent are bona fide offers, in the nature of a public service; and that no further contact or obligation other than said "free" information will result from such answer or reply.

To the contrary, however, respondent is not in a bona fide business of dispensing "free" books, or other information, concerning hearing disabilities, nor is it engaged in such acts as a public service. The names of persons who respond to the advertising mailers, and to other advertisements of respondent, are furnished by respondent to its dealers and distributors located in or near the vacinity of the persons so responding. Such names are forwarded to said dealers and distributors as "leads" to prospective purchasers of respondent's hearing aids.

Persons sending in respondent's reply cards, and/or answering respondent's advertisements have, thereafter, been visited in their homes by respondent's dealers and distributors and/or salesmen, agents and representatives thereof, who have attempted to, and often succeeded in, selling such persons one or more of respondent's hearing aids.

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

PAR. 10. The aforesaid acts and practices of the respondent, as herein alleged, including the dissemination of false advertisements, as aforesaid, were, and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and deceptive

acts and practices in commerce in violation of Sections 5 and 12 of the Federal Trade Commission Act.

Decision and Order

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

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

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

1. Respondent, the Telex Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal place of business located at 41st and Sheridan Road, Box 1526, Tulsa, Oklahoma.

Respondent's operating division, at times referred to as Telex Acoustics, Telex Acoustic Products, and/or the Telex Communications Division, is located at 9600 Aldrich Avenue South, Minneapolis, Minnesota.

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

PART I

It is ordered, That respondent The Telex Corporation, a corporation, and its officers, and respondent's representatives, agents and

employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hearing aids, forthwith cease and desist from:

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

(a) Respondent merchandises a hearing aid which is a new invention or involves a new mechaniial or scientific principle.

(b) Respondent's hearing aids are either invisible or indiscernible when worn.

(c) Respondent's hearing aids will be beneficial to individuals with hearing problems unless in immediate conjunction therewith it is clearly and conspicuously disclosed that not all individuals suffering from a hearing loss will benefit from use of a hearing aid.

(d) Use of respondent's hearing aids will enable an individual with a hearing disability to consistently distinguish and understand sounds in group situations or when background noise is present, unless in immediate conjunction therewith it is clearly and conspicuously disclosed that many individuals with a hearing disability will not receive such benefits from the use of a hearing aid.

2. Disseminating or causing the dissemination of any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which fails to clearly and conspicuously disclose that:

(a) Respondent is engaged in the manufacture and distribution of hearing aids for sale to the public

(b) Persons who reply to advertisements may be contacted by salesmen, or otherwise, for the purpose of inducing them to purchase a hearing aid.

3. 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 hearing aids in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations

prohibited in Paragraph 1 of Part I of this order or fails to comply with the affirmative requirements of Paragraph 2 of Part I hereof.

PART II

It is ordered, That respondent The Telex Corporation and its officers, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of hearing aids in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting in any manner:

(a) The nature or purpose of respondent's business.

(b) The merits and effectiveness of respondent's hearing aids.

2. Supplying or placing in the hands of any franchised dealer, distributor or any salesman, representative, or agent thereof, sales manuals, brochures, advertising mats, or any other advertising, or sales aid materials for the purpose of inducing or which are likely to induce, directly or indirectly, the purchase of respondent's devices, and which contain any of the false, misleading or deceptive representations prohibited in this order, or which are designed for use, or could be used, to carry out or enhance the practices prohibited in this order.

3. Failing to deliver a copy of this order to cease and desist to all operating devisions of the corporate respondent and to all officers, managers and salesmen, both present and future, and any other person now engaged or who becomes engaged in the sale of hearing aids as respondent's agent, representative or employee; and failing to secure a signed statement from each of said persons acknowledging receipt of a copy thereof.

4. Failing to 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 effect compliance obligations arising out of the order.

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

IN THE MATTER OF

ZIMET INTERNATIONAL CORPORATION, ET AL.

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

Docket C-1976. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a New York City wholesaler of furs to cease falsely or deceptively invoicing its furs or 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 Zimet International Corporation, a corporation, and Jesse Zimet, 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 Zimet International Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Jesse Zimet 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 wholesalers of furs with their office and principal place of business located at 232 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 sale, advertising and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have 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 have introduced into commerce, 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 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 or furs but not limited thereto, were fur products or furs covered by invoices which failed to disclose that the fur contained in the fur products or furs was bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 4. Respondents sold and distributed fur products or furs which were bleached, dyed or otherwise 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 or furs were described on invoices as "mink" without disclosing that said fur products or furs were bleached, dyed or otherwise artificially colored. The respondents' description of the said furs or fur products as "mink" without a disclosure that the said furs or fur products were bleached, dyed or otherwise artificially colored had the tendency and capacity to mislead respondents' 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 respondents' customers and the purchasing public and constituted false and deceptive invoicing under Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 5. 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 Division of Textiles and Furs, Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal

Trade Commission Act and the Flammable Fabrics Act, as amended; and

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

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

1. Respondent Zimet International Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Jesse Zimet is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of said respondent.

Respondents are manufacturers of fur products with their office and principal place of business located at 232 West 30th Street, New York, New York.

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 Zimet International Corporation, a corporation, and its officers and Jesse Zimet, 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 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 furs, 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 fur products or furs is natural when such fur is pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

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 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

FRANSHAW, INC., DOING BUSINESS AS WHITEHOUSE ACCESSORIES, ET AL.

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

Docket C-1977. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a New York City importer and distributor of wearing apparel, including ladies' scarves, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

470-883—73——6

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 Franshaw, Inc., a corporation doing business under its own name and under the trade name Whitehouse Accessories, and Abraham Shamah, Norma Shamah, Joseph Saff, and Murray Mizrachi, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Franshaw, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondents Abraham Shamah, Norma Shamah, Joseph Saff and Murray Mizrachi are officers of said corporate respondent. They formulate, direct and control the acts, practices and policies of said corporation.

The respondents are engaged in the importation, sale and distribution of wearing apparel, including but not limited to ladies' scarves, with their principal place of business located at 377 Fifth Avenue, New York, New York.

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

Among such products mentioned hereinabove were ladies' scarves.

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

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

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

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

Respondents Abraham Shamah, Norma Shamah, Joseph Saff and Murray Mizrachi are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of said respondent.

Respondents are engaged in the business of importing, selling and distributing wearing apparel with their office and principal place of business located at 377 Fifth Avenue, New York, New York.

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

ORDER

It is ordered, That respondents Franshaw, Inc., a corporation doing business under its own name and under the trade name Whitehouse Accessories, and its officers, and Abraham Shamah, Norma Shamah, Joseph Saff and Murray Mizrachi, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or manufacturing for sale, selling or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

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

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

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since October 16, 1969, and (5) any action taken or proposed to be taken to bring said products into conformance with

the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

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

SOLEX, INC., ET AL.

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

Docket C-1978. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a Detroit, Mich., importer and distributor of textile fiber products, including sweat shirts, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

Complaint

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission,

having reason to believe that Solex, Inc., a corporation, and United Importers, Inc., a corporation, and Henry Solomon, Cecelia Solomon, Haim M. Solomon and David Mendelson, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Solex Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan. Respondents Cecelia Solomon, Haim M. Solomon, and Henry Solomon are officers of said Solex, Inc., and they formulate, direct and control the acts, practices and policies of said corporation.

Respondent United Importers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan. Respondents Henry Solomon, David Mendelson, and Cecelia Solomon are officers of said United Importers, Inc., and they formulate, direct and control the acts, practices and policies of said corporation.

The respondents are engaged in the importation, sale and distribution of textile fiber products, and their office and principal place of business is located at 12936 West Seven Mile Road, Detroit, Michigan.

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

Among such products were sweat shirts.

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

Decision and Order

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Division of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the 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 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 Solex, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan.

Respondents Cecelia Solomon, Haim M. Solomon, and Henry Solomon are officers of said Solex, Inc., and they formulate, direct and control the acts, practices and policies of said corporation.

Respondent United Importers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan.

Respondents Henry Solomon, David Mendelson, and Cecelia Solomon are officers of said United Importers, Inc., and they formulate, direct and control the acts, practices and policies of said corporation.

Respondents are engaged in the importation, sale and distribution of textile fiber products, and their office and principal place of busi-

ness is located at 12936 West Seven Mile Road, Detroit, Michigan.

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 Solex, Inc., a corporation, and United Importers, Inc., a corporation, and their officers, and Henry Solomon, Cecelia Solomon, Haim M. Solomon and David Mendelson, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material, as "commerce," "product," "fabric" or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material, fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission an interim special report in writing setting forth the respondents' intentions as to compliance with this order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product (sweat shirts) which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since January 12, 1970. 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, cotton, or combinations thereof, in a weight of two ounces or less per square yard, or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. 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 not less than one square yard of material.

It is further ordered, That the respondents herein either process the product (sweat shirts) which gave rise to this complaint so as to

bring it within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said product.

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 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 corporations shall forthwith distribute a copy of this order to each of their operating divisions.

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

IN THE MATTER OF

STRACHMAN ASSOCIATES, INC., ET AL.

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

Docket C-1979. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a New York City importer and distributor of certain fabrics, including some designed to resemble wildcat fur or rabbit fur, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Strachman Associates, Inc., a corporation, and Alex Strachman, 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 Strachman Associates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its address is 222 West 37th Street, New York, New York.

Respondent Alex Strachman 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.

The respondents are engaged in the importation, sale and distribution of fabrics which are intended for use, or which may reasonably be expected to be used, in products, as the terms "fabric" and "product" are defined in the Flammable Fabrics Act, as amended.

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

Among such fabrics mentioned hereinabove were certain fabrics designed to resemble wildcat fur or rabbit fur, and known as "Stracca."

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

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

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

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

Respondent Alex Strachman is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of said respondent.

Respondents are importers of textile fabrics with their office and principal place of business located at 222 West 37th Street, New York, New York.

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

ORDER

It is ordered, That respondents Strachman Associates, Inc., a corporation, and its officers, and Alex Strachman, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or any other device, do forthwith cease and desist from manufacturing for sale, selling or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric"

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

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

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

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabrics which gave rise to the complaint, (2) the amount of said fabrics in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabrics and effect the recall of said fabrics from customers, and of the results thereof, (4) any disposition of said fabrics since January 16, 1970, and (5) any action taken or proposed to be taken to bring said fabrics into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

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

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

with 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 complied with this order.

IN THE MATTER OF

KORNER FABRICS, INC., ET AL.

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

Docket C–1980. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a New York City seller and distributor of fabrics, including certain cotton white organdy fabrics, to cease violating the Flammable Fabrics Act by importing or selling any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Korner Fabrics, Inc., a corporation, and Sam Korner and David Korner, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Korner Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its address is 214 West 39th Street, New York, New York.

Respondents Sam Korner and David Korner are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

The respondents are engaged in the sale and distribution of fab-

rics which are intended for use, or which may reasonably be expected to be used, in products, as the terms "fabrics" and "product" are defined in the Flammable Fabrics Act.

PAR. 2. Respondents are now and for some time last past have been engaged in the sale or offering for sale, in commerce, and the importation into the United States, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, fabrics, as "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 100 percent cotton white organdy fabrics designated as Stern & Stern Qualities 9800 and 8805.

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

The respondent 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 Korner Fabrics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Sam Korner and David Korner are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of said respondent.

Respondents are wholesalers of fabrics with their office and principal place of business located at 214 West 39th Street, New York, New York.

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

ORDER

It is ordered, That respondents Korner Fabrics, Inc., a corporation, and its officers, and Sam Korner and David Korner, 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 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 in commerce any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

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

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

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabrics which gave rise to the complaint, (2) the amount of said fabrics in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabrics, and effect the recall of said fabrics from customers, and of the results thereof, (4) any disposition of said fabrics since April 8, 1970, in the case of Quality 9800 and since February 10, 1970, in the case of Quality 8805 and (5) any action taken or proposed to be taken to bring said fabrics into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric or related material with this report.

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

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

It is further ordered, That 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

STYLECREST FABRICS, LTD., ET AL.

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

Docket C-1981. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a New York City seller and distributor of fabrics, including white cotton organdy fabrics, to cease violating the Flammable Fabrics Act by importing or selling any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Stylecrest Fabrics, Ltd., a corporation, and Irving Stern, 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 Stylecrest Fabrics, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Its address is 214 West 39th Street, New York, New York.

Respondent Irving Stern 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.

The respondents are engaged in the sale and distribution of fabrics which are intended for use, or which may reasonably be expected to be used, in products, as the terms "fabric" and "product" are defined in the Flammable Fabrics Act, as amended.

PAR. 2. Respondents are now and for some time last past have been engaged in the sale or offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, fabrics, as "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 was a 100 percent white cotton organdy designated as Quality 9800.

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

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

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

1. Respondent Stylecrest Fabrics, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Irving Stern is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of said respondent.

The respondents are engaged in the sale and distribution of textile fabrics with their office and principal place of business located at 214 West 39th Street, New York, New York.

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

ORDER

It is ordered, That respondents Stylecrest Fabrics, Ltd., a corporation, and Irvin Stern, 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 selling or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or manufacturing for sale, selling or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

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

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

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabric which gave rise to the complaint, (2) the amount of said fabric in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the

flammability of said fabric and effect the recall of said fabric from customers and of the results thereof, (4) any disposition of said fabric since April 16, 1970, and (5) any action taken or proposed to be taken to bring said fabric into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

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

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

It is further ordered, That 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

BARNHART IMPORT-EXPORT 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-1982. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a Omaha, Nebr., importer of general merchandise, including fabrics composed of acetate and nylon, to cease violating the Flammable Fabrics Act by importing or selling any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Barnhart Import-Export Co., Inc., a corporation, and Richard E. Caulk, 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 Barnhart Import-Export Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. Its address is 2566 Farnam Street, Omaha, Nebraska.

Respondent Richard E. Caulk, 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 engaged primarily in the business of importing general merchandise, including, but not limited to, the importation of fabric.

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

Among such fabrics mentioned hereinabove were fabrics composed of acetate and nylon.

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 Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended; and

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

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

1. Respondent Barnhart Import-Export Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska.

Respondent Richard E. Caulk, is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporate respondent.

Respondents are engaged primarily in the importation of general merchandise, including, but not limited to, the importation of fabric, with their office and principal place of business located at 2566 Farnam Street, Omaha, Nebraska.

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

ORDER

It is ordered, That the respondents Barnhart Import-Export Co., Inc., a corporation, and its officers, and Richard E. Caulk, 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 selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended or continued in effect, under the provisions of the aforesaid Act.

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

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

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabric which gave rise to the complaint, (2) the amount of said fabric in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabric and effect the recall of said fabric from customers, and of the results thereof, (4) any disposition of said fabric since May 28, 1970, and (5) any action taken or proposed to be taken to bring said fabric into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material

having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

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

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

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

IN THE MATTER OF

DAVID BANASH & SON, INC., ET AL.

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

Docket C-1983. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a Boston, Mass., importer and seller of women's and misses' wearing apparel and fashion accessories, including ladies' scarves, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that David Banash & Son, Inc., a corporation, and Lee A. Banash, 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 David Bannash & Son, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts. Its address is 68 Chauncy Street, Boston, Massachusetts.

Respondent Lee A. Banash 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 engaged in the importation and sale of women's and misses' fashion accessories and articles of wearing apparel, including but not limited to ladies' scarves.

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

Among such products mentioned hereinabove were ladies' scarves.

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 Division of Textiles and Furs of the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the

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

1. Respondent David Bannash & Son, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business located at 68 Chauncy St., in the city of Boston, Commonwealth of Massachusetts.

Respondent Lee A. Banash is an officer of said corporation and his address is the same as the corporation.

Respondents are engaged in the importation and sale of women's and misses' fashion accessories and articles of wearing apparel, including but not limited to ladies' scarves.

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

ORDER

It is ordered, That the respondents David Banash & Son, Inc., a corporation, and its officers, and Lee A. Banash, 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 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 com-

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

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

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

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since August 31, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Acts, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents

shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

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

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

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

IN THE MATTER OF

MRS. S. E. KATZ TRADING AS S. E. KATZ

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

Docket C-1984. Complaint, July 20, 1971—Decision, July 20, 1971

Consent order requiring a St. Louis, Mo., individual engaged in the sale and distribution of textile fiber products, including scarves, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Mrs. S. E. Katz, an individual trading as S. E. Katz, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Mrs. S. E. Katz is an individual trad-