IN THE MATTER OF

THOMAS F. DI STEFANO TRADING AS DUNDEE ELECTRONICS CO.

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

Docket 7058. Complaint, Feb. 7, 1958—Decision, July 7, 1958

Consent order requiring a distributor of radio and television tubes in Paterson, N.J., selling mainly to jobbers and mail order houses, to make clear disclosure, in advertising and on invoices and shipping memoranda and on the tubes themselves and their cartons, when the tubes he sold were used, pull-outs, factory rejects, or JAN surplus.

Mr. Kent P. Kratz supporting the complaint.
Mr. Bruno L. Leopizzi, of Paterson, N.J., for respondent.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On February 7, 1958, the Federal Trade Commission issued a complaint against Thomas F. Di Stefano, an individual trading as Dundee Electronics Co., hereinafter referred to as respondent, charging him with having violated the Federal Trade Commission Act by failing to disclose to his customers that a large number of the radio and television tubes he sells and distributes are used, pull-outs, factory rejects, or JAN surplus.

After issuance and service of the complaint, the respondent, his counsel, and counsel supporting the complaint entered into an agreement for a consent order. The agreement has been approved by the director and assistant director of the Bureau of Litigation. The agreement disposes of the matters complained about.

The pertinent provisions of said agreement are as follows: Respondent admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondent waives the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondent waives further procedural steps before the hearing examiner and the Commission,

and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondent waives any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Thomas F. Di Stefano is an individual trading as Dundee Electronics Co. with his principal office and place of business located at 112 Martin Street, Paterson, N.J.

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, Thomas F. Di Stefano, individually and trading as Dundee Electronics Co., or trading under any other name, and his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of television or radio tubes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling, offering for sale or distributing used, pull-outs, factory rejects or JAN surplus radio or television tubes without clearly disclosing on the tubes and the individual cartons in which each tube is packaged, and in advertising, invoices and shipping memoranda, that they are used, pull-outs, factory rejects or JAN surplus tubes, as the case may be.

2. Selling, offering for sale or distributing any radio or television tube which is not new or first quality without clearly and conspicuously disclosing that fact on the tube and the individual carton in which each tube is packaged, and in advertising, invoices and shipping memoranda.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision filed on April 30, 1958, and the Commission having determined that said initial decision is adequate and appropriate in all respects to dispose of this proceeding:

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

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

IN THE MATTER OF

EMPIRE PLASTIC CORPORATION

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

Docket 7069. Complaint, Feb. 20, 1958—Decision, July 7, 1958

Consent order requiring a manufacturer of plastic toys with factory at Pelham Manor, N.Y., and sales office in New York City, to cease discriminating in price in violation of Section 2(a) of the Clayton Act by granting as a discount or rebate an amount equivalent to five per cent of list price to certain toy jobbers and wholesalers while not making such allowance available to their competitors.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Empire Plastic Corporation, more particularly designated and described hereinafter, has violated the provisions of Section 2(a) of the Clayton Act (U.S.C. Title 15, Sec. 13) as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Empire Plastic Corporation is a corporation organized and existing under the laws of the state of New York with its principal office and place of business located at 14 Pelham Parkway, Pelham Manor, N.Y.

PAR. 2. Respondent has been and is now engaged in the manufacture, sale and distribution of plastic toys throughout the United States. It operates a factory at the foregoing address and also maintains a sales office in New York City. Its annual volumn of sales approximates $2,000,000 and its customers consist of jobbers and chain stores. Respondent is represented in various sections of the country by commission merchants who are paid on a commission basis but who also represent other toy manufacturers

PAR. 3. Respondent, in the course and conduct of its said business, is engaged in commerce, as "commerce" is defined in the Clayton Act, in that it sells and distributes toys to purchasers thereof located in states other than the state of origin of shipment and causes such products to be shipped and transported from its place of business to purchasers located in other states and in the District of Columbia, and there is now and has been a constant

course and flow of trade and commerce in such products between respondent and said purchasers and respondent is therefore subject to the jurisdiction of the Federal Trade Commission.

PAR. 4. In the course and conduct of its said business, respondent has been and is now in competition with other corporations, partnerships and individuals in the manufacture, sale and distribution in commerce of toys except as such competition has been substantially lessened by the pricing practices of respondent hereinafter alleged.

Some of the respondent's purchasers are in competition with each other and with purchasers of competitors of respondent in the resale of toys.

PAR. 5. Respondent, either directly or indirectly, has been and is now discriminating in price between different purchasers of its toys by selling such products to some purchasers at substantially higher prices than it sells such products of like grade and quality to other purchasers, some of whom are in competition with the less favored purchasers in the resale of such products.

For example, since 1954 said respondent has granted, either by way of a discount from list price or as a rebate at the end of a period of time, an amount equivalent to 5% of list price in the sale of toys of like grade and quality to some purchasers but not to others, which results in higher prices being paid by those purchasers who do not receive the benefit of such discount or rebate than are paid by those purchasers who do receive the benefit of such discount or rebate. Some of the favored purchasers compete with the unfavored purchasers in the resale of such products.

The purchasers of respondent's toys who have received preferential prices by way of said discount or rebate are members of a corporation known as March of Toys, Inc., whose membership is composed of toy jobbers and wholesalers. It is to the members of this corporation, March of Toys, Inc., that said respondent has granted a preferential price by means of the above described discount or rebate.

PAR. 6. The discriminations in price on the part of respondent being substantial, it is alleged that the effect thereof may be substantially to lessen competition and to tend to create a monopoly in the respective lines of commerce in which respondent and the purchasers receiving the preferential prices are engaged, and to tend to prevent, injure and destroy competition between

respondent and its competitors and between and among purchasers of such toys from respondent.

PAR. 7. The discriminations in price, as hereinbefore alleged, are in violation of the provisions of Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act.

Mr. Lewis F. Depro and *Mr. Frederick McManus* for the Commission.

Krisel, Lessall & Dowling, of New York, N.Y., by *Mr. George Lessall*, for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding, issued February 10, 1958, charges respondent Empire Plastic Corporation, a corporation, located at 14 Pelham Parkway, Pelham Manor, N.Y., with violation of the provisions of subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, in the sale and distribution of toys.

After the issuance of the complaint, said respondent entered into an agreement containing consent order ot cease and desist with counsel in support of the complaint, disposing of all the issues as to all parties in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof if for settlement purposes only and does not constitute an admission by said respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the said respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with

the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, and issues the following order:

ORDER

It is ordered, That the respondent Empire Plastic Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the sale of toys in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from discriminating in price by selling such toys of like grade and quality to any purchaser at prices higher than those granted any other purchaser:

1. Where such other purchaser competes in fact with the unfavored purchaser in the resale and distribution of such products, or

2. Where respondent, in the sale of such products, is in competition with any other seller.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having come on to be heard by the Commission upon its review of the hearing examiner's initial decision filed on May 13, 1958, and the Commission having determined that said initial decision is adequate and appropriate in all respects to dispose of this proceeding:

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

It is further ordered, That the respondent Empire Plastic Corporation, a corporation, shall within sixty (60) days after

service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist contained in said initial decision.

IN THE MATTER OF

FRANK GROSS TRADING AS FRANK GROSS FURS

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

Docket 6921. Complaint, Oct. 24, 1957—Decision, July 12, 1958

Consent order requiring a furrier in Harrisburg, Pa., to cease violating the Fur Products Labeling Act by affixing to fur products labels containing fictitious prices and thereby misrepresenting the regular retail selling prices; by failing to conform to the invoicing requirements of the Act; by newspaper advertisements which represented prices as reduced from regular prices which were in fact fictitious, and used comparative prices and percentage savings claims not based on the regular retail prices; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Charles W. O'Connell for the Commission
Mr. Lewis F. Adler, of Harrisburg, Pa., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondent, Frank Gross, an individual trading as Frank Gross Furs, with having violated the provisions of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, in certain particulars. Respondents were duly served with process.

On May 13, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between the respondent and attorneys for both parties, under date of May 8, 1958, subject to the approval of the Bureau of Litigation of the Commission. Such agreement had been thereafter duly approved by that Bureau.

On due consideration of the said "Agreement Containing Consent Order to Cease and Desist," the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings and that by said agreement the parties have specifically agreed that:

1. Respondent, Frank Gross, is an individual trading as Frank Gross Furs, with his place of business located at 23 South Fourth Street, in the city of Harrisburg, State of Pa.

2. Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, the Federal Trade Commission, on October 24, 1957, issued its complaint in this proceeding against respondent, and a true copy was thereafter duly served on respondent.

3. Respondent admits all the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondent waives:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights he may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

It is noted that respondent's address, as given in the identifying paragraph of the agreement, appears as 23 South Fourth Street, Harrisburg, Pa., whereas respondent, when signing the agreement, set forth his address, in his own handwriting, subsequent to the order, as 17 North Second Street, Harrisburg, Pa. The hearing examiner believes the latter address to be correct. Accordingly, after due consideration of the complaint filed herein and the

said "Agreement Containing Consent Order to Cease and Desist," the latter, although as submitted it contains this slight defect, is hereby approved, accepted and ordered filed, if and when it shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the person of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding, and, therefore, it should be, and hereby is, entered as follows:

ORDER

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

A. Misbranding fur products by:

1. Representing on labels affixed to fur products that certain amounts are the regular and usual prices of fur products when such amounts are in excess of the prices at which respondent usually and customarily sold such products in the recent regular course of his business.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing

the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of the paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported furs contained in a fur product.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Represents, directly or by implication that the regular or usual price of any fur product is any amount which is in excess of the price at which the respondent has regularly and customarily sold such product in the recent regular course of his business.

2. Makes use of comparative prices and percentage savings claims in advertisements, unless such compared prices or percentage savings claims are based upon the current market value of the fur product or unless a bona fide price at a designated time is stated.

D. Making claims and representations in advertisements respecting comparative prices, percentage savings claims, or claims that prices are reduced from regular or usual prices, unless respondent maintains full and adequate records disclosing the facts upon which such claims and representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 12th day of July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Frank Gross, an individual

trading as Frank Gross Furs, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

Decision

IN THE MATTER OF

THE FRY KING CORPORATION ET AL.

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

Docket 7029. Complaint, Jan. 14, 1958—Decision, July 12, 1958

Consent order requiring New York City manufacturers of small household electrical appliances, including deep fat fryer-cookers and fry pan skillets, to cease representing falsely in advertising and upon cartons packaging the appliances, which were disseminated to purchasers for use in retail sale, that an exaggerated and fictitious price was the usual retail price; that certain of their appliances had been approved or guaranteed by Good Housekeeping magazine; and, through prominent use of the word "Westinghouse," that their appliances were manufactured by Westinghouse Electric Corporation.

Ames W. Williams, Esq., for the Commission.
Louis Drell, Esq., of New York City, for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on January 14, 1958, charging them with having violated the Federal Trade Commission Act by fictitious pricing and falsely representing that their products have been approved by Good Housekeeping magazine and manufactured by the Westinghouse Electric Corporation. Respondents entered into an agreement, dated March 20, 1958, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity

of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent The Fry King Corporation is a corporation existing and formerly doing business under and by virtue of the laws of the State of New York, with its office and principal place of business formerly located at 110 East 129th Street, in the city of New York. An assignment for the benefit of its creditors was made by the corporate respondent prior to the issuance of the complaint in the premises.

Respondents Max Fain and Isaac Steinbook are individuals and officers of the corporate respondent, serving respectively as president and secretary, with their office and principal place of business located at the same place as that of corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject-matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents, The Fry King Corporation, a corporation, and its officers, and Max Fain and Isaac Steinbook,

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 offering for sale, sale or distribution of fryer-cookers and skillets or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly:

(a) That any amount is the retail price of merchandise when such amount is in excess of the price at which such merchandise is usually and regularly sold at retail;

(b) That their merchandise has been advertised in Life Magazine or Good Housekeeping Magazine; or has been advertised in any other magazine or publication, unless such is the fact;

2. Using the name of any company in connection with merchandise which has not been manufactured in its entirety by said company; or representing, directly or indirectly, that merchandise not manufactured in its entirety by a specified company was so manufactured, provided, however, that this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been manufactured by a specified company when such part is clearly and conspicuously identified;

3. Using the Good Housekeeping seal of approval in connection with their merchandise; or representing in any manner that their merchandise has been awarded said seal of approval; or that their merchandise has been approved by any other group or organization, unless such is the fact, provided, however, that this prohibition shall not be construed as prohibiting a truthful statement that a part of an article of merchandise has been approved by a group or organization, when such part is clearly and conspicuously identified.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 12th day of July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents, The Fry King Corporation, a corporation, and its officers, and Max Fain and Isaac Steinbook, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with

the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

MUNTZ TV, INC., ET AL.[1]

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

Docket 6928. Complaint, Nov. 6, 1957—Decision, July 15, 1958

Consent order requiring a Chicago seller to cease exaggerating, in newspaper advertising and by markings on sets and otherwise, the size of the picture tubes of television sets, and representing falsely that TV sets were sold directly to the consumer from "factory outlets."

INITIAL DECISION AS TO EARL W. MUNTZ, INDIVIDUALLY

Before *John B. Poindexter*, Hearing Examiner.

Mr. Michael J. Vitale and *Mr. Thomas Z. Ziebarth* supporting the complaint.

Mr. Emil N. Levin of Chicago, Ill., for respondent Earl W. Muntz.

On November 6, 1957 the Federal Trade Commission issued a complaint charging Muntz TV, Inc., a corporation, and Earl W. Muntz, individually and as an officer of said corporation with having violated the provisions of the Federal Trade Commission Act by the dissemination in commerce of advertisements and statements exaggerating the size of the picture tubes in the television receivers manufactured by said respondent corporation and misrepresenting that the receivers were sold directly to the consumer from the factory.

After issuance and service of the complaint, each respondent answered, and the individual respondent Earl W. Muntz also filed a motion requesting that the complaint as to him be dismissed. This motion was denied by the Hearing Examiner. Thereafter the respondent Muntz TV, Inc., its counsel, and counsel supporting the complaint, entered into an agreement for a consent order. Accordingly, upon the basis of such agreement, the undersigned Hearing Examiner, on April 18, 1958, issued an Initial Decision with respect to the respondent Muntz TV, Inc., dismissing the complaint as to the respondent Earl W. Muntz in his capacity as an officer of Muntz TV, Inc., inasmuch as Mr. Muntz was no longer an officer of the said corporate respondent Muntz TV, Inc., but leaving the complaint pending

[1] Respondent corporation accepted the same consent settlement on June 18, 1958, 54 F.T.C. 1825.

against the respondent Earl W. Muntz in his individual capacity.

The individual respondent Earl W. Muntz, his counsel and counsel supporting the complaint, have now entered into an agreement for a consent order, dated May 5, 1958. The order disposes of the matters complained about with respect to the remaining respondent, Earl W. Muntz, in his individual capacity. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: The individual respondent Earl W. Muntz admits all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; the individual respondent Earl W. Muntz waives the requirement that the decision must contain a statement of findings of fact and conclusions of law; said individual respondent waives further procedural steps before the hearing examiner and the Commission and the order may be altered, modified, or set aside in the manner provided by statute for other orders; said individual respondent also waives any right to challenge or contest the validity of the order in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by the individual respondent that he has violated the law as alleged in the complaint.

Upon consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a proper disposition of this proceeding insofar as it relates to Earl W. Muntz, as an individual. Accordingly, the hearing examiner finds that the acceptance of such agreement will be in the public interest and hereby accepts such agreement, makes the following jurisdictional findings and issues the following order:

JURISDICTIONAL FINDINGS

1. The individual respondent Earl W. Muntz resides at 67 East Cedar Street, Chicago, Ill., and was president of the corporate respondent until January 30, 1957, but is no longer an officer of said corporation; that, during the period he was president he formulated, directed, and controlled the acts, policies, and prac-

tices of said corporate respondent, and the respondent Earl W. Muntz was an officer of the corporate respondent during the time the acts and practices set forth in the complaint are alleged to have occurred.

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

ORDER

It is ordered, That respondent Earl W. Muntz an individual, 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 television receiving sets in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any figure or measurement to designate or describe, directly or by implication, the size of the picture tube with which television receiving sets are equipped which is greater than the horizontal measurement of the viewable area of the tube on a single plane basis, unless it is conspicuously disclosed in immediate connection therewith that said figure or measure is the diagonal measurement, when such is the fact; or an accurate specification of the viewable area of the tube, in square inches, is conspicuously disclosed in immediate connection with such figure or measurement;

2. Authorizing or permitting others to represent or placing into the hands of others means and instrumentalities whereby they may represent, directly or by implication, that the retailers selling respondent's television sets are factory outlets or have any relationship to respondent other than that of buyers from respondent.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 15th day of July 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

QUALITONE HEARING AID COMPANY, INC., ET AL.

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

Docket 7001. Complaint, Dec. 19, 1957—Decision, July 15, 1958

Consent order requiring a Minneapolis, Minn., manufacturer of hearing aid instruments, parts, and accessories to cease representing falsely in mats for use in newspaper advertising and circulars and other advertising literature disseminated to distributors and retailers to be used to induce purchase of their products, that their "Stereophonic Optical Ear" and "Hidden Ear" hearing aids were cordless, invisible, and required nothing in the ear, and that the former was completely contained in a pair of eyeglasses.

Mr. Kent P. Kratz for the Commission.
Respondents, for themselves.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On May 8, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorney for the Commission, under date of April 29, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Qualitone Hearing Aid Company, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at Linden Hills Station, Minneapolis, Minn.

Individual respondent Richard T. Burger is president and respondents Mas Harada and Charles Hinz are vice presidents of

respondent corporation and each has exercised and still exercises a substantial degree of authority and control over the policies, affairs and activities of said corporation. The business address of the individual respondents is the same as that of the corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 19, 1957, issued its complaint in this proceeding against respondents and a true copy was thereafter duly served on respondents.

3. Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. This agreement disposes of all of this proceeding as to all parties.

5. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed, if and when it shall have become a part of the Commission's decision. The hearing examiner finds from the complaint and the said

"Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against each of the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues as to all of the parties hereto, and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondents Qualitone Hearing Aid Company, Inc., a corporation, and its officers, Richard T. Burger, Mas Harada, and Charles Hinz, individually and as officers of said corporation, and their agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, or distribution of hearing aid devices known as "Stereophonic Optical Ear" and "Hidden Ear" or any other device of substantially the same construction or operation, whether sold under the same or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated 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, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said product, which advertisement:

A. Represents, directly or by implication:

(1) That said hearing aid devices are invisible or cannot be seen;

(2) That when wearing said device nothing is required to be placed in the ear;

(3) That their Stereophonic Optical Ear is completely contained in a pair of eyeglasses.

B. Uses the words or phases "No tell tale wires," "No button in your ear," "without cords," or other words or phrases of the same or similar import or meaning, unless in close connection therewith and with equal prominence it is stated that a

visible plastic tube runs from the instrument to the ear where it is held in place by an ear mold or nipple.

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

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 15th day of July 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

INFRAGLASS HEATER COMPANY, INC., ET AL.

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

Docket 7080. Complaint, Mar. 4, 1958—Decision, July 15, 1958

Consent order requiring Pontiac, Mich., distributors of electric heaters to cease representing falsely in written guarantees inserted with their products and in newspapers and magazines of general circulation, that they guaranteed their products for normal usage for five years when, in a vast number of instances, they refused to replace, repair, or make adjustments for breakage or defects growing out of normal use of the heaters.

Mr. Alvin D. Edelson for the Commission.
Respondents, for themselves.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On May 8, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorney for the Commission, under date of May 7, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Infraglass Heater Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Michigan with its office and principal place of business located at 350 South Sanford Street, Pontiac, Mich.

The individual respondents Donald J. Heckmann, Henry Schuricht and Martin Goldman are president, vice president and treasurer, respectively, of the corporate respondent and maintain

business addresses at the same address as the corporate respondent.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Commission, on March 4, 1958, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on respondents.

3. Respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. It is recommended that the complaint be dismissed as to Whizzer Industries, Inc., a corporation, Deitrich Kohlsaat, individually and as an officer of Whizzer Industries, Inc., and Henry Schuricht and Martin Goldman in their capacity as officers of Whizzer Industries, Inc., for reasons set forth in the affidavit attached herewith. If this recommendation is adopted, the agreement then disposes of all of this proceeding as to all parties.

5. Respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist" and the affidavit attached thereto, said agreement is hereby approved and accepted and it and the said affidavit are ordered filed if and when said agreement shall have become a part of the Commission's decision. The hearing examiner finds from

the complaint and the said agreement and the affidavit attached thereto that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against each of the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the recommendation in paragraph 4 of the agreement that the complaint be dismissed as to respondents Whizzer Industries, Inc., a corporation, Deitrich Kohlsaat, individually, and as an officer of Whizzer Industries, Inc., and Henry Schuricht and Martin Goldman in their capacity as officers of Whizzer Industries, Inc., is approved and adopted whereby the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order, therefore, should be and hereby is entered as follows:

ORDER

It is ordered, That respondents, Infraglass Heater Company, Inc., a corporation, and its officers, and Donald J. Heckmann, Henry Schuricht and Martin Goldman, individually and as officers of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of electric heaters or other 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 their electric heaters, or any other merchandise, is guaranteed when any provision of the guarantee is not fully complied with.

2. Representing, directly or by implication, that their electric heaters, or other merchandise, is guaranteed when there are any conditions or limitations in connection with such guarantee, unless such conditions and limitations are clearly set forth.

It is further ordered, That the complaint herein, insofar as it relates to respondents Whizzer Industries, Inc., a corporation, Dietrich Kohlsaat, individually and as an officer of Whizzer Industries, Inc., and Henry Schuricht and Martin Goldman, in their capacities as officers of Whizzer Industries, Inc., be and the same hereby is, dismissed without prejudice to the right of the Commission to take such action in the future as the facts may then warrant.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 15th day of July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Infraglass Heater Company, Inc., a corporation, and Donald J. Heckman, Henry Schuricht, and Martin Goldman, individually, and as officers of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

PAUL C. VAUGHAN ET AL. TRADING AS VAUGHAN-WEIL

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

Docket 7093. Complaint, Mar. 26, 1958—Decision, July 15, 1958

Consent order requiring a furrier in Birmingham, Ala., to cease violating the Fur Products Labeling Act by labeling certain fur products with fictitious prices represented thus as the usual retail prices; by failing to set out on labels the term "secondhand used fur" where required; by failing in other respects to conform to the labeling and invoicing requirements of the Act; by advertising in newspapers which failed to disclose the names of animals producing the fur in fur products or that certain furs were composed of cheap or waste fur, and represented prices falsely as wholesale and reduced; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. John T. Walker for the Commission.
Respondents, for themselves.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding and falsely and deceptively invoicing and advertising certain of their fur products, and with failing to maintain full and adequate records with respect thereto, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, respondents and counsel supporting the complaint entered into an agreement containing consent order to cease and desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter transmitted to the hearing examiner for consideration.

The agreement identifies Respondents Paul C. Vaughan and Ferd F. Weil as individuals and copartners trading as Vaughan-Weil, with their office and principal place of business located at 1816 Third Avenue North, Birmingham, Ala.

The agreement provides, among other things, that the respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such

allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

Respondents waive any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law, and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That respondents Paul C. Vaughan and Ferd F. Weil, individually and as copartners, trading as Vaughan-Weil, or any other name, 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 fur products, or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Falsely or deceptively labeling or otherwise identifying any

such products as to the regular prices thereof by any representation that the regular or usual price of such product is any amount which is in excess of the price at which respondents have usually and customarily sold such products in the recent regular course of their business.

2. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product;

(g) That the fur product contains or is composed of secondhand used fur, when such is the fact;

(h) The item number or mark assigned to a fur product.

3. Setting forth on labels attached to fur products:

(a) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with nonrequired information;

(b) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product;

(g) The item number or mark assigned to a fur product.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

1. Fails to disclose:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide, and as prescribed under the Rules and Regulations;

(b) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact.

2. Represents, directly or by implication:

(a) That the prices of fur products are at wholesale, when such is not the fact;

(b) That the regular or usual price of any fur product is any amount which is in excess of the prices at which respondents have usually and customarily sold such products in the recent regular course of business.

D. Making price claims or representations in advertisements respecting wholesale prices, comparative prices or reduced prices unless there are maintained by respondents adequate records disclosing the facts upon which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the

15th day of July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Paul C. Vaughan and Ferd F. Weil, individually and as copartners trading as Vaughan-Weil, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Decision

IN THE MATTER OF

MICK DALTON ET AL.
TRADING AS ATLANTIC PRODUCTS

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

Docket 7083. Complaint, Mar. 12, 1958—Decision, July 16, 1958

Consent order requiring sellers in Laurel, Nebr., of photograph albums and certificates for enlargement of snapshots or negatives, to cease representing falsely on certificates issued to customers by their sales representatives and other printed matter and by salesmens' statements that a few selected individuals in an area would receive free a photograph album worth, along with a book of certificates, many times the "special reduced price"; and to cease understating the cost of enlargements.

Edward F. Downs, Esq., for the Commission.
David W. Curtiss, Esq., of Laurel, Nebr., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on March 12, 1958, charging them with having violated the Federal Trade Commission Act by falsely representing the price, availability and value of their products, photographic albums and enlargement certificates. Respondents entered into an agreement, dated May 6, 1958, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall

consist solely of the complaint and said agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint; that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to §§3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondents Mick Dalton and Milton W. Johnson are individuals, trading and doing business as Atlantic Products, a partnership. Their address and place of business is at Laurel, Neb.

ORDER

It is ordered, That respondents Mick Dalton and Milton W. Johnson, individuals trading and doing business as Atlantic Products, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of photograph albums, certificates for the enlargement of snapshots or negatives of snapshots, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That their albums are given free or without charge.

2. That they sell their albums and certificates only to selected persons.

3. That they sell only a few of their album-certificate combinations in a given area.

4. That the price at which they regularly and customarily

sell their album-certificate combination is a special, reduced or advertising price.

5. That each enlargement will cost a specified amount if an amount in addition thereto is charged or required to be paid.

6. That their album-certificate combination has a value in excess of the regular and customary price charged therefor.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of July 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

JUDSON DUNAWAY CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SECS. 2(d) AND 3 OF THE CLAYTON ACT

Docket 6925. Complaint, Oct. 31, 1957—Decision, July 24, 1958

Consent order requiring a manufacturer of a line of household cleaning, deodorizing, mothproofing, and related products, with plants in Dover, N.H., and Kentland, Ind., to cease: (1) discriminating in price in violation of Section 2(d) of the Clayton Act by such practices as paying substantial sums of money to Grand Union chain of supermarkets and retail food stores in the form of advertising of its products on an illuminated "spectacular" at 46th and Broadway, New York City, and by in-store promotional displays, while not giving Grand Union's competitors similar treatment; and (2) allowing a discount from, or rebate upon, the price of its products to Grand Union on condition that the latter not deal in products of its competitors.

COMPLAINT

The Federal Trade Commission, having reason to believe that Judson Dunaway Corporation, a corporation, has violated the provisions of Section 2, subsection (d), and Section 3 of the Clayton Act, as amended (15 U.S.C. Sec. 13 and 14) hereby issues its complaint, stating its charges as follows:

Count I

PARAGRAPH 1. Judson Dunaway Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Hampshire. It has its principal office and a manufacturing plant at Dover, N.H., and an additional manufacturing plant at Kentland, Ind. (It may be referred to hereinafter as Judson Dunaway or respondent.)

PAR. 2. Judson Dunaway is now, and for many years has been, engaged in the manufacture of a line of household cleaning, deodorizing, moth-proofing and related products, including Delete, a rust and stain remover; Vanish, a cleaning and deodorizing agent for bathroom fixtures; Elf, a drain clearing agent; Expello, moth crystals and insect bombs; Bug-a-Boo, moth crystals and aerosol insecticides.

Judson Dunaway sells its products to customers with places of business located throughout the several States of the United States and in the District of Columbia for resale within the

United States to consumers. Among these customers are retail grocery chains, supermarkets and independent retail grocery stores. Its sales are substantial, aggregating more than $3,500,000 in 1955.

PAR. 3. Judson Dunaway is now, and for many years has been, engaged in commerce as that term is defined in the Clayton Act. It transports, or causes to be transported, its products from the States of manufacture to customers located in other States of the United States, as well as in the States of manufacture. There is, and has been, a constant stream of trade and commerce in these products among the various states and the District of Columbia.

PAR. 4. In the course and conduct of its business in commerce during the past three years, Judson Dunaway has contracted to pay, and has paid, money, goods or other things of value to or for the benefit of certain of its customers. It has made these payments as compensation or in consideration for services or facilities furnished by or through these customers in connection with the sale or offering for sale of products manufactured, sold or offered for sale by Judson Dunaway. But such payments or consideration have not been available on proportionally equal terms to all other customers competing in the sale and distribution of such products.

PAR. 5. Among and typical of the discriminations alleged in paragraph 4 are transactions between Judson Dunaway and The Grand Union Corporation. Grand Union operates a chain of supermarkets and retail food stores in New York, New Jersey, Pennsylvania, Vermont and other States. Judson Dunaway has paid to or for the benefit of Grand Union, directly or indirectly, substantial sums of money for services and facilities furnished it by or through Grand Union in the form of advertising of Judson Dunaway products on an illuminated "spectacular" animated sign leased and controlled by Grand Union at 46th Street and Broadway, New York City, and in the form of in-store promotional displays. These payments have been made and the services and facilities furnished in connection with the handling, sale and offering for sale of Judson Dunaway products.

These payments were not available, however, on proportionally equal terms to all other customers competing in the distribution and sale of Judson Dunaway products.

PAR. 6. The acts and practices of Judson Dunaway, as alleged in Count I of this complaint, are in violation of Subsection (d)

of Section 2 of the Clayton Act, as amended (15 U.S.C. Section 13).

Count II

PARAGRAPHS 1 through 3. For its charges under paragraphs 1 through 3 of this Count II, the Commission relies upon the matters and things set out in paragraphs 1 through 3 of Count I to the same extent and as though they were set out in full herein, and paragraphs 1 through 3 of Count I are, therefore, incorporated herein by reference and made a part of the allegations of this Count.

PAR. 4. In the course and conduct of its business in commerce, as above described, Judson Dunaway is now, and for many years has been, in substantial competition with other corporations, persons, firms and partnerships in the sale and distribution in commerce of household cleaning and deodorizing preparations, insecticides and related products.

PAR. 5. In the course and conduct of its business in commerce, as above described, Judson Dunaway has made sales and contracts for the sale of its products and has fixed a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the purchaser shall not deal in similar products of a competitor or competitors.

PAR. 6. Among such sales and contracts of sale are transactions entered into between Judson Dunaway and a large chain store organization, The Grand Union Company, whereby Grand Union agreed to handle and sell Judson Dunaway products exclusively in its retail stores and refrain from handling or selling products of one or more competitors of Judson Dunaway.

PAR. 7. Judson Dunaway's sales of its products pursuant to the conditions, agreements and understandings described in paragraphs 5 and 6 above have been and are substantial. Competitors of Judson Dunaway have been and are now unable to make sales of their products to customers of Judson Dunaway which they could have made but for the conditions, agreements and understandings described above in Paragraphs 5 and 6.

PAR. 8. The effect of such sales and contracts of sale on such conditions, agreements or understandings may be substantially to lessen competition or to tend to create a monopoly in the line of commerce in which Judson Dunaway has been and is engaged.

PAR. 9. The acts and practices of Judson Dunaway, as alleged

in Count II of this complaint, are in violation of Section 3 of the Clayton Act (15 U.S.C. Sec. 14).

Mr. Donald R. Moore and *Mr. Charles J. Steele* supporting the complaint.

Mr. Charles F. Hartnett, of Dover, N.H., for respondent.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on October 31, 1957, charging it with having violated Section 2(d), as amended, and Section 3 of the Clayton Act. After being served with said complaint, respondent appeared by counsel and filed its answer thereto. Thereafter the parties entered into an agreement, dated May 14, 1958, containing a consent order to cease and desist purporting to dispose of all of this proceeding as to all parties. Said agreement, which has been signed by respondent, by counsel for said respondent, and by counsel supporting the complaint, and approved by the director and assistant director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that respondent waives any further procedural steps before the hearing examiner and the Commission, the making of findings of fact or conclusions of law and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order provided for in said agreement covers all the allegations of the complaint and provides for an appropriate disposition of this proceeding as to all parties, said agreement is hereby accepted and is ordered filed upon this decision's becoming the decision of the Commission pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and the hearing examiner, accordingly, makes the following jurisdictional findings and order:

1. Respondent Judson Dunaway Corporation is a corporation existing and doing business under and by virtue of the laws of the State of New Hampshire, with its office and principal place of business located at Third and Grove Streets, in the city of Dover, State of New Hampshire.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent hereinabove named. The complaint states a cause of action against said respondent under the provisions of the Clayton Act.

ORDER

It is ordered, That respondent Judson Dunaway Corporation, a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the sale or offering for sale in commerce (as "commerce" is defined in the Clayton Act) of insecticides, household cleaning, deodorizing and mothproofing preparations, and other products, do forthwith cease and desist from:

Paying or contracting to pay to or for the benefit of any customer anything of value as compensation or in consideration for any advertising or for any promotional displays furnished by or through such customer in connection with the handling, processing, sale or offering for sale of respondent's products unless such payment or consideration is available on proportionally equal terms to all other customers competing in the resale of such products.

It is further ordered, That respondent Judson Dunaway Corporation, a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the sale or offering for sale in commerce (as "commerce" is defined in the Clayton Act) of insecticides, house-

hold cleaning, deodorizing and mothproofing preparations, and other products, do forthwith cease and desist from:

1. Selling or making any contract or agreement for the sale of any such product on the condition, agreement or understanding that the purchaser thereof shall not use or deal in or sell products supplied by any competitor or competitors of respondent;

2. Enforcing or continuing in operation or effect any condition, agreement or understanding in, or in connection with, any existing contract of sale, which condition, agreement or understanding is to the effect that the purchaser of said products shall not use or deal in or sell products supplied by any competitor or competitors of respondent.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 24th day of July 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

CHAMPION PRODUCTS, INC., ET AL.

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

Docket 6944. Complaint, Nov. 18, 1957—Decision, July 24, 1958

Consent order requiring the manufacturer in Stephenville, Tex., and distributor in Oklahoma City, Okla., of gasoline and oil additives sold under the brand names of "Q–X" and "Q–X with Moly," respectively, to cease representing falsely in advertising in newspapers, periodicals, and sales literature, and by statements of sales representatives, that said products were extensively used by certain large corporations and firms and were approved and recommended by them and by the United States Government; that purchasers' money would be returned if they did not accomplish the guaranteed results; and that they were regularly advertised in "Life" magazine.

INITIAL DECISION AS TO RESPONDENTS CHAMPION PRODUCTS, INC., A CORPORATION, JOHN T. HEATON, LUCILLE HEATON, AND WILLIAM J. OXFORD, INDIVIDUALLY AND AS OFFICERS OF SAID CORPORATION, AND EARLE A. GOODENOW, JR., INDIVIDUALLY AND TRADING AND DOING BUSINESS AS THE GOODENOW COMPANY

Before *Mr. John B. Poindexter*, hearing examiner.

Mr. Edward F. Downs and *Mr. Garland S. Ferguson*, counsel supporting the complaint.

Mr. Ennis Favors of Stephenville, Tex., for respondents.

On November 18, 1957, the Federal Trade Commission issued a complaint charging that the corporations and persons named in the caption hereof, hereinafter called respondents, violated the provisions of the Federal Trade Commission Act by the use of alleged false advertising in the manufacture, sale and distribution of their gasoline and oil additives.

After issuance and service of the complaint, the respondents answered, denying generally the allegations contained in the complaint and stating, among other things, that Mr. Goodenow, Sr. is deceased; Champion Oil Company, Inc., is no longer in business, liquidation of the corporation was completed in September 1957, and the charter of said corporation has expired.

Thereafter, respondent Champion Products, Inc., a corporation, its officers, John T. Heaton, Lucille Heaton and William J. Oxford

(erroneously named in the complaint and other documents as William J. Oxley), individually and as officers of said corporation; and Earle A. Goodenow, Jr., an individual trading and doing business as The Goodenow Company, their counsel and counsel supporting the complaint, entered into an agreement for a consent order. This agreement disposes of all of this proceeding as to all parties.

The respondents Champion Oil Company, Inc., a corporation, Robert H. Huston, Jack J. Heinemann and Francis C. Routt, individually and as officers of said corporation are not parties to the agreement for the reason that said corporation has been dissolved and neither it nor its respondent officers are now engaged in the business referred to in the complaint. Respondent Earle A. Goodenow, Sr. is not a party to the agreement for the reason that he is deceased. Therefore, in said agreement, it is recommended that the complaint be dismissed without prejudice as to respondents Robert H. Huston, Jack J. Heinemann and Francis C. Routt, individually, and as to respondents Champion Oil Company, Inc., a corporation, Robert H. Huston, Jack J. Heinemann, and Francis C. Routt as officers of said corporation, and as to respondent Earl A. Goodenow, Sr. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents named in this agreement admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement. Respondents waive the requirement that the decision must contain a statement of findings of fact and conclusion of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

Upon consideration of the allegations of the complaint, the

provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a proper disposition of this proceeding. Accordingly, the hearing examiner finds that the acceptance of such agreement will be in the public interest and hereby accepts such agreement, makes the following jurisdictional findings and issues the following order:

JURISDICTIONAL FINDINGS

1. Corporate respondent Champion Products, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located in Stephenville, Tex. Individual respondents John T. Heaton, Lucille Heaton and William J. Oxford are officers of said corporation. They formulate, direct and control the practices of the corporate respondent. Their address is the same as that of the corporate respondent.

2. Earle A. Goodenow, Jr., is an individual trading and doing business as The Goodenow Company with his principal place of business located at 15 East Reno Street, Oklahoma City, Okla.

3. 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 Champion Products, Inc., a corporation, its officers and John T. Heaton, Lucille Heaton and William J. Oxford, individually and as officers of said corporation; and Earle A. Goodenow, Jr., individually and trading and doing business as The Goodenow Company, or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their gasoline and oil additives, or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from representing directly or by implication:

1. That any certain corporations or firms regularly or extensively use respondents' products when such use is only occasional and in small quantities.

2. That any certain corporations or firms approve or recommend the use of respondents' products, unless such is the fact.

3. That respondents' products are covered by a money back

guarantee unless all of the terms and conditions thereof are clearly and conspicuously set forth in their advertised guarantee.

4. That respondents' products are approved or recommended by the United States Government.

5. That respondents' products are currently or regularly advertised in "Life" magazine; or are advertised in any other publication, unless such is the fact.

It is further ordered, That respondent Earle A. Goodenow Jr., individually and trading and doing business as The Goodenow Company, or under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of gasoline and oil additives or any other products in commerce, as "commerce" is defined by the Federal Trade Commission Act, forthwith cease and desist from representing directly or by implication that he is the manufacturer of said products.

It is further ordered, That respondents Champion Products, Inc., its officers, and John T. Heaton, Lucille Heaton, and William J. Oxford, individually and as officers of said corporation, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of gasoline and oil additives or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from furnishing means and instrumentalities to others by and through which they may mislead and deceive the public respecting the matters set forth in Paragraphs 1 through 5 hereof.

It is further ordered, That the complaint be, and the same hereby is, dismissed, without prejudice, as to respondents Robert H. Huston, Jack J. Heinemann, and Francis C. Routt, individually.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Champion Oil Company, Inc., a corporation, Robert H. Huston, Jack J. Heinemann, and Francis C. Routt as officers of said corporation, and as to Earle A. Goodenow, Sr.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner did, on the 24th day of July 1958, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Champion Products, Inc., a corporation, John T. Heaton, Lucille Heaton, and William J. Oxford, individually and as officers of said corporation, and Earle A. Goodenow, Jr., individually and trading and doing business as The Goodenow Company shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Decision

IN THE MATTER OF

SEARS, ROEBUCK AND CO.

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

Docket 7081. Complaint, Mar. 4, 1958—Decision, July 24, 1958

Consent order requiring a general merchandise sales corporation to cease representing falsely through its door-to-door salesmen, furnished by it with a "canned sales talk" and sales kit, that such salesmen were publicity agents promoting a "Family Educational Program," seeking to enlist "Cooperative Sponsors" to whom they were making a special offer of its 20-volume "American People's Encyclopedia" and its 16-volume "The Children's Hour" at reduced prices, together with a 10-year research service and a coffee table; and that the offer was limited to the single interview.

Mr. Terral A. Jordan for the Commission.
Mr. J. F. Cleff, of Chicago, Ill., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 4, 1958, charging Respondent with violation of the Federal Trade Commission Act through the use by its salesmen of false, misleading and deceptive statements and representations in offering for sale and selling Respondent's merchandise, including sets of books designated as the American People's Encyclopedia and as The Children's Hour.

Thereafter, on May 20, 1958, Respondent, its counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondent Sears, Roebuck and Co. as a New York corporation, with its office and principal place of business located at 925 South Homan Avenue, Chicago 7, Ill.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the hearing examiner and the Commission; the making of findings of fact or

conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only, and does not constitute an admission by the Respondent that it has violated the law as alleged in the complaint.

Having considered the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the Respondent and over its acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That the respondent Sears, Roebuck and Co., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of books or other articles of merchandise when sold in combination therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that:

1. Respondent's agents, representatives or employees representing it in the sale of said books or merchandise have any status other than that which they have in fact.

2. Purchasers of said books or merchandise will receive an organized course of instruction in any subject or subjects unless such is the fact.

3. Respondent's principal purpose is to enlist persons to publicize said books or merchandise when respondent's principal purpose is to sell said books or merchandise.

4. Any offer to sell said books or merchandise to a designated

group or class of buyers is special to or restricted to such buyers when such offer is made generally to all purchasers at the same price and on the same terms and conditions.

5. Any offer of premiums or benefits made to a designated group or class of buyers of said books or merchandise is special to or restricted to such buyers when such offer is made generally to all purchasers.

6. Said books or merchandise are offered at reduced prices or at any specified amount of savings from respondent's usual and customary selling prices when the prices and terms at which they are offered for sale and sold constitute respondent's usual and customary selling prices and terms for such books or merchandise.

7. Any offer to sell said books or merchandise is limited or otherwise restricted as to time or availability unless such is the fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 24th day of July 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

WILLIAMSBURG ELECTRIC, INC., ET AL.

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

Docket 6994. Complaint, Dec. 16, 1957—Decision, July 26, 1958

Consent order requiring manufacturers of electric trivets in Willow Run, Mich., to cease representing falsely on stuffers, counter cards, etc., distributed to resellers and in advertisements in newspapers of national circulation—simulating therein the script of Colonial Williamsburg, Incorporated, and depicting buildings and scenes of Williamsburg, Va., and the colonial era—that they were affiliated with Colonial Williamsburg, Incorporated, and Williamsburg Restoration, Incorporated, and that their trivets were authentic reproductions of originals displayed in Williamsburg, Va., and of the American colonial period, and were of wrought iron construction.

Mr. William A. Somers, for the Commission.
Respondents, for themselves.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On May 14, 1958, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorney for the Commission, under date of May 7, 1958, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Williamsburg Electric, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Michigan. Respondents Fred H. Hogan and John E. Judycki are individuals and officers of said corporate respond-

ent. Respondent Milton A. Hogan is an individual and a majority stockholder of the corporate respondent. The individual respondents cooperate in formulating and putting into effect the practices of the corporate respondent. The office and place of business of all of the above-named respondents is located at 2830 Tyler Road, Willow Run, Mich.

2. Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on December 16, 1957, issued its complaint in this proceeding against respondents, and a true copy was thereafter duly served on the respondents.

3. The respondents admit all the jurisdictional facts alleged in the complaint and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

4. This agreement disposes of all this proceeding as to all parties.

5. The respondents waive:

(a) Any further procedural steps before the hearing examiner and the Commission;

(b) The making of findings of fact or conclusions of law; and

(c) All the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

6. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

7. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

8. This agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

9. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to the respondents. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed, if and when it shall have become a part of the Commission's decision.

The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the persons of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against each of the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues as to all of the parties hereto, and that said order therefore should be, and hereby is, entered as follows:

ORDER

It is ordered, That respondents Williamsburg Electric, Inc., a corporation, and its officers, and Fred H. Hogan and John E. Judycki, individually and as officers of said corporation, and Milton A. Hogan, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, and in connection with the offering for sale, sale or distribution of trivets and other products of Early American Design, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Williamsburg" as a part of a corporate or trade name unless in direct connection therewith it is clearly disclosed that respondent Williamsburg Electric, Inc., has no connection with Williamsburg Restoration, Incorporated.

2. Using any word, term, statement, definition or simulation in any manner, the effect of which tends or may tend to convey the belief or impression, directly or indirectly, that respondents, or any of them, are affiliated or connected with, or are a representative, subsidiary or licensee of Williamsburg Restoration, Incorporated.

It is further ordered, That respondents Williamsburg Electric., Inc., a corporation, and its officers, and Fred H. Hogan and John E. Judycki, individually and as officers of said corporation, and Milton A. Hogan, individually, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of any product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly:

1. That any product is an authentic reproduction of the original on display in the exhibition buildings in Williamsburg, Va., unless such is the fact.

2. That any product is an authentic representation of the American Colonial Period, unless such is the fact.

3. That any product is of wrought iron construction, unless such is the fact.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of July 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

JACK J. BERLINER ET AL. DOING BUSINESS AS J. J. BERLINER & STAFF, ETC.

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

Docket 7034. Complaint, Jan. 14, 1958—Decision, July 26, 1958

Consent order requiring the operators of a New York clipping service to cease representing falsely, through use of their trade name and in advertising matter circulated to prospects, that they were a society engaged in research, were experts in all management problems and maintained an extensive research staff, supplying the latest information, domestic and foreign, in the fields of management, engineering, and chemistry; and that they authenticated all information they distributed.

Mr. Harold A. Kennedy and *Mr. Thomas F. Howder* supporting the complaint.

Hecht & Glaser by *Mr. Samuel Hecht* of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On January 14, 1958, the Federal Trade Commission issued a complaint alleging that Jack J. Berliner and Sara Berliner, doing business as J. J. Berliner & Staff and as the American Research Society for Better Management, hereinafter called respondents, had violated the provisions of the Federal Trade Commission Act by making false, misleading and deceptive statements and representations with respect to the nature of their business, a "clipping service," and the value and quality of such service.

After issuance and service of the complaint, the respondents, their counsel, and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist

solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondents Jack J. Berliner and Sara Berliner are copartners, doing business and trading as J. J. Berliner & Staff and as the American Research Society for Better Management. Their office and principal place of business is located at 684 Broadway, New York, N.Y.

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 Jack J. Berliner and Sara Berliner, individually and doing business as the American Research Society for Better Management, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their publications or printed matter, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using a trade, business or corporate name which includes the words "research" or "society," or representing, directly or by implication, through the use of any trade, business or corporate name, that respondents, or either of them, engage in research or operate or maintain a society of any nature;

2. Using a trade, business or corporate name which includes

the word "management," or representing in any manner, directly or by implication, through the use of any trade, business or corporate name, that respondents, or either of them, are experts in management problems or are qualified as management consultants.

It is further ordered, That respondents Jack J. Berliner and Sara Berliner, individually and doing business as J. J. Berliner & Staff, or under any other name, their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their publications or printed matter, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That they are engaged in any research other than the reading, indexing, selecting, editing and compiling of previously published articles or other works;

(b) That the information which they distribute contains the latest information, either domestic or foreign, unless such is the fact, in the fields of management, engineering or chemistry; or

(c) That they authenticate any of the information distributed by them.

2. Offering for sale, selling or distributing publications or printed matter previously published by others without clear and conspicuous disclosure of such fact in advertising and on the publications and printed matter themselves.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of July 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

Order

IN THE MATTER OF

NORTH AMERICAN ACCIDENT INSURANCE COMPANY

Docket 6456. Complaint, Nov. 18, 1955—Order, July 29, 1958

Order vacating desist order of February 20, 1957, 53 F.T.C. 701, prohibiting alleged deceptive claims for health and accident insurance.

Before *Mr. Frank Hier,* hearing examiner.

Mr. Philip R. Melangton and *Mr. Francis C. Mayer* for the Commission.

Mr. Claud C. Cox and *Mr. Jacob Logan Fox,* of Chicago, Ill., and *Watters & Donovan,* by *Mr. Thomas A. Hartnett,* of New York City, for respondent.

ORDER REOPENING PROCEEDING AND DISMISSING COMPLAINT

The Commission, on February 20, 1957, having rendered its decision modifying the hearing examiner's initial decision in this proceeding and adopting as its own decision the initial decision as modified; and

The respondent, on April 29, 1957, having filed in the United States Court of Appeals for the Fifth Circuit a petition for review of the aforesaid decision, but the Commission not having certified and filed in the court a transcript of the record in the proceeding; and

The Commission having reconsidered the matter and having determined that the proceeding should be reopened and that its decision of February 20, 1957, should be vacated and set aside:

It is ordered, That this proceeding be reopened.

It is further ordered, That the Commission's decision entered February 20, 1957, be vacated and set aside.

It is further ordered, That the complaint herein be dismissed.

It is further ordered, That the General Counsel of the Commission be authorized and directed to take such action as may be necessary to obtain an appropriate disposition of the respondent's pending petition for review.

IN THE MATTER OF

CRAFTEX COMFORT PRODUCTS, INC., ET AL.

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

Docket 7045. Complaint, Jan. 16, 1958—Decision, July 30, 1958

Consent order requiring manufacturers in Brooklyn, N.Y., to cease violating the Wool Products Labeling Act by labeling as "Reprocessed All Wool," bed comforters which contained substantial amounts of fibers other than wool, and by printing the word "reprocessed" in smaller and less conspicuous letters than the other words, and by failing to comply in other respects with the labeling requirements of the Act; and to cease violating the Federal Trade Commission Act by imprinting on the plastic covers of the bed comforters a fictitious price greatly in excess of the usual retail price and unauthorized facsimiles of "seals of approval" of Good Housekeeping and the American Medical Association, and by invoicing the bed comforters falsely as "wool."

Mr. Charles W. O'Connell supporting the complaint.

Mr. Barnett Warner, Princeton, N.J., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On January 16, 1958, the Federal Trade Commission issued a complaint alleging that Craftex Comfort Products, Inc., Purofied Down Products Corporation, corporations, and Samuel Puro and Louis Puro, individually and as officers of said corporations, hereinafter called respondents, had violated the provisions of the Federal Trade Commission Act, the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated under the last-named Act by misbranding, mislabeling, falsely and deceptively pricing and invoicing their wool products.

After issuance and service of the complaint, the respondents, their counsel and counsel supporting the complaint entered into an agreement for a consent order. The order disposes of the matters complained about. The agreement has been approved by the director and assistant director of the Bureau of Litigation.

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said agreement shall not become a part of the official

record of the proceeding unless and until it becomes a part of the decision of the Commission; the record herein shall consist solely of the complaint and the agreement; respondents waive the requirement that the decision must contain a statement of findings of fact and conclusions of law; respondents waive further procedural steps before the hearing examiner and the Commission, and the order may be altered, modified, or set aside in the manner provided by statute for other orders; respondents waive any right to challenge or contest the validity of the order entered in accordance with the agreement and the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The undersigned hearing examiner having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondents Craftex Comfort Products, Inc., and Purofied Down Products Corporation, are corporations, organized, existing and doing business under and by virtue of the laws of the State of New York. Their offices and places of business are located at 63–02 59th Avenue, Maspeth, Brooklyn, N.Y. and 1027 Metropolitan Avenue, Brooklyn, N.Y., respectively.

2. Respondent Louis Puro is president of both corporate respondents with his office and place of business located at 63–02 59th Avenue, Maspeth, Brooklyn, N.Y., Respondent Samuel Puro is secretary and treasurer of both corporate respondents and his office and place of business is located at 1027 Metropolitan Avenue, Brooklyn, N.Y.

3. 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 Craftex Comfort Products, Inc., and Purofied Down Products Corporation, corporations, and their respective officers and respondents Samuel Puro and Louis Puro, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or

through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of wool bed comforters or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain, or in any way are represented as containing "wool," "reprocessed wool" or "reused wool," as those terms are defined in said Act, do forthwith cease and desist from misbranding such products by:

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

2. Minimizing or rendering inconspicuous the information required under the Wool Products Labeling Act on the stamp, tag, label or other mark of identification by the use of small type or by failing to use letters of equal size and conspicuousness.

3. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentage of the total weight of such wool product, of any non-fibrous loading, filling, or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That Craftex Comfort Products, Inc., and Purofied Down Products Corporation, corporations, and their respective officers and respondents Samuel Puro and Louis Puro, individually and as officers of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of wool bed comforters or any other products

or materials in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Representing in any manner, that any amount is the retail value of an article of merchandise when it is in excess of the price at which said merchandise is usually and regularly sold at retail in the trade territory in which it is offered for sale.

2. Using the seals of either Good Housekeeping magazine or Today's Health magazine in connection with any product, or representing, in any manner, that a product has been approved by either of said magazines, or by any other magazine, unless such product has been approved for advertising in said magazines and the use of the seal has been duly authorized.

3. Misrepresenting the constituent fibers of which their products are composed, or the percentages or amounts thereof, in sales invoices, or in any other manner.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 30th day of July 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

FELDMAN & LOWE, INC., ET AL.

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

Docket 7107. Complaint, Apr. 3, 1958—Decision, Aug. 2, 1958

Consent order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to reveal on labels and invoices that the fur in certain products was dyed, and to comply in other respects with the labeling requirements of the Act.

Terral A. Jordan, Esq., for the Commission.
Manfred H. Benedek, Esq., for respondents.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on April 3, 1958, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act, by misbranding and falsely labeling and invoicing their fur products. Respondents appeared by counsel and entered into an agreement, dated June 11, 1958, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record

unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to §§3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent Feldman & Lowe, Inc., is a corporation, existing and doing business under and by virtue of the laws of the State of New York. Respondents Max Feldman and Joseph Lowe are, respectively, president and secretary-treasurer of said corporate respondent. Respondents' office and principal place of business is located at 305 Seventh Avenue, in the city of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondents Feldman & Lowe, Inc., a corporation, and its officers, and Max Feldman and Joseph Lowe, individually and as officers of said corporation, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of any fur product, or in connection with the manufacture for sale, sale, advertising, offering for sale,

transportation, or distribution of any fur product which has been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively labeling fur products by failing to reveal that such fur products are in fact bleached, dyed, or otherwise artificially colored.

B. Misbranding fur products by failing to affix labels to such fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur when such is a fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product;

C. Falsely or deceptively invoicing fur products by failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(b) That the fur product contains or is composed of used fur, when such is a fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is a fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported furs contained in a fur product;

D. Falsely or deceptively invoicing fur products as being made of "Natural" furs when they are in fact bleached, dyed, or otherwise artificially colored.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 2d day of August 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

MEYER'S FURRIERS, INC., ET AL.

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

Docket 7133. Complaint, Apr. 29, 1958—Decision, Aug. 5, 1958

Consent order requiring a furrier in Binghamton, N.Y., to cease violating the Fur Products Labeling Act by naming on invoices an animal other than that which produced a particular fur, and by failing in other respects to comply with the labeling and invoicing requirements of the Act.

Mr. Alvin D. Edelson for the Commission.
No appearance for the respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with certain violations of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in the disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding,

the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Meyer's Furriers, 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 16 Court Street, Binghamton, N.Y. The individual respondent Meyer Epstein is president of the corporate respondent and maintains his business address at the same address as the corporate respondent.

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

ORDER

It is ordered, That respondents, Meyer's Furriers, Inc., a corporation, and its officers, and Meyer Epstein, 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 manufacture for introduction into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of fur products, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed, in whole or in substantial part, of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name or other identification issued and registered by

the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product;

(g) The item number or mark assigned to a fur product.

2. Setting forth on labels attached to fur products:

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in abbreviated form.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder mingled with nonrequired information.

(c) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported fur contained in a fur product;

(g) The item number or mark assigned to a fur product.

2. Setting forth on invoices the name or names of any animal or animals other than the name or names provided for in paragraph B(1)(a) above.

3. Abbreviating on invoices information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 5th day of August 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

HELEN L. SIEGEL ET AL. TRADING AS SIEGEL'S

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

Docket 7071. Complaint, Feb. 21, 1958—Decision, Aug. 6, 1958

Consent order requiring furriers in San Antonio, Tex., to cease violating the Fur Products Labeling Act by falsely identifying on labels the fur contained in certain products, by affixing labels containing fictitious prices and falsely representing excessive amounts as the regular retail prices of fur products; by failing in other respects to conform with the labeling and invoicing requirements of the Act; by advertising in newspapers which failed to disclose the names of animals producing certain furs, or that certain products were artificially colored or were composed of cheap or waste fur, and which represented prices as reduced from regular prices which were in fact fictitious; and by failing to maintain adequate records as a basis for such pricing claims.

Mr. John T. Walker, for the Commission.
Respondents, for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on February 21, 1958, charging Respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling Act by misbranding, and falsely and deceptively invoicing and advertising, certain of their fur products.

Thereafter, on June 4, 1958, Respondents and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondents Helen L. Siegel and Morris L. Siegel, erroneously named in the complaint as Morris E. Siegel, as individuals and copartners trading as Siegel's, with their office and principal place of business located at 307 Alamo Plaza, San Antonio, Tex.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by the Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreement and the proposed order, the hearing examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the terms of the aforesaid agreement, the hearing examiner accepts the Agreement Containing Consent Order to Cease and Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That respondents, Helen L. Siegel and Morris L. Siegel, individually and as copartners, trading as Siegel's, or under any other name, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the introduction into commerce or the sale, advertising, offering for sale, transportation or distribution of fur products, in commerce, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing on labels attached to fur products, or in any other manner, that certain amounts are the regular and usual prices of fur products when such amounts are in excess of the prices at which such products are usually and customarily

sold by respondents in the recent regular course of their business.

2. Falsely or deceptively labeling or otherwise identifying any such product as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

3. Failing to affix labels to fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed by the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

(e) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported it in commerce;

(f) The name of the country of origin of any imported furs used in the fur product.

4. Setting forth on labels attached to fur products:

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder mingled with nonrequired information;

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and regulations promulgated thereunder in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur product contains or is composed of used fur, when such is the fact;

(c) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(d) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact;

(e) The name and address of the person issuing such invoice;

(f) The name of the country of origin of any imported furs contained in the fur product;

(g) The item number or mark assigned to a fur product.

2. Setting forth on invoices pertaining to fur products information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products and which:

1. Fails to disclose:

(a) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(b) That the fur products contain or are composed of bleached, dyed or otherwise artificially colored fur, when such is the fact;

(c) That the fur product is composed in whole or in substantial part of paws, tails, bellies or waste fur, when such is the fact.

2. Represents directly or by implication that respondents' regular price of any fur product is any amount which is in excess of the price at which respondents have regularly or customarily sold such products in the recent regular course of their business.

D. Making claims and representations in advertisements respecting comparative prices, percentage savings claims, or claims that prices are reduced from regular or usual prices, unless there is maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 6th day of August 1958, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

WHITE FRONT STORES, INC., ET AL.

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

Docket 7063. Complaint, Feb. 12, 1958—Decision, Aug. 7, 1958

Consent order requiring a furrier in Los Angeles, Calif., to cease violating the Fur Products Labeling Act by failing to invoice as "secondhand used fur" where required, and to comply with other requirements of the Act with respect to invoicing; by advertising in newspapers which represented prices of fur products falsely as "way below cost," which failed to specify the nature and extent of a purported "three-year guarantee" and the manner in which respondent would perform thereunder, and which falsely advertised "free Storage," "40% to 60% off" regular prices, and "spectacular buy out values from Fellman Furs of L. A."; and by failing to maintain adequate records on which the savings claims were based.

Mr. John J. McNally supporting the complaint.
Loeb and Loeb, of Los Angeles, Calif., for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on February 12, 1958, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act by falsely and deceptively advertising the prices of their fur products, failing to keep records to substantiate pricing claims and with irregularities in invoicing their fur products. After being served with the complaint respondents entered into an agreement, dated May 29, 1958, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the assistant director and the director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive

all further procedural steps before the hearing examiner or the Commission, including the making of findings of fact or conclusions of law and the right to challenge or contest the validity of the order to cease and desist entered in accordance with such agreement. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing the consent order, and it appearing that the order and agreement cover all of the allegations of the complaint and provide for appropriate disposition of this proceeding, the agreement is hereby accepted and ordered filed upon this decision and said agreement becoming part of the Commission's decision pursuant to Sections 3.21 and 3.25 of the Rules of Practice, and the hearing examiner accordingly makes the following findings, for jurisdictional purposes, and order:

1. Respondent White Front Stores, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 4611 Pacific Boulevard, Los Angeles, Calif.

2. Respondent Harry Blackman is an individual and is president of said respondent corporation. His office and principal place of business is located at the same address as that of said corporate respondent.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents hereinabove named. The complaint states a cause of action against said respondents under the Fur Products Labeling Act and the Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent White Front Stores, Inc., a cor-

poration, and its officers, and respondent Harry Blackman, as an individual and as an officer of said corporation; and respondents' representatives, agents and employees, directly or through any corporate or other device, lease, assignment, or agreement, in connection with the introduction into commerce, or the sale, advertisement, offer for sale, transportation, or distribution in commerce of any fur product, or in connection with the sale, advertisement, offer for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of used fur, when such is a fact;

(3) That the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur, when such is a fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is a fact;

(5) The name and address of the person issuing such invoice;

(6) The name of the country of origin of any imported fur contained in a fur product.

B. Setting forth on invoices pertaining to fur products the name of an animal other than the name or names of the animal or animals producing the fur or furs contained in such fur products.

C. Setting forth information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

D. Failing to set forth, on invoices pertaining to fur products, the term "secondhand used fur" when required by the Rules and Regulations.

2. Falsely or deceptively advertising fur products, through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, di-

rectly or indirectly, in the sale or offering for sale of fur products, and which:

A. Represents, directly or by implication, where contrary to the facts, that such fur products:

(1) Are being offered for sale at or below respondents' wholesale costs.

(2) Are guaranteed, unless the nature and extent of such guarantee, and the manner in which the guarantor will perform thereunder, are clearly and conspicuously set forth.

(3) May be stored for the purchaser at his option and without charge, by respondents;

(4) Were secured by respondents from a source that is in financial or other distress.

B. Represents, through percentage savings claims or otherwise, that the regular or usual retail prices charged by respondents for fur products of similar grade or quality in the recent regular course of business have been reduced in direct proportion to such savings claims.

3. Setting forth savings claims, or representations as to selling or offering to sell at or below cost, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based, as required by Rule 44(e) of the Rules and Regulations.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 7th day of August 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

MAX J. RAFF ET AL. DOING BUSINESS AS ARISTOCRAT CLOCK COMPANY

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

Docket 6931. Complaint, Nov. 6, 1957—Decision, Aug. 13, 1958

Order requiring distributors in New York City to cease representing falsely by means of labels, counter displays, display boxes, and trade circulars distributed to dealers and retailers, that their "Artco" watches were jeweled and contained jeweled movements; that watches designated "Seventeen" and "Twenty-One" contained seventeen and twenty-one jewels, respectively; and that the watches were fully guaranteed for one year; and to cease selling watches having bezels composed of base metal simulating gold without disclosing the true metal composition of the bezels.

Mr. Harry E. Middleton, Jr., for the Commission.

Petersen, Steiner & Kohan, of New York, N.Y., by *Joseph H. Kohan*, for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

PRELIMINARY STATEMENT

The Commission's complaint in this matter, issued on November 6, 1957, charged the respondents with the use of certain misleading representations and practices in the advertising and sale of watches. After the filing of respondents' answer to the complaint, there were extended negotiations between counsel looking toward disposition of the proceeding by means of an agreement for a consent order. Because of one difficulty in connection with the proposed order (to be discussed later), such negotiations were unsuccessful, and on April 16, 1958, a hearing was held for the purpose of concluding the proceeding insofar as reception of evidence was concerned.

At this hearing, respondents through their attorney admitted all of the allegations of fact in the complaint, and it was therefore unnecessary that any evidence in support of the complaint be offered. While certain evidence was introduced on behalf of respondents, such evidence was not in contravention of the factual allegations of the complaint but related solely to the proposed order; specifically, to the question whether there should be a postponement of the effective date of one prohibition in the order.

The filing of proposed findings and conclusions was waived and the proceeding is now before the hearing examiner for final consideration.

Respondents having admitted all of the allegations of fact in the complaint, the facts are found to be as therein set forth, to wit:

FINDINGS AS TO THE FACTS

1. Respondents, Max J. Raff and Isadore A. Raff, are individuals and copartners doing business as Aristocrat Clock Company, with their office and principal place of business located at 245 Fifth Avenue, New York, N.Y.

2. Respondents are now, and have been for several years last past, selling and distributing ladies' and men's one and two jewel wrist watches under the trade names of "Artco," "Seventeen" and "Twenty-One."

Respondents cause their products, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain and at all times mentioned herein have maintained a substantial course of trade in their products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. In the course and conduct of their business and for the purpose of inducing the purchase of their watches, respondents have made numerous statements and representations relative to their watches by the use of labels thereon, counter displays, display boxes, and trade circulars, all of which are distributed throughout the United States to dealers and retailers who handle respondents' products. Among and typical of such statements are the following:

Swiss Jeweled Movement
Seventeen
Twenty-one Constellation
Full Year Guarantee***

Through the use of these representations and others of similar import, respondents have represented that their watches are jeweled watches and contain movements which are jeweled movements; that the watches designated "Seventeen" and "Twenty-one" contain seventeen and twenty-one jewels, respectively; and that such watches are guaranteed for one year in every respect.

4. These representations were misleading and deceptive. Ac-

tually, the watches so described are not "jeweled" watches nor do they contain jeweled movements. As generally understood in the industry, a jeweled watch or a jeweled-movement watch is one which contains at least seven jewels, each of which serves a mechanical purpose as a frictional bearing. Respondents' watches do not contain as many as seven jewels serving a mechanical purpose as frictional bearings.

Respondents' watches are not guaranteed in every respect. The so-called guarantee provides for the payment of a charge for servicing. The terms, conditions and extent to which such guarantee applies, and the manner in which the guarantor will perform thereunder, are not disclosed in the advertising matter.

5. Certain of respondents' watches have cases which consist of two parts, that is, a back and a bezel. The bezel is composed of a base metal which has been treated or processed to simulate or have the appearance of precious metal, that is, gold or gold alloy. Said cases are not marked to disclose the true metal composition of the bezels or to disclose that the bezels are composed of base metal.

The practice of respondents in offering for sale and selling watches having cases composed in part of base metal which has been treated or processed to simulate or have the appearance of precious metal, without disclosing the true metal composition of such parts, is misleading and deceptive and many members of the purchasing public are thereby led to believe that such parts are composed of precious metal.

6. Respondents, by furnishing the advertising material and selling and distributing the watches to dealers and retailers as above set forth, furnish such dealers and retailers the means and instrumentalities by which they may mislead and deceive the purchasing public as to the quality and construction of respondents' watches and the nature and extent of the guarantee.

7. In the course and conduct of their business, respondents are in substantial competition with other individuals, and with firms and corporations engaged in the sale of watches in commerce.

8. The use by respondents of the representations set forth above has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to respondents' watches and to induce such members of the public to purchase such watches as a result of such erroneous and mistaken belief. As a consequence thereof, substantial trade in com-

merce has been unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce. The proceeding is therefore in the public interest.

CONCLUSION

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

The Question With Respect to the Order

The question raised by respondents with respect to the order relates to the matter covered by paragraph 5 of the above findings. The bezels of certain of respondents' watches are made of aluminum or other base metal which has been treated or processed so as to simulate gold. As charged in the complaint and as found above, the sale by respondents of watches having such bezels, without disclosing the true metal composition of the bezels, is misleading to the public.

Respondents are entirely willing for the order issued herein to contain a prohibition covering this practice. The difficulty has to do with the effective date of this portion of the order. Long before the issuance of the complaint, respondents had placed orders for large quantities of watches containing such bezels and these watches have already been manufactured. The watches are now either in the hands of the manufacturer in Switzerland or in the hands of respondents' purchasing agents in Bristol, Conn. Not only are respondents under binding contract to accept and pay for the watches, but the watches bear respondents' trade-mark "Artco" on either the case or the dial. For this reason the watches cannot be sold to anyone other than respondents. Nor is it practicable to stamp the cases or bezels of the watches at this time so as to disclose the metal content of the bezels. This would require that the watches be disassembled, stamped, and then reassembled, and the cost would be prohibitive, particularly in view of the fact that the watches are of an inexpensive grade, being intended to retail at from $6.95 to $12.95.

The number of such watches which have been manufactured and which are in the hands of respondents' agents, or in the hands of the manufacturer awaiting respondents' shipping instructions, is approximately 50,000. While the watches are being

sold by respondents to retailers as fast as possible, it will probably be the latter part of December 1958 before all of the watches can be moved. The great bulk of watch sales to retailers are made during the last 6 months of the year. This is because it is not until the Christmas holiday season that retailers are able to sell watches to the public in substantial quantities.

The challenged practice has already been discontinued by respondents. The only difficulty is in connection with the watches which, as stated above, were ordered long prior to the issuance of the complaint.

For the reasons indicated, respondents urge that the effective date of any order on the point in question be postponed until the last of December 1958. In the examiner's opinion the request has substantial merit and should be granted if this may legally be done.

While the precise point has not, so far as the examiner is advised, been passed on by the Commission or the courts, the case of *American Chain & Cable Co., Inc., et al.* v. *Federal Trade Commission* (1944) 142 F.2d 909, is persuasive as indicating that the Commission does have power to postpone the effective date of an order to cease and desist issued in a proceeding under Section 5 of the Federal Trade Commission Act.

Also persuasive is the *C. E. Niehoff & Co.* case, although this case arose under Section 2 of the Clayton Act rather than under the Federal Trade Commission Act. *C. E. Niehoff & Co.* v. *Federal Trade Commission* (1957) 241 F.2d 37; *Federal Trade Commission* v. *C. E. Niehoff & Co.* (1958) 355 U.S. 411.

The hearing examiner being of the view that the Commission does have authority to postpone the effective date of a cease and desist order and that such authority should be exercised in the present case, the effective date of the pertinent prohibition in the order which follows is being postponed to December 31, 1958.

ORDER

It is ordered, That respondents Max J. Raff and Isadore A. Raff, individually and as co-partners doing business as Aristocrat Clock Company, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of watches 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 a watch is a "jeweled" watch, or that it contains a jeweled movement, unless such watch contains at least seven jewels, each of which serves a mechanical purpose as a frictional bearing.

2. Using the term "Seventeen" or the term "Twenty-One" as a designation for a watch which contains less than seventeen or twenty-one frictional bearing jewels, respectively; or otherwise representing that a watch contains a greater number of jewels than is the fact.

3. Representing, directly or by implication, that watches are guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

4. Offering for sale or selling watches, the cases of which are composed in whole or in part of base metal which has been treated to simulate precious metal, without clearly disclosing on such cases the true metal composition of such treated cases or parts.

Provided, however, that nothing contained herein shall be deemed to require the respondents to comply with the requirements of paragraph 4 of this order to cease and desist until December 31, 1958.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the initial decision filed by the hearing examiner and having noted that the last sentence thereof provides that paragraph 4 of the order to cease and desist shall not become effective until December 31, 1958; and

It appearing that such sentence may be incompatible with certain provisions of Section 5 of the Federal Trade Commission Act and should be rewritten:

It is ordered, That this case be, and it hereby is, placed on the Commission's own docket for review.

It is further ordered, That the last sentence of the initial decision be, and it hereby is, modified to read as follows:

"*Provided, however,* that nothing contained herein shall be deemed to require the respondents to comply with the requirements of paragraph 4 of this order to cease and desist until December 31, 1958."

It is further ordered, That the initial decision, as so modified,

shall, on the 13th day of August 1958, become the decision of the Commission.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with paragraphs 1, 2 and 3 of the order to cease and desist.

It is further ordered, That the respondents shall, on or before December 31, 1958, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with paragraph 4 of the order to cease and desist.

IN THE MATTER OF

LANOLE PRODUCTS, INC., ET AL.

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

Docket 7085. Complaint, Mar. 12, 1958—Decision, Aug. 13, 1958

Consent order requiring a seller in Detroit, Mich., of its "Lanole Scalp Treatment Kit" to cease advertising falsely that its products would prevent excessive hair fall and baldness in the majority of cases and that the principal cause of such conditions was bad scalp hygiene and scalp infection, that the business designated "Patten Research Institute" had engaged in research in connection with the hair and scalp or its preparations, and that it was an institute.

Mr. Morton Nesmith for the Commission.
Mr. Peter T. Jameson, of Detroit, Mich., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The Commission's complaint in this matter charges the respondents with misrepresenting certain cosmetic preparations sold by them, the preparations being intended primarily for use in the treatment of the hair and scalp. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Lanole Products, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 9611 E. Forest Avenue, Detroit, Mich. Respondent A. P. Abbey is the president of said corporation, having the same address as the corporate respondent.

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

ORDER

It is ordered, That the respondents, Lanole Products, Inc., a corporation, and its officers, and A. P. Abbey, individually and as an officer of said corporation, and their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of their various cosmetic preparations known as Lanole Anhydrous or Prophylactic Shampoo, Lanole Scalp Lotion, Lanole Lasco Ointment and Professional Shampoo, or any preparations of substantially similar composition or possessing substantially similar properties, whether sold under said names or any other names, or any other preparations, do forthwith cease and desist from:

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

(a) That bad scalp hygiene or scalp infections, are the principal or major causes of excessive falling hair or baldness.

(b) That the use of respondents' preparations alone, or in any combination, or in conjunction with any method of application will prevent excessive hair fall or baldness unless such representations be expressly limited to cases other than male pattern baldness and unless it is clearly and conspicuously revealed that the great majority of cases of excessive hair fall and baldness are the male pattern type and that in such cases respondents' preparations will be of no value.

(c) That the business known as Patten Research Institute has

engaged in research in connection with hair or scalp conditions or in connection with respondents' preparations, or that such business is an institute.

2. Disseminating, or causing to be disseminated, by any means, any advertisement for the purpose of inducing, or which is likely to induce, directly of indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 above, or which fails to comply with the affirmative requirements of subparagraph (b) of paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 13th day of August 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.

IN THE MATTER OF

WAREHOUSE DISTRIBUTORS, INC., ET AL.

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

Docket 6837. Complaint, July 10, 1957—Decision, Aug. 14, 1958

Consent order requiring a group of 28 southeastern jobbers of automotive parts and supplies, acting through the medium of their corporate buying organization, to cease violating Section 2(f) of the Clayton Act by inducing and accepting illegal price discriminations from their suppliers through such practices as (1) requiring suppliers who sold on a quantity discount schedule to base their discounts on the combined purchases of all group members; (2) requiring suppliers who did not give trade discounts to competing customers to give them to members; and (3) replacing suppliers who did not grant discriminatory terms to the group with others who did.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondents named in the caption hereof, and hereinafter more particularly designated and described, have violated and are now violating the provisions of Subsection (f) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, approved June 19, 1936, (U.S.C. Title 15, Sec. 13) hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Warehouse Distributors, Inc., hereinafter sometimes referred to as respondent WDI, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 138 Seaboard Boulevard, NW., Atlanta, Ga.

Respondent WDI, although utilizing corporate form, is a membership organization maintained, managed, controlled, and operated by and for its members. The membership of respondent WDI is composed of corporations and individuals whose business consists of the jobbing of automotive parts and supplies.

Respondent WDI, as constituted and operated, is known and referred to in the trade as a buying group.

Respondent Charles A. Cole, is now and has been since 1948, manager of respondent WDI. His office and principal place of business, as manager of respondent WDI, is located at 138 Seaboard Boulevard, NW., Atlanta, Ga.

PAR. 2. The following respondent corporations and individuals, sometimes hereinafter referred to as respondent jobbers, constitute respondent WDI:

Respondent, Alexander-Seewald Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia with its principal office and place of business located at 410 West Peachtree Street, NW., Atlanta, Ga.

The following respondent individual is a principal officer of said respondent corporation:

R. Jackson Alexander, president and treasurer.

Respondent Automotive Supply Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of West Virginia, with its principal office and place of business located at 255 Bluefield Avenue, Bluefield, W. Va.

The following respondent individual is a principal officer of said respondent corporation:

Frank McKenzie, president and treasurer.

Respondent Auto Specialty Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia with its principal office and place of business located at 525 Loyal Street, Danville, Va.

The following respondent individual is a principal officer of said respondent corporation:

H. Edgar Allen, Jr., president and treasurer.

Respondent Auto Spring & Bearing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia with its principal office and place of business located at 118 West Luck Street, Roanoke, Va.

The following respondent individual is a principal officer of said respondent corporation:

Gordon E. Johnson, president.

Respondent Black & Company, Inc., is a corporation organized existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 417 Henley Street, Knoxville, Tenn.

The following respondent individual is a principal officer of said respondent corporation:

Jack F. Black, president.

Respondent A. C. Broyles, Jr., is a sole proprietor doing business under the firm name and style, Broyles Rubber Oil Company, with his principal office and place of business located at 110 South Irish Street, Greeneville, Tenn.

Respondent Butler Supply Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia with its principal office and place of business located at 738 Third Street, Macon, Ga.

The following respondent individual is a principal officer of said respondent corporation:

Milton E. Butler, president.

Respondent C & B Parts Service, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 1315 First Avenue, Columbus, Ga.

The following respondent individual is a principal officer of said respondent corporation:

Benjamin T. Brooks, Sr., president and treasurer.

Respondent Consolidated Automotive Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal place of business located at 1075 West Forsyth Street, Jacksonville, Fla.

The following respondent individual is a principal officer of said respondent corporation:

Edgar H. Rogers, Jr., president.

Respondent Craig Motor Service Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of West Virginia, with its principal office and place of business located at 116 Jackson Street, Fairmont, W. Va.

The following respondent individual is a principal officer of said respondent corporation:

Wallace D. Craig, vice president, treasurer and general manager.

Respondent General Automotive Supply Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia with its principal office and place of business located at 1916 Granby Street, Norfolk, Va.

The following respondent individual is a principal officer of said respondent corporation:

William P. Butt, president.

Respondent Hart's Automotive Parts Co. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Tennessee, with its principal office and place of business located at 1230 Market Street, Chattanooga, Tenn.

The following respondent individuals are principal officers of said respondent corporation:

R. Henry Hart, Jr., president.

W. Russell Johnson, vice president and general manager.

Respondent Billie Bruce Jones is a sole proprietor doing business under the firm name and style of Bruce Jones Company, with his office and principal place of business located at 127 Flint Avenue, Albany, Ga.

Respondent Motor Bearings & Parts Co. of Raleigh, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its principal office and place of business located at 415 South Salisbury Street, Raleigh, N.C.

The following respondent individuals are principal officers of said respondent corporation:

Lorentz T. White, chairman of the board.

Lorentz T. White, Jr., president.

Sydnor M. White, secretary and treasurer.

Respondent Motor Car Supply Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of West Virginia, with its principal office and place of business located at 1203 Virginia Street, Charleston, W. Va.

The following respondent individuals are principal officers of said respondent corporation:

Emory R. Young, president and manager.

Hoke J. Monroe, vice president.

Respondent Motor & Electric Supply Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its principal office and place of business located at 337½ East Main Street, Bowling Green, Ky.

The following respondent individual is a principal officer of said respondent corporation:

J. A. Bryant, president and general manager.

Respondent The Parts Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of South Carolina, with its principal office and place of business located at 1819 Taylor Street Columbia, S.C.

The following respondent individual is a principal officer of said respondent corporation:

Walton H. Rockafellow, president and treasurer.

Respondent Parts Service Company, Inc., is a corporation or-

ganized, existing and doing business under and by virtue of the laws of the State of Alabama, with its principal office and place of business located at 408 Bibb Street, Montgomery, Ala.

The following respondent individuals are principal officers of said respondent corporation:

Claude R. Kirk, president.

Samuel R. Meadows, general manager.

Respondent Phelps-Roberts Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1825-31 14th Street, NW., Washington, D.C.

The following respondent individual is a principal officer of said respondent corporation:

Robert E. Phelps, president and treasurer.

Respondent Richmond Auto Parts Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 1207 North Boulevard, Richmond, Va.

The following respondent individual is a principal officer of said respondent corporation:

Hansford B. Truslow, president.

Respondent Scurry & Nixon, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of South Carolina, with its principal office and place of business located at 422 South Main Street, Greenville, S.C.

The following respondent individual is a principal officer of said respondent corporation:

James A. Brown, president.

Respondent Southern Bearings & Parts Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its principal office and place of business located at 500 North College Street, Charlotte, N.C.

The following respondent individuals are principal officers of said respondent corporation:

Clarence E. Beeson, president.

O. Harold Hamby, vice president.

Respondent Southern Parts & Bearing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 910-916 Commerce Street, Lynchburg, Va.

The following respondent individuals are principal officers of said respondent corporation:

Randolph M. Myers, president.

H. Ival Slaydon, vice president.

Respondent Spartan Automotive Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of South Carolina, with its principal office and place of business located at 300 West Main Street, Spartanburg, S.C.

The following respondent individual is a principal officer of said respondent corporation:

Theodore R. Garrison, president and treasurer.

Respondent H. Steenken & Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of South Carolina, with its principal office and place of business located at 450-452 Meeting Street, Charleston, S.C.

The following respondent individuals are principal officers of said respondent corporation:

Frank E. Condon, president.

F. Raymond O'Keefe, treasurer and general manager.

Respondent United Service Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its principal office and place of business located at East High Street and Viaduct, Lexington, Ky.

The following respondent individuals are principal officers of said respondent corporation:

John H. Yellman, president.

Oliver A. Bakhaus, vice president.

Respondent Valley Distributors, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its principal office and place of business located at 22 Amherst Street, Winchester, Va.

The following respondent individuals are principal officers of said respondent corporation:

Dudley C. Lichliter, president.

C. F. Staples, vice president.

Respondent Womwell Automotive Parts Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its principal office and place of business located at 240 Clark Street, Lexington, Ky.

The following respondent individual is a principal officer of said respondent corporation:

Barclay A. Storey, president.

PAR. 3. The respondent jobbers set forth in Paragraph 2 have purchased and now purchase in commerce from suppliers engaged in commerce numerous automotive products and supplies for use, consumption, or resale within the United States and in the District of Columbia. Respondent jobbers and said suppliers cause the products and supplies so purchased to be shipped and transported among and between the several States of the United States from the respective state or states of location of said suppliers to the respective different state or states of location of the said respondent jobbers.

PAR. 4. In the purchase and resale of said automotive products and supplies, respondent jobbers are in active competition with independent jobbers not affiliated with respondent WDI; and the suppliers selling to respondent jobbers and to their independent jobber competitors are in active competition with other suppliers of similar automotive products and supplies.

PAR. 5. Respondent WDI, since its formation in 1948, has been and is now maintained, managed, controlled, and operated by and for the respondent jobbers set forth in Paragraph 2 and each said respondent has participated in approved, furthered, and cooperated with the other respondents in the carrying out of the procedures and activities hereinafter described.

In practice and effect, respondent WDI has been and is now serving as the medium or instrumentality by, through, or in conjunction with, which said respondent jobbers exert the influence of their combined bargaining power on the competitive suppliers hereinbefore described. As a part of their operating procedure, said respondent jobbers direct the attention of said suppliers to their aggregate purchasing power as a buying group and, by reason of such, have knowingly demanded and received, upon their individual purchases discriminatory prices, discounts, allowances, rebates, and terms and conditions of sale. Suppliers not acceding to such demands are usually replaced as sources of supply for the commodities concerned and such market is closed to them in favor of such suppliers as can be and are induced to afford the discriminatory prices, discounts, allowances, rebates, and terms and conditions of sale so demanded.

Respondent jobbers demand that those suppliers who sell their products pursuant to a quantity discount schedule shall consider their several purchases in the aggregate as if made by one purchaser and grant quantity discounts, allowances, or rebates on

the resultant combined purchase volume in accordance with said suppliers' schedule. This procedure effects a discrimination in price on goods of like grade and quality between respondent jobbers and competing independent jobbers whose quantity discounts, allowances, or rebates from such suppliers are based upon only their individual purchase volumes. From other suppliers the respondent jobbers demand the payment or allowance of trade discounts, allowances, or rebates which such suppliers do not ordinarily pay or allow to jobber customers. This procedure effects a discrimination in price on goods of like grade and quality between respondent jobbers, and competing independent jobbers who are not afforded such trade discounts, allowances, or rebates.

When and if a demand is acceded to by a particular supplier, the subsequent purchase transactions between said supplier and the individual jobber respondents have been and are billed to, and paid for through, the aforesaid organizational device of respondent WDI. Said corporate organization thus purports to be the purchaser when in truth and in fact it has been and is now serving only as agent for the several respondent jobbers and as a mere bookkeeping device for facilitating the inducement and receipt by the above-described respondent jobbers of the price discriminations concerned.

PAR. 6. Respondents have induced or received from their suppliers, in the manner afore-described, favorable prices, discounts, allowances, rebates, terms and conditions of sale which they knew or should have known constituted discriminations in price prohibited by subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

PAR. 7. The effect of the knowing inducement or receipt by respondents of the discriminations in price as above alleged has been and may be substantially to lessen, injure, destroy, or prevent competition between suppliers of automotive products and supplies and between respondent jobbers and independent jobbers.

PAR. 8. The foregoing alleged acts and practices of respondents, in knowingly inducing or receiving discriminations in price prohibited by subsection (a) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act, are in violation of subsection (f) of Section 2 of said Act.

Mr. Francis C. Mayer and *Mr. William W. Rogal* for the Commission.

Howrey & Simon, of Washington, D.C., by *Mr. David C. Murchison,* for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued July 10, 1957, charges the respondents Warehouse Distributors, Inc., a corporation, and Charles A. Cole, individually and as manager; Alexander-Seewald Co., Inc., a corporation, and R. Jackson Alexander, individually and as an officer; Automotive Supply Co., a corporation, and Frank McKenzie, individually and as an officer; Auto Specialty Co., Inc., a corporation, and H. Edgar Allen, Jr., individually and as an officer; Auto Spring & Bearing Co., Inc., a corporation, and Gordon E. Johnson, individually and as an officer; Black & Company, Inc., a corporation, and Jack F. Black, individually and as an officer; A. C. Broyles, Jr., doing business under the firm name and style of Broyles Rubber Oil Company, a sole proprietorship; Butler Supply Company, Inc., a corporation, and Milton E. Butler, individually and as an officer; C & B Parts Service, Inc., a corporation, and Benjamin T. Brooks, Sr., individually and as an officer; Consolidated Automotive Company, a corporation, and Edgar H. Rogers, Jr., individually and as an officer; Craig Motor Service Co., Inc., a corporation and Wallace D. Craig, individually and as an officer; General Automotive Supply Co., Inc., a corporation, and William P. Butt, individually and as an officer; Hart's Automotive Parts Co., a corporation, and R. Henry Hart, Jr., and W. Russell Johnson, individually and as officers; Billie Bruce Jones, doing business under the firm name and style of Bruce Jones Company, a sole proprietorship; Motor Bearings & Parts Co. of Raleigh, Inc., a corporation, and Lorentz T. White, Lorentz T. White, Jr., and Sydnor M. White, individually and as officers; Motor Car Supply Company, a corporation, and Emory R. Young and Hoke J. Monroe, individually and as officers; Motor & Electric Supply Co., Inc., a corporation, and J. A. Bryant, individually and as an officer; The Parts Company, a corporation, and Walton H. Rockafellow, individually and as an officer; Parts Service Company, Inc., a corporation, and Claude R. Kirk and Samuel R. Meadows, individually and as officers; Phelps-Roberts Corporation, a corporation, and Robert E. Phelps, individually and as an officer; Richmond Auto Parts Company, Inc., a corporation, and Hansford B. Truslow, individually and as an officer; Scurry & Nixon, Inc., a corporation, and James A. Brown, individually and as an officer; Southern Bearings & Parts

Co., Inc., a corporation, and Clarence E. Beeson and O. Harold Hamby, individually and as officers; Southern Parts & Bearing Co., Inc., a corporation, and Randolph M. Myers and H. Ival Slaydon, individually and as officers; Spartan Automotive, Inc., a corporation, and Theodore R. Garrison, individually and as an officer; H. Steenken & Co., a corporation, and Frank E. Condon and F. Raymond O'Keefe, individually and as officers; United Service Co., a corporation, and John H. Yellman and Oliver A. Bakhaus, individually and as officers; Valley Distributors, Inc., a corporation, and Dudley C. Lichliter and C. F. Staples, individually and as officers; Womwell Automotive Parts Co., Inc., a corporation, and Barclay A. Storey, individually and as an officer, with violation of the provisions of subsection (f) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

After the issuance of the complaint, said respondents entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the director and assistant director of the Bureau of Litigation.

Subsequent to the submission of said agreement containing a consent order, counsel for the respondents and counsel in support of the complaint on June 16, 1958, filed a joint motion to amend said agreement by substituting a revised page 10. In said motion, counsel for the respondents represented that all signatories to the consent agreement are represented by him and that he has consulted with them and is specifically authorized to join with counsel in support of the complaint, in said motion. On June 19, 1958, the hearing examiner after consideration of said motion issued an order amending said agreement containing a consent order to cease and desist by substituting a revised page 10 as requested in said motion.

It was expressly provided in said amended agreement that the signing thereof is for settlement purposes only and does not constitute an admission by said respondents that they have violated the law as alleged in the complaint.

By the terms of said amended agreement, the said respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations, and that this amended agreement disposes of all of this proceeding as to all parties.

By said amended agreement, the parties expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the amended agreement.

Respondents further agreed that the order to cease and desist, issued in accordance with said amended agreement shall have the same force and effect as if made after a full hearing.

It was further provided that said amended agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said amended agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered the amended agreement and the order therein contained, and, it appearing that said amended agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said amended agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and issues the following order:

ORDER

It is ordered, That respondents Warehouse Distributors, Inc., a corporation, and Charles A. Cole, individually and as manager; Alexander-Seewald Co., Inc., a corporation, and R. Jackson Alexander, individually and as an officer; Automotive Supply Co., a corporation, and Frank McKenzie, individually and as an officer; Auto Specialty Co., Inc., a corporation, and H. Edgar Allen, Jr., individually and as an officer; Auto Spring & Bearing Co., Inc., a corporation, and Gordon E. Johnson, individually and as an officer; Black & Company, Inc., a corporation, and Jack F. Black, individually and as an officer; A. C. Broyles, Jr., doing business under the firm name and style of Broyles Rubber Oil Company, a sole proprietorship; Butler Supply Company, Inc., a corporation, and Milton E. Butler, individually and as an officer; C & B Parts Service, Inc., a corporation, and Benjamin T. Brooks, Sr., individ-

ually and as an officer; Consolidated Automotive Company, a corporation, and Edgar H. Rogers, Jr., individually and as an officer; Craig Motor Service Co., Inc., a corporation, and Wallace D. Craig, individually and as an officer; General Automotive Supply Co., Inc., a corporation, and William P. Butt, individually and as an officer; Hart's Automotive Parts Co., a corporation, and R. Henry Hart, Jr., and W. Russell Johnson, individually and as officers; Billie Bruce Jones, doing business under the firm name and style of Bruce Jones Company, a sole proprietorship; Motor Bearings & Parts Co. of Raleigh, Inc., a corporation, and Lorentz T. White, Lorentz T. White, Jr., and Sydnor M. White, individually and as officers; Motor Car Supply Company, a corporation, and Emory R. Young and Hoke J. Monroe, individually and as officers; Motor & Electric Supply Co., Inc., a corporation, and J. A. Bryant, individually and as an officer; The Parts Company, a corporation, and Walton H. Rockafellow, individually and as an officer; Parts Service Company, Inc., a corporation, and Claude R. Kirk and Samuel R. Meadows, individually and as officers; Phelps-Roberts Corporation, a corporation, and Robert E. Phelps, individually and as an officer; Richmond Auto Parts Company, Inc., a corporation, and Hansford B. Truslow, individually and as an officer; Scurry & Nixon, Inc., a corporation, and James A. Brown, individually and as an officer; Southern Bearings & Parts Co., Inc., a corporation, and Clarence E. Beeson and O. Harold Hamby, individually and as officers; Southern Parts & Bearing Co., Inc., a corporation, and Randolph M. Myers and H. Ival Slaydon, individually and as officers; Spartan Automotive, Inc., a corporation, and Theodore R. Garrison, individually and as an officer; H. Steenken & Co., a corporation, and Frank E. Condon and F. Raymond O'Keefe, individually and as officers; United Service Co., a corporation, and John H. Yellman and Oliver A. Bakhaus, individually and as officers; Valley Distributors, Inc., a corporation, and Dudley C. Lichliter and C. F. Staples, individually and as officers; Womwell Automotive Parts Co., Inc., a corporation, and Barclay A. Storey, individually and as an officer, their officers, agents, representatives and employees in connection with the offering to purchase or purchase of any automotive products or supplies in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

Knowingly inducing or knowingly receiving or accepting any discrimination in the price of such products and supplies, by directly or indirectly inducing, receiving, or accepting from any

seller a net price known by respondents to be below the net price at which said products and supplies of like grade and quality are being sold by such seller to other customers, where the seller is competing with any other seller for respondents' business, or where respondents are competing with other customers of the seller.

For the purpose of determining "net price" under the terms of this order, there shall be taken into account discounts, rebates, allowances, deductions or other terms and conditions of sale by which net prices are effected.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 14th day of August 1958, become the decision of the Commission; and, accordingly:

It is 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 the order to cease and desist.