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

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

IN THE MATTER OF

IRVING C. KATZ CO., INC., ET AL.

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

Docket 7190. Complaint, July 17, 1958—Decision, July 31, 1959

Order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by failing to comply with invoicing requirements, by setting out on invoices fictitious prices, by failing to maintain adequate records as a basis for such pricing claims, and by furnishing a false guaranty that their fur products were not misbranded, falsely invoiced, and falsely advertised.

Mr. Charles W. O'Connell for the Commission.
Mr. Manfred H. Benedek, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have engaged in practices which are in violation of the Fur Products Labeling Act (hereinafter referred to as the Fur Act) and the Rules and Regulations promulgated thereunder (hereinafter referred to as the Rules), which practices constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Respondents, by answer, deny that they have violated either Act. Hearings have been held, at which evidence was presented in support of and in opposition to the allegations of the complaint, and counsel have filed proposed findings of fact and proposed conclusions. Upon the basis of the entire record, the following findings of fact are made, conclusions drawn and order issued.

1. Respondent Irving C. Katz Co., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of

the State of New York, with its office and place of business located at 150 West 30th Street, New York, New York. Respondents Irving C. Katz and Morris Katz are president-treasurer and vice president, respectively, of said corporation. They formulate, direct and control the acts, policies and practices of said corporate respondent. Their address is the same as that of the corporate respondent.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

3. There are fiive charges in the complaint, which will be discussed under separate headings—Mislabeling, False Invoicing, False Advertising, Inadequate Records, and False Guaranty.

Mislabeling:

4. The first charge is that certain fur products were mislabeled contrary to the provisions of §4(2) of the Fur Act. To substantiate this charge, three handwritten "copies" of labels were presented, which contained information taken from labels which were found by a member of the Commission's staff on fur garments manufactured by respondents, when he saw those garments in the retail establishment of Arnold Constable, one of respondents' customers. These "copies" of labels do not disclose the name and address of the respondents or their registered number, as required by the Fur Act, they being the manufacturers. The "copies" do not show the size of the actual labels found on the fur garments nor reproduce their physical format, nor is it definitely established that they contain all the information that appeared on the labels. As to each "copy," the investigator-witness was asked whether or not there was a strip or stub attached to the lower end of the label on which a manufacturer's registered number appeared or which afforded space for such a number. The witness said he saw no such strip or stub, and did not see anything that led him to believe that any part of the original label had been removed.

5. The fur garments upon which the "copied" labels were found had been delivered to the retail establishment where they were seen by the Commission's investigator some time prior to his seeing them there. No showing was made that the labels he saw were the same

labels that were on the garments when they left respondents' manufacturing plant. Respondents testified that the label on every garment, when it left their shop, showed the manufacturer's registered number. At the time of the transactions involved in this proceeding, the respondents were using a standard printed-form tag-label with lines for use in filling in the fur name and origin. Below this were four other lines, at the left ends of which, in sequence, were the printed words: "Style," "Size," "Item No." and "R.N.". The latter designation was opposite the last line and at the lower part of the label on what appears to be a stub which, without too much effort, might be removed or cut off. The designation on the next-to-the-last line and immediately above the stub section of the label is "Item No.," and this is the last notation on all of the "copies" submitted in support of the allegations of the complaint.

6. It is obvious that the labels which the Commission's investigator saw and copied were not the full labels used by respondents. The stub portion on which the "R.N." identification would regularly be placed is missing. It is impossible to determine when or by whom that part of the label had been removed. The fur garments had been out of respondents' possession and control for some time. It was to their advantage to have all their garments carry their identification number, but while the garments were in transit or in the custody of the retailing establishment where they were found, there was ample opportunity for removal of the stub by others, either accidentally or intentionally. Under these circumstances it cannot be found that these garments had not been properly labeled by respondents. There is not sufficient substantial, reliable, probative evidence in this record to warrant a finding that the respondents have violated the Fur Act in respect to labeling, and the proceeding should be dismissed as to this charge for failure of proof.

False Invoicing:

7. The second charge is that certain of respondents' products were falsely invoiced in that respondents set out on invoices certain prices which were in fact fictitious, in violation of §5(b)(2) of the Fur Act. The Act defines "invoice" as follows:

SEC. 2. As used in this Act—

* * * * * * *

(f) The term "invoice" means a written account, memorandum, list, or catalog, which is issued in connection with any commercial dealing in fur products or furs, and describes the particulars of any fur products or furs, transported or delivered to a purchaser, consignee, factor, bailee, correspondent, or agent, or any other person who is engaged in dealing commercially in fur products or furs.

Fur products are frequently sent by manufacturers to retail establishments on consignment, in which cases memorandums of consignment are issued. Respondents use printed consignment-memorandum forms upon each of which, in large, conspicuous letters, is the statement "THIS IS NOT AN INVOICE." However, this does not change the character of the document, which clearly, under the Act, is an invoice.

8. Respondents' consignment memorandums to Arnold Constable Company listed two sets of prices, one representing the price at which each garment could be purchased by Constable, the other a higher price, which was a comparative price arrived at, according to the statement of Respondent Irving Katz, on the basis of the "price that it (the garment) was made to have been sold for originally." This determination, he said, was based on cost of material, cost of processing and manufacturing, plus a reasonable profit. The record shows that in a few instances some of the garments may have been offered at some time at this higher price-level, but the conclusion is inescapable that such instances are very few. The two prices were put on the consignment memorandums at the instance of the consignee, Arnold Constable.

9. Typically the lower price is shown in a column headed "Now," preceding the higher price in a column headed "Was." Sometimes the headings do not appear, but the significance of the figures is the same. The following are typical examples of these pricing practices, garment descriptions being omitted:

Now	*Was*
$1,550	$1,995
1,595	2,295
1,795	2,395
995	1,495

and without headings:

415	650
1,495	2,100
2,295	2,950
1,050	1,350

10. Respondents maintained no records relative to prices of specific fur garments, except as shown on invoices, including consignment memorandums. As to many of the garments which carried the dual prices, there was no evidence of previous offering or actual selling prices. As to other garments, the record shows the following facts:

One garment identified as 148/2975 in a $320–$495 class mentioned in a Constable consignment of July 26, 1956, was, on December 4, 1956, consigned to L. Chester at $295.

A garment which respondents said was similar to another garment identified as 180/43, a $415–$650 item in a Constable consignment of January 19, 1957, had been on October 4, 1956, consigned to Handelman at $550.

Still another garment, 553/3469, a $1,495–$2,100 item in the Constable consignment of January 19, 1957, was consigned to K. Haas October 25, 1956, at $1550, and to Royal Furs November 1, 1956, at $1650.

One last garment, 538/2790, a $1,750–$2,750 item in the January 19, 1957, Constable consignment had been consigned to Samilson & Romer July 18, 1956, at $2,150; to M. J. Schwartz November 26, 1956, at $2150; to David Lienoff December 5, 1956, at $1,995; and to Cohen-Metzger December 10, 1956, at $1,995.

11. The pattern of pricing shows that respondents had no regular or usual price on their fur garments. The price listed under the heading "Was" does not, so far as the record shows, indicate an established former asking price. It is not based on any records which respondents kept as to cost of materials and manufacturing, nor are there any other records of respondents pertaining to price which show at what price any garment was originally offered or what or when changes in such prices were subsequently made. The conclusion is that such prices were fictitious, and that the respondents have violated the Fur Act by setting out fictitious prices on their invoices, as charged in the complaint.

False Advertising:

12. The third charge is that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts hereinabove set forth and discussed. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforementioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

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Inadequate Records:

13. The fourth charge is that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinabove found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

False Guaranty:

14. The last charge is that respondents have furnished a false guaranty that certain of their furs or fur products were not misbranded, falsely invoiced and falsely advertised, when the respondents, in furnishing such guaranty, had reason to believe the furs or fur products so falsely guaranteed might be introduced, sold, transported or distributed in commerce, in violation of §10(b) of the Fur Products Labeling Act.

15. It has hereinabove been found that respondents have falsely invoiced and falsely advertised certain of their fur products which were consigned to a retailer who respondents had reason to believe would sell and further introduce such fur products in commerce. It follows that the continuing guaranty filed by respondents with the Federal Trade Commission, a copy of which is in the record, was false in that it guaranteed that "no fur or fur product in any such shipment or delivery will be falsely or deceptively invoicd or advertised within the meaning of the Fur Products Labeling Act and the Rules and Regulations thereunder."

CONCLUSIONS

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

4. The charge of alleged violation of Section 4(2) of the Fur Act is not sustained on the record, and provision for its dismissal accordingly is included in the order appearing hereafter.

Upon the basis of the foregoing findings and conclusions, and all the facts of record,

It is ordered, That respondents, Irving C. Katz & Co., Inc., a corporation, and its officers, and Irving C. Katz and Morris Katz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

B. 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 represents, directly or by implication, that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. Making pricing claims or representations of the type referred to in Paragraph B above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

D. Furnishing a false guaranty that any fur or fur product is not misbranded, falsely invoiced, or falsely advertised, when the respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

It is further ordered, That the charge of the complaint relating to alleged violations of Section 4(2) of the Fur Products Labeling Act be, and the same hereby is, dismissed.

OPINION OF THE COMMISSION

By SECREST, *Commissioner*:

This matter is before the Commission on the appeal of counsel supporting the complaint from the hearing examiner's dismissal of the allegations of the complaint that respondents had falsely advertised fur products in violation of the Fur Products Labeling Act and that they had failed to maintain records required by Rule 44(e) of the Rules and Regulations promulgated under the Act.

The issues presented herein were also before us in *Leviant Brothers, Inc.*, Docket No. 7194, and were decided in that case. Since we find no significant difference between the facts of the two cases insofar as these issues are concerned, our opinion in Leviant on these issues is equally applicable here. For the reasons stated in that opinion, we agree with counsel supporting the complaint that the hearing examiner erred in dismissing the aforementioned charges.

The appeal of counsel supporting the complaint is granted and the initial decision will be modified to conform with this opinion.

FINAL ORDER

Counsel in support of the complaint having filed an appeal from the initial decision of the hearing examiner, and the matter having been heard on briefs, no oral argument having been requested; and the Commission having rendered its decision granting the appeal and directing modification of the initial decision:

It is ordered, That paragraph 12 of the initial decision be modified to read as follows:

12. The third charge is that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts hereinabove set forth and discussed. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended

for the same purpose. The fur products so described in the aforementioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

It is further ordered, That paragraph 13 of the initial decision be modified to read as follows:

13. The fourth charge is that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinabove found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

It is further ordered, That paragraph 15 of the initial decision be modified to read as follows:

15. It has hereinabove been found that respondents have falsely invoiced and falsely advertised certain of their fur products which were consigned to a retailer who respondents had reason to believe would sell and further introduce such fur products in commerce. It follows that the continuing guaranty filed by respondents with the Federal Trade Commission, a copy of which is in the record, was false in that it guaranteed that "no fur or fur product in any such shipment or delivery will be falsely or deceptively invoiced or advertised within the meaning of the Fur Products Labeling Act and the Rules and Regulations thereunder."

It is further ordered, That the conclusions of law contained in the initial decision be modified to read as follows:

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

4. The charge of alleged violation of Section 4(2) of the Fur Act is not sustained on the record, and provision for its dismissal accordingly is included in the order appearing hereafter.

It is further ordered, That the following order be, and it hereby is, substituted for the order contained in the initial decision:

It is ordered, That respondents, Irving C. Katz & Co., Inc., a corporation, and its officers, and Irving C. Katz and Morris Katz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

B. 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 represents, directly or by implication, that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. Making pricing claims or representations of the type referred to in Paragraph B above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

D. Furnishing a false guaranty that any fur or fur product is not misbranded, falsely invoiced, or falsely advertised, when the respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

It is further ordered, That the charge of the complaint relating to alleged violations of Section 4(2) of the Fur Products Labeling Act be, and the same hereby is, dismissed.

It is further ordered, That the hearing examiner's initial decision

as modified hereby be, and it hereby is, adopted as the decision of the Commission.

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

IN THE MATTER OF

KOLOMER BROS., INC., ET AL.

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

Docket 7191. Complaint, July 17, 1958—Decision, July 31, 1959

Order requiring a New York City furrier to cease violating the Fur Products Labeling Act by setting forth fictitious prices on invoices and by failing to maintain adequate records as a basis for such pricing claims.

Mr. Charles W. O'Connell for the Commission.
Mr. Manfred H. Benedek, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have engaged in practices which are in violation of the Fur Products Labeling Act (hereinafter referred to as the Fur Act) and the Rules and Regulations promulgated thereunder (hereinafter referred to as the Rules), which practices constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Respondents, by answer, deny that they have violated either Act. Hearings have been held, at which evidence was presented in support of and in opposition to the allegations of the complaint, and counsel have filed proposed findings of fact and proposed conclusions. Upon the basis of the entire record, the following findings of fact are made, conclusions drawn and order issued.

1. Respondent Kolomer Bros., Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and place of business located at 251 West 30th Street, New York, New York. Respondents William Kolomer and Jerome Kolomer (incorrectly referred to in the complaint as "*Jerone Kolomer*") are president and secretary-treasurer,

respectively, of said corporation. They formulate, direct and control the acts, policies and practices of said corporate respondent. Their address is the same as that of said corporate respondent.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

False Invoicing:

3. The first charge of the complaint is that respondents falsely and deceptively invoiced certain of their fur products by setting out on their invoices prices which were in fact fictitious, in violation of §5(b)(2) of the Fur Act. The Act defines "invoice" as follows:

SEC. 2. As used in this Act—

* * * * * * *

(f) The term "invoice" means a written account, memorandum, list, or catalog, which is issued in connection with any commercial dealing in fur products or furs, and describes the particulars of any fur products or furs, transported or delivered to a purchaser, consignee, factor, bailee, correspondent, or agent, or any other person who is engaged in dealing commercially in fur products or furs.

Fur products are frequently sent by manufacturers to retail establishments on consignment, in which cases memorandums of consignment are issued. Respondents use printed memorandum forms upon each of which, in large, conspicuous letters, is the statement "THIS IS NOT AN INVOICE." However, this does not change the character of the document, which clearly, under the Act, is an invoice.

4. Respondents' consignment memorandums to Arnold Constable, as a rule, showed two prices, an original and a present price, for each garment. The following are typical of the pricing practices followed by respondents on Constable consignment memorandums:

Garment	*Date on Invoice*	*Prices*	
		Original	*Present*
Mink Coat, Lot 551	1/10/56	$2,750	$1,995
Mink Coat, Lot 508	12/24/56	$2,600	$1,895
Mink Coat, Lot 508	4/13/57	$2,500	$1,550
Mink Coat, Lot 1200	1/24/57	$1,950	$1,650
Mink Coat, Lot 1217	4/13/57	$1,975	$1,550

The pricing history of these garments, other than as it relates to Constable, is shown in the following tabulation:

Garment	*Date*	*Consigned To*	*Price*
Mink Coat, Lot 551	5/10/56	Friedner Furs	$2,150
	6/ 2/56	Spencer Flournoy	$2,250
Mink Coat, Lot 508	1/ 8/57	Spencer Flournoy	$1,850
	1/23/57	Richter & Franklin, Inc.	$1,850
	3/18/57	J. H. Raphael	$1,800
	3/22/57	Harry Graff	$1,850
	3/28/57	Furs by Kent	$1,800
Mink Coat, Lot 1220	11/28/56	Mark Eckstein	$1,750
	12/31/56	Spencer Flournoy	$1,800
	12/31/56	William Rosenfeld	$1,875
	3/ 7/57	John Bevalock	$1,650
Mink Coat, Lot 1217	11/30/56	David Eisner	$1,750
	12/13/56	Chrystic Furs	$1,700

Dual prices were given by respondents to no customers other than Constable, so far as this record shows.

5. The pattern of pricing indicates that respondents had no regular price for their garments, and the evidence requires a finding that they had no established original price. There are no records of respondents pertaining to price which show at what price any garment was originally offered, or what or when changes in price were subsequently made. The conclusion is that the prices shown by respondents as "original" were fictitious, and that respondents have falsely and deceptively invoiced certain of their fur products by setting out on invoices prices which were in fact fictitious, in violation of §5(b)(2) of the Fur Act.

6. The second charge is that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts hereinabove set forth and discussed. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforemen-

tioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

Inadequate Records

7. The third charge is that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinabove found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

CONCLUSIONS

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

Upon the basis of the foregoing findings and conclusions, and all the facts of record,

It is ordered, That respondents, Kolomer Bros., Inc., a corporation, and its officers, and William Kolomer and Jerome Kolomer, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or

usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

B. 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 represents, directly or by implication, that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. Making pricing claims or representations of the type referred to in Paragraph B above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

OPINION OF THE COMMISSION

By SECREST, *Commissioner:*

This matter is before the Commission on the appeal of counsel supporting the complaint from the hearing examiner's dismissal of the allegations of the complaint that respondents had falsely advertised fur products in violation of the Fur Products Labeling Act and that they had failed to maintain records required by Rule 44(e) of the Rules and Regulations promulgated under the Act.

The issues presented herein were also before us in *Leviant Brothers, Inc.*, Docket No. 7194, and were decided in that case. Since we find no significant difference between the facts of the two cases insofar as these issues are concerned, our opinion in Leviant on these issues is equally applicable here. For the reasons stated in that opinion, we agree with counsel supporting the complaint that the hearing examiner erred in dismissing the aforementioned charges.

The appeal of counsel supporting the complaint is granted and the initial decision will be modified to conform with this opinion.

FINAL ORDER

Counsel in support of the complaint having filed an appeal from the initial decision of the hearing examiner, and the matter having been heard on briefs, no oral argument having been requested; and the Commission having rendered its decision granting the appeal and directing modification of the initial decision:

It is ordered, That paragraph 6 of the initial decision be modified to read as follows:

6. The second charge is that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts hereinabove set forth and discussed. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforementioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

It is further ordered, That paragraph 7 of the initial decision be modified to read as follows:

7. The third charge is that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinabove found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

It is further ordered, That the conclusions of law contained in the initial decision be modified to read as follows:

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeing Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

It is further ordered, That the following order be, and it hereby is, substituted for the order contained in the initial decision:

It is ordered, That respondents, Kolomer Bros., Inc., a corporation, and its officers, and William Kolomer and Jerome Kolomer, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

B. 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 represents, directly or by implication, that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. Making pricing claims or representations of the type referred to in Paragraph B above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

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

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

IN THE MATTER OF

LEVIANT BROTHERS, INC., ET AL.

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

Docket 7194. Complaint, July 17, 1958—Decision, July 31, 1959

Order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to comply with invoicing requirements, by setting forth fictitious prices on invoices, by failing to maintain adequate records on which such pricing representations were based, and by furnishing a false guaranty that fur products were not misbranded, falsely invoiced, and falsely advertised.

Mr. Charles W. O'Connell for the Commission.
Mr. Manfred H. Benedek, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges that respondents have engaged in practices which are in violation of the Fur Products Labeling Act (hereinafter referred to as the Fur Act) and the Rules and Regulations promulgated thereunder (hereinafter referred to as the Rules), which practices constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. Respondents, by answer, deny that they have violated either Act. Hearings have been held, at which evidence was presented in support of and in opposition to the allegations of the complaint, and counsel have filed proposed findings of fact and proposed conclusions. Upon the basis of the entire record, the following findings of fact are made, conclusions drawn and order issued.

1. Respondent Leviant Brothers, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and place of business located at 350 Seventh Avenue, New York, New York. Respondents Morris Leviant and Bernard Leviant are president and secretary-treasurer, respectively, of said corporation. They formulate, direct and control its acts, policies and practices. Their address is the same as that of the corporate respondent.

2. Subsequent to the effective date of the Fur Products Labeling Act, August 9, 1952, respondents have been, and are now, engaged in introduction into commerce and in the manufacture for introduction into commerce, and in the sale, advertising, and offering for sale in commerce, and in the transportation and distribution in commerce, of fur products; and have manufactured for sale, sold, advertised,

offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

3. There are four charges in the complaint which will be discussed under separate headings—False Invoicing, False Advertising, Inadequate Records, and False Guaranty.

False Invoicing:

(a) *Under §5(b)(1) of the Fur Act*

4. The complaint charges that respondents falsely and deceptively invoiced their fur products in two respects. There is a charge that they have violated §5(b)(1) of the Fur Act, without any specification as to which of its six subsections have not been complied with. The evidence related only to respondents' failure to disclose on the invoices covering certain garments the name of the country of origin of the furs of which they were made.

5. In March, 1956, respondents purchased one lot of 2,195 skins from Danish Fur Sales, Copenhagen, Denmark. As these skins were made into fur garments, the number 2195 was used as part of the identification. Two garments from the lot were identified as 2195/32 and 2195/54 on a consignment memorandum from respondents to Arnold Constable, dated March 1, 1957, but no country of origin is shown. Two other garments, 2195/59 and 2195/27, were sold to Constable and covered by an invoice dated January 7, 1957, which shows "Fur Origin—Denmark." Still another garment, 2195/38, was sold to Constable and invoiced January 15, 1957, also showing "Fur Origin—Denmark."

6. Since under §2(f) of the Fur Act a consignment memorandum is by definition an invoice, respondents violated §5(b)(1)(F) of the Act by their failure to show the country of fur origin on the consignment memorandum of March 1, 1957. The fact that on earlier invoices, respondents had properly shown country of origin, indicates that they had not carefully read the Fur Act and did not realize that consignment memorandums and invoices, looked upon by the trade as different types of documents, are, under the Act, both covered by the "invoice" definition. This circumstance may mitigate but not excuse the violation.

(b) *Under §5(b)(2) of the Fur Act*

7. The second false-invoicing charge is that §5(b)(2) of the Fur Act has been violated in that respondents set out on their invoices covering certain fur products prices which were in fact fictitious. On a consignment memorandum dated January 23, 1957, two fur

garments were listed as "Regular" $2,100 and $1,875, but were offered to Constable at $1,795 and $1,385, respectively. On a consignment memorandum dated March 1, 1957, garments were similarly listed as "Regular" $2,500, $425 and $650, but offered to Constable at $1,995, $365 and $495, respectively. A consignment memorandum dated February 19, 1957, showed a "Former Price" of $725 and an offering price to Constable of $525. Invoices dated December 31, 1956, January 7, 1957, and January 15, 1957, charged garments to Constable at $1,385, but showed also for each garment a "Regular" price of $1,895.

8. Two garments on which the "regular" price had been shown as $425, offering price $365 on the consignment memorandum of March 1, 1957, had previously, on March 7, 1956, been consigned to Constable at $495. A garment listed as "Regular" $2,100 and offered for $1,795 January 24, 1957, was sold to Constable April 3, 1957, for $1,472. Another garment on the January 24, 1957, consignment memorandum as "regular" $1,875, offered then for $1,385, was sold to Constable April 11, 1957, for $1,173. To show "regular" priecs, respondents presented evidence of offering garments similar to some of those referred to above at various times and prices, but there was no showing of price uniformity.

9. Respondents maintained no records relative to prices of specific fur garments except as shown on invoices, including consignment memorandums. The evidence is clear that respondents had no regular or usual price for their fur garments, and that the prices listed by them as "regular" or "former" were in fact fictitious. Section 5(b)(2) of the Fur Act has been violated by respondents.

False Advertising:

10. The complaint charges that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts as to pricing practices discussed above. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. These documents were received by Arnold Constable prior to the purchase by that firm of the fur products listed therein. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such fur products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed

therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforementioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

Inadequate Records:

11. The complaint charges that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinbefore found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

False Guaranty:

12. The last charge is that respondents have furnished a false guaranty that certain of their furs or fur products were not misbranded, falsely invoiced and falsely advertised, when the respondents, in furnishing such guaranty, had reason to believe the furs or fur products so falsely guaranteed might be introduced, sold, transported or distributed in commerce, in violation of §10(b) of the Fur Products Labeling Act.

13. It has hereinabove been found that respondents have falsely invoiced and falsely advertised certain of their fur products which were consigned to a retailer who respondents had reason to believe would sell and further introduce such fur products in commerce. It follows that the continuing guaranty filed by respondents with the Federal Trade Commission, a copy of which is in the record, was false in that it gauaranteed that "no fur or fur products in any such shipment or delivery will be falsely or deceptively invoiced or advertised within the meaning of the Fur Products Labeling Act and the Rules and Regulations thereunder."

CONCLUSIONS

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive

acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

Upon the basis of the foregoing findings and conclusions, and all the facts of record,

It is ordered, That respondents, Leviant Brothers, Inc., a corporation, and Morris Leviant and Bernard Leviant, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction on the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of four products invoices showing all of the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on invoices that the former or regular price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

B. 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 former or regular price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. Making pricing claims or representations of the type referred to in paragraph B.1. above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

D. Furnishing a false guaranty that any fur or fur product is not misbranded, falsely invoiced, or falsely advertised, when the

respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

OPINION OF THE COMMISSION

By SECREST, *Commissioner:*

The complaint in this matter charges respondents with false invoicing and false advertising of fur products, the failure to maintain records, and the furnishing of a false guaranty in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder. Counsel supporting the complaint has appealed from the hearing examiner's dismissal of two of the allegations of the complaint and from the limited scope of the order pertaining to false invoicing.

The principal question raised on appeal is whether respondents' use of fictitious comparative prices for certain fur products on consignment memorandums constitutes false advertising within the meaning of Section 5(a)(5) of the Act. The complaint charges that this practice constitutes both false invoicing under Section 5(b)(2) of the Act and false advertising under Section 5(a)(5). The hearing examiner found that certain of respondents' consignment memorandums contained fictitious prices and held that the fur products to which these prices applied were falsely invoiced. He ruled, however, with respect to the same documents that they "do not constitute representations to the public or to any other prospective purchaser as to quality, price, or any other characteristic of the fur products to which they relate, and do not constitute advertising as the term 'advertising' is generally understood and used in the Fur Act."

We are of the opinion that the hearing examiner erred in this ruling. Section 5(a) of the Fur Act states in pertinent part that:

> For the purposes of this Act, a fur product or fur shall be considered to be falsely or deceptively advertised if 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 such fur product or fur—
>
> * * * * * * *
>
> (5) * * * contains any form of misrepresentation or deception, directly or by implication, with respect to such fur product or fur.

It is clear from this language that a single representation to a prospective purchaser, as distinguished from a public announcement, may constitute advertising within the meaning of the section. Moreover, there is nothing in the wording of this section or in the legislative history of the Act to indicate that a consignment memorandum may not serve as a medium for conveying a representation or notice

"which is intended to aid, promote, or assist directly or indirectly in the sale or offering for sale" of a fur product or fur.

The record shows that respondents set forth fictitious comparative prices on consignment memorandums issued by them in connection with the consignment to Arnold Constable of certain fur products which were later purchased by that firm. These consignment memorandums were received by the consignee prior to the consummation of the sale to it of the products described therein. It is clear, therefore, that these documents were intended to aid or assist in the sale or offering for sale of the products to Arnold Constable. We think the conclusion is inescapable that the fictitious prices listed therein constituted false representations to the prospective purchaser which were intended for the same purpose. It should be pointed out, in this connection, that while there is no evidence that the consignee was deceived by these representations, the statute does not require any showing that a prospective purchaser was deceived or that the false representations were made under such circumstances that a prospective purchaser might be deceived. It is our opinion, therefore, that the fur products in question were falsely advertised within the meaning of Section 5(a)(5) of the Act.

In view of this holding, we also agree with counsel supporting the complaint that the hearing examiner erred in ruling that respondents are not required to maintain records as provided by Rule 44(e) of the Rules and Regulations promulgated under the Act. This ruling was based upon the conclusion that respondents had made no pricing representations in advertising. We are of the opinion, however, that respondents have made pricing representations of a type described in subsection (a) of Rule 44 and, consequently, should have maintained full and adequate records discosing the facts upon which such representations were based. Since the evidence shows that respondents have failed to keep such records, they have violated Rule 44(e) as charged in the complaint.

The final exception to the initial decision relates to the scope of the order pertaining to failse invoicing. The hearing examiner found that respondents had falsely invoiced certain fur products in violation of Section 5(b)(1) by failing to disclose on a consignment memorandum the name of the country of origin of the fur from which such products were made. His order, however, does not require respondents to disclose all of the information prescribed by Section 5(b)(1) but is limited to requiring cessation of the particular invoicing deficiency found. The order is, therefore, not in accord with the Commission's policy concerning the scope of cease and desist orders covering violations of Section 4(2) and Section

5(b)(1) of the Act as expressed in *Mandel Brothers, Inc.*, Docket No. 6434. The hearing examiner presumably relied upon the decision of the Court of Appeals for the Seventh Circuit reversing the Commission on this point (*Mandel Brothers, Inc.* v. *Federal Trade Commission*, 254 F. 2d 18) as authority for the form of the order which he employed. Subsequent to the filing of the initial decision herein, however, the Supreme Court overruled the decision of the Court of Appeals (*Federal Trade Commission* v. *Mandel Brothers, Inc.*, 39 U.S. 385) and, in view thereof, we believe that the order should be modified to require respondents to observe all of the requirements of Section 5(b)(1).

The appeal of counsel supporting the complaint is granted and the initial decision will be modified to conform with this opinion.

FINAL ORDER

Counsel in support of the complaint having filed an appeal from the initial decision of the hearing examiner, and the matter having been heard on briefs, no oral argument having been requested; and the Commission having rendered its decision granting the appeal and directing modification of the initial decision:

It is ordered, That paragraph 10 of the initial decision be modified to read as follows:

10. The complaint charges that respondents have falsely and deceptively advertised certain fur products by setting out on invoices prices which were in fact fictitious, in violation of Section 5(a)(5) of the Fur Act, and reliance to establish this charge is upon the facts as to pricing practices discussed above. That respondents used fictitious prices on their consignment memorandums issued in connection with their fur-products transactions with Arnold Constable is clearly established. These documents were received by Arnold Constable prior to the purchase by that firm of the fur products listed therein. The fictitious prices set forth in these documents were in excess of the offering prices of the fur products to which they related and constituted false representations that such fur products were being offered for sale at a reduction from such fictitious prices. The documents themselves were used by respondents to aid and assist in the sale or offering for sale of the fur products listed therein, and the false representations made therein with respect to the prices of such products were necessarily intended for the same purpose. The fur products so described in the aforementioned consignment memorandums were falsely advertised within the meaning of Section 5(a)(5) of the Fur Act.

It is further ordered, That paragraph 11 of the initial decision be modified to read as follows:

11. The complaint charges that respondents have violated Rule 44(e) by not maintaining full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based. As hereinbefore found, respondents have falsely advertised certain fur products by representing that the prices thereof were reduced from what were, in fact, fictitious prices. Respondents have failed to maintain records disclosing the facts upon which such representations were based as required by subsection (e) of Rule 44 and, consequently, have violated that subsection.

It is further ordered, That paragraph 13 of the initial decision be modified to read as follows:

13. It has hereinabove been found that respondents have falsely invoiced and falsely advertised certain of their fur products which were consigned to a retailer who respondents had reason to believe would sell and further introduce such fur products in commerce. It follows that the continuing guaranty filed by respondents with the Federal Trade Commission, a copy of which is in the record, was false in that it guaranteed that "no fur or fur product in any such shipment or delivery will be falsely or deceptively invoiced or advertised within the meaning of the Fur Products Labeling Act and the Rules and Regulations thereunder."

It is further ordered, That the conclusions of law contained in the initial decision be modified to read as follows:

1. Respondents are engaged in commerce and engaged in the above-found acts and practices in the course and conduct of their business in commerce, as "commerce" is defined in the Fur Products Labeling Act.

2. The acts and practices of respondents hereinabove found are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

3. This proceeding is in the public interest, and an order to cease and desist the above-found acts and practices should issue against respondents.

It is further ordered, That the following order be, and it hereby is, substituted for the order contained in the initial decision:

It is ordered, That respondents, Leviant Brothers, Inc., a corporation, and Morris Leviant and Bernard Leviant, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in

connection with the introduction or the manufacture for introduction into commerce, or the sale, advertising, or offering for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products invoices showing all of the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

2. Representing, directly or by implication, on invoices that the former or regular price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such products in the recent regular course of their business.

B. 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 former or regular price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of their business.

C. Making pricing claims or representations of the type referred to in paragraph B.1 above, unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims or representations are based.

D. Furnishing a false guaranty that any fur or fur product is not misbranded, falsely invoiced, or falsely advertised, when the respondents have reason to believe that such fur or fur product may be introduced, sold, transported or distributed in commerce.

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

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

IN THE MATTER OF

PRESSMAN TOY CORP.

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

Docket 7067. Complaint, Feb. 20, 1958—Decision, Aug. 1, 1959

Consent order requiring a toy manufacturer in New York City to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act by such practices as giving an organization of toy jobbers and wholesalers a special rebate of 2% which was not granted to its competitors.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent Pressman Toy Corp., 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 Pressman Toy Corp., 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 1107 Broadway, New York 10, New York.

PAR. 2. Respondent has been and is now engaged in the manufacture, sale and distribution of toys throughout the United States. It operates a factory in Brooklyn, New York, and employs its own sales force, selling to jobbers, combination jobbers and retailers, department stores and chain stores. Its annual volume of sales is approximately $3,000,000 to $4,000,000.

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 substan-

tially lessened by the pricing practices of respondent hereinafter alleged.

Some of respondent's purchasers are in competition with each other and with purchasers of competitors of respondent in the purchase and 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 a rebate in price of 2% off list price to some purchasers of its toys of like grade and quality but not to others, which results in higher prices being paid by those purchasers who do not receive the benefit of such rebate than are paid by those purchasers who do receive the benefit of such 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 rebate are members of a corporation known as March of Toys, Inc., whose membership is composed of a group 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 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. L. F. Depro and *Mr. J. Garfinkel* for the Commission.
Davis & Heffner, of New York, N.Y., and *Heffner, Block & Block*, by *Mr. Benjamin Heffner*, of New York, N.Y., for respondent.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated February 20, 1958, the respondent is charged with violating the provisions of subsection (a) of section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

On May 14, 1959, the respondent and his attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. Respondent Pressman Toy Corp. is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1107 Broadway, New York, New York.

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

ORDER

It is ordered, That respondent Pressman Toy Corp., 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

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner did, on the 1st day of August, 1959, 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

NICHIMEN CO., INC., ET AL.

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

Docket 7369. Complaint, Jan. 23, 1959—Decision, Aug. 1, 1959

Consent order requiring a New York City seller to cease violating the Wool Products Labeling Act by labeling as "camel 60%, wool 40%," woolen fabrics which contained substantially less camel's hair than so represented, by failing to set forth the correct percentage of camel's hair in other wool products, and by failing to tag certain wool products as required.

Mr. Thomas F. Howder for the Commission.
Tompkins, Boal & McQuade, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding certain of their wool products, and with the use of false, misleading and deceptive statements and representations on contracts, correspondence, and sales invoices and memoranda as to the character and amount of the constituent fibers contained in said products, in violation of §4(a)(1) and §4(a)(2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, 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 states that respondent Nichimen Co., Inc., is a corporation existing and doing business under and by virtue of the

laws of the State of New York, with its office and principal place of business located at 39 Broadway, New York, New York, and that individual respondents K. Fujiwara, S. Uyeda and N. Nara are president, secretary and treasurer, respectively, of the corporate respondent, and are located at the same address.

The agreement provides, among other things, that 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 Wool Products Labeling Act of 1939 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 Nichimen Co., Inc., a corporation, and its officers, and K. Fujiwara, S. Uyeda, and N. Nara, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the 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 woolen fabrics composed of camel's hair and wool, or other "wool products" as such products

are defined in said Wool Products Labeling Act, do forthwith cease and desist from:

A. Misbranding such products by:

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

2. Failing to securely affixed 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 or distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939;

3. Failing to disclose the true percentage of specialty fibers present in wool products when the name of the specialty fiber is used in lieu of the word "wool," as provided for in Rule 18 of the Rules and Regulations.

It is further ordered, That respondent Nichimen Co., Inc., a corporation, and its officers, and K. Fujiwara, S. Uyeda, and N. Nara, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of woolen fabrics or any other such products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting the character or amount of the constituent fibers contained in such products on contracts, correspondence sales invoices and memoranda applicable thereto, 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 did, on the 1st day of

August, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Nichimen Co., Inc., a corporation, and K. Fujiwara, S. Uyeda and N. Nara, 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

WELLS INTERNATIONAL CORPORATION ET AL.

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

Docket 7432. Complaint, Mar. 11, 1959—Decision, Aug. 1, 1959

Consent order requiring a New York City distributor to cease misrepresenting the price and composition of neckties it sold to retailers by labeling them falsely as "Pure Silk," "All Silk," etc., and by attaching labels bearing fictitious prices represented thereby as the regular retail prices.

Mr. S. F. House for the Commission.

Wasserman & Shagan, by *Mr. Barry Golomb*, of New York, N.Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated March 11, 1959, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On May 22, 1959, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. Respondent Wells International Corporation is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 302 Fifth Avenue, New York, New York.

The individual respondent Ned Goldsmith is an officer of the corporate respondent and formulates, directs, and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents Wells International Corporation, a corporation, and its officers, and Ned Goldsmith, individually and as an officer of said corporation, respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of neckties or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing by preticketing, or in any other manner, that certain amounts are the regular and usual retail prices of merchandise when such amounts are in excess of the prices at which such merchandise is usually and regularly sold at retail.

2. Putting into operation any plan whereby retailers or others may misrepresent the regular and usual retail prices of merchandise.

3. Misrepresenting, in any manner, and by any means the fibers or materials of which merchandise is composed.

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 1st day of

August, 1959, 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.

IN THE MATTER OF

RUSS TOGS, INC., ET AL.

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

Docket 7459. Complaint, Apr. 1, 1959—Decision, Aug. 1, 1959

Consent order requiring manufacturers in New York City to cease violating the Wool Products Labeling Act by tagging as 100% wool, ladies' skirts which contained a substantial quantity of non-woolen fibers, and by failing to label other wool products as required.

Mr. John T. Walker for the Commission.
Mr. Ruben Schwartz, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, and the Federal Trade Commission Act, in connection with the sale of ladies' skirts and other wool products. 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 Russ Togs, Inc., is a corporation organized, existing and doing business under the laws of the State of New York, with its principal place of business located at 1372 Broadway, New York, New York. The individual respondents, Louis Rousso, Eli Rousso and Irving L. Rousso (erroneously referred to in the complaint as Louis Russo, Eli Russo and Irving Russo) and Herman Saporta are president, vice president, secretary-treasurer, and manager, respectively, of the corporate respondent, and have the same address as the said 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, Russ Togs, Inc., a corporation, and its officers, and Louis Rousso, Eli Rousso and Irving L. Rousso (erroneously referred to in the complaint as Louis Russo, Eli Russo and Irving Russo), individually and as officers of said corporation, and Herman Saporta, individually and as manager of said corporation, and respondents' representatives, agents or employees, directly or through any corporate or other device; in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of ladies' skirts, or other wool products, 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 included therein.

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

(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 percentages by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

(b) The maximum percentages 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.

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 1st day of August, 1959, 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

SYMON GOULD ET AL. DOING BUSINESS AS THE HEALTH GUILD

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

Docket 6843. Complaint, July 15, 1957—Decision, Aug. 4, 1959

Order requiring a New York City seller of diet and health books and pamphlets to cease advertising falsely that the regimen set out in certain of such books would effectively treat, arrest, and cure cancer, heart disease, and arthritis.

Mr. Charles S. Cox supporting the complaint.
Respondents appearing without counsel.

Initial Decision by Joseph Callaway, Hearing Examiner

PRELIMINARY STATEMENT

Complaint issued July 15, 1957 charges respondents Symon Gould and Raphael Gould individually and as co-partners doing business as the Health Guild with violation of the Federal Trade Commission Act. Answer and amendment to answer were filed by respondent Symon Gould who appeared without counsel. The initial hearing was held in New York on September 30, 1957 at which time both respondents testified. The taking of additional evidence was postponed until June 13, 1958 upon the representation to the hearing examiner from time to time by the Bureau of Litigation that the matter could and would be settled by an agreement containing an order to cease and desist.

Hearings were held in Washington, D.C. on June 13, 16, 17 and 18, 1958 for taking evidence in support of the allegations of the complaint. Counsel supporting the complaint then rested his case. Respondents did not attend the hearings in Washington, D.C. either in person or by attorney, although duly served with order in which such hearings were set. Order was entered June 23, 1958 and duly served upon respondents which directed that they inform the hearing examiner and counsel supporting the complaint on or before July 15, 1958 as to where they desired hearings to be held for the purpose of offering evidence in opposition to the allegations of the complaint. Such information was also requested by the hearing examiner in letters to respondent Symon Gould dated August 4 and September 8, 1958.

On October 6, 1958 the requested information not having been furnished, an order was entered and duly served on respondents closing the case for the taking of evidence and fixing November 3, 1958 as the date within which proposed findings, conclusions and orders and the reasons therefor could be filed by both sides for the benefit of the hearing examiner.

Upon requests from respondent Symon Gould the time within which such proposed findings, conclusions and orders and the reasons therefor could be filed was extended first to December 15, 1958 and then to January 15, 1959. Request for another extension of time by telegram dated January 12, 1959 was denied by order dated January 12, 1959.

On January 15, 1959 counsel supporting the complaint filed his proposed findings and conclusions and the reasons therefor. Respondent Symon Gould filed a document entitled "Brief in Docket No. 6843 In the Matter of Health Guild Before the Federal Trade

Commission." By order dated January 16, 1958 said document was ordered received and accepted in lieu of proposed findings and the reasons therefor, for respondent Symon Gould.

This proceeding is now before the hearing examiner for an initial decision upon the entire record including the pleadings, evidence, proposed findings and conclusions and the reasons therefor filed by counsel supporting the complaint and upon the document accepted in lieu thereof from respondent Symon Gould. All proposed findings and conclusions not hereafter adopted are hereby specifically rejected.

Upon the entire record and from the observation of the witnesses while testifying the hearing examiner makes the following findings as to the facts, conclusions and order.

FINDINGS AS TO THE FACTS AND CONCLUSIONS

1. Respondent Symon Gould runs a small bookselling business in New York City under the title of The Health Guild. He has been engaged in the business of selling books since 1921. The present address of his place of business is 353 West 48th Street, New York 36, New York.

2. That respondent Raphael Gould is the son of the respondent Symon Gould. He is associated with his father in business and conducts for him what is called the American Library Service which specializes in locating out-of-print books for libraries and individuals. Respondent Raphael Gould has had no part in the running of the business known as The Health Guild, and this proceeding should be dismissed as to him.

3. As indicated by the title of the business, many of the books sold by The Health Guild are on the subject of health, diet, and disease. Respondent Symon Gould advertises such books in two magazines "Health Culture" and "Lets Live." He has been advertising such books in these two magazines since 1942. Prior to the time he testified on September 30, 1957 he had advertised the following books among others in these two magazines:

The Heart: Prevention and Cure of
Cardiac Conditions
By James C. Thomson

Cancer: Its Cause, Prevention and Cure
By Edward Henty Smalpage

How to Avoid Cancer
By Fraser MacKenzie

New Hope For Arthritis Sufferers
By Max Warmbrand

4. These two magazines, "Health Culture" and "Lets Live" are circulated in all the states of the United States. Respondent Symon Gould, as a result of such advertisements has, from his place of business in New York City, sold and shipped these four books to customers in every state in the Union.

5. The evidence shows the first mentioned book was advertised in 1957 and prior thereto; the second mentioned book advertised in 1955; the third mentioned book advertised in 1955 and the last mentioned book advertised in 1955 and prior thereto. The evidence is silent as to what other times these books have been advertised but does show that the book Cancer: "Its Cause, Prevention and Cure" was no longer in print when respondent testified on September 30, 1957.

6. The advertisements in evidence represent directly and by inference that the regimen set out in the book entitled "The Heart: Prevention and Cure of Cardiac Conditions" provides an adequate and reliable; (1) treatment for heart diseases of all kinds; (2) means of arresting the progress of, correcting the underlying causes of and curing all kinds of heart diseases; (3) method of preventing the contraction or development of all kinds of heart diseases.

7. The advertisements in evidence represent directly and by inference that the regimen set out in the book entitled: "Cancer: Its Cause, Prevention and Cure" provides an adequate, effective and reliable: (1) treatment for cancer of all kinds; (2) means of arresting the progress of, correcting the underlying causes of and curing all kinds of cancer; (3) method of preventing the contraction or development of cancer of all kinds.

8. The advertisements in evidence represent directly and by inference that the matters set forth in the book entitled: "How To Avoid Cancer" endows the reader with knowledge that will enable him to; (1) recognize and avoid the causes of all kinds of cancer; (2) successfully prevent his contracting or developing of any kind of cancer; (3) allay any fear of the contraction or development of any kind of cancer.

9. The advertisements in evidence represent directly and by inference that the regimen set out in the book entitled: "New Hope for Arthritis Sufferers" provides an adequate, effective and reliable; (1) means of arresting the progress of, correcting the underlying causes of and curing all kinds of arthritis, rheumatism, neuritis, lumbago, sciatica, bursitis and sacro-iliac pain; (2) treatment that will afford relief from the pains of said diseases and conditions.

10. From the undisputed expert medical testimony in the record, it is found that said representations in regard to the regimen set

out in the book entitled "The Heart: Prevention and Cure of Cardiac Conditions does not provide an adequate, effective or reliable; (1) treatment for any kind of heart disease; (2) means of arresting the progress of, correcting the underlying causes of, or curing, any kind of heart disease; (3) method of preventing the contraction or development of any kind of heart disease.

11. From the undisputed expert medical testimony in the record it is found that the regimen set out in the book entitled: "Cancer: Its Cause, Prevention and Cure" does not provide an adequate, effective or reliable: (1) treatment for cancer of any kind; (2) means of arresting the progress of, correcting the underlying causes of, or curing, cancer of any kind; (3) method of preventing the contraction or development of, cancer of any kind.

12. From the undisputed expert medical testimony in the record it is found that the matters set forth in the book entitled: "How to Avoid Cancer" do not endow the reader with knowledge that will enable him to; (1) recognize and avoid all kinds of cancer; (2) successfully prevent his contracting or developing of any kind of cancer; (3) allay any fear of the contraction or development of any kind of cancer.

13. From the undisputed expert medical testimony in the record, it is found that the recommendations for rest, fresh air, sunshine and freedom from worry found in the book entitled "New Hope For Arthritis Sufferers" are good for any one with any of the diseases enumerated in the advertisement in evidence for said book. However, it is further found that the regimen set out in said book taken as a whole, does not provide an adequate, effective or reliable (1) means of arresting the progress of, correcting the underlying causes of or curing any kind of arthritis, rheumatism, neuritis, lumbago, sciatica, bursitis or sacro-iliac pain, or; (2) treatment that will afford relief from the pains of any of said diseases or conditions.

14. Although the answer and amendment to the answer by respondent Symon Gould claims that he does only a small amount of business in these books, the evidence does not show anything about the volume of business. However, the expert medical testimony shows that following the various regimens set out in these books may, in the case of cancer or heart disease, cause or hasten death, and cause or hasten permanent crippling in some types of arthritis. The respondent has sold these books in every state of the United States as a result of the advertising attacked in this proceeding. The number of books sold as a result of the advertising is not a true measure of damage that may have resulted from it. Books

unlike some other articles of merchandise are not limited to use by the purchaser but may be and frequently are passed on to others for reading. The respondent Symon Gould claims to have a right to continue to advertise these or similar books as he has in the past. It is therefore found that this proceeding is in the public interest, although the volume of business in the past may have been small.

15. Respondent Symon Gould in his "Brief" previously mentioned contends that any order to cease and desist herein would be in contravention of the first amendment to the constitution of the United States.

16. The right of the public to be protected from evils of conduct, even though the first amendment rights of persons are thereby in some manner infringed, has received frequent and consistent recognition by the Supreme Court.[1] Respondent in this proceeding advertises and sells books which expound the theories of writers as to the cause, prevention, treatment and cure of certain human ills. To respondent these books are not ideas, they are merchandise, tangible articles, upon which respondent makes or hopes to make a profit when they are sold. Respondent has no more right to falsely advertise these books than he has to falsely advertise any other kind of merchandise. As was said by the Court in *E. F. Drew & Co., Inc.* v. *F.T.C.*, 235 F. 2d 735, "there is no constitutional right to disseminate false or misleading advertisements."

17. The use by the respondent Symon Gould of the foregoing false, misleading and deceptive representations has had and now has the capacity and tendency to mislead and deceive the purchasing public into the erroneous and mistaken belief that said representations are true and into the purchase of respondent's said books by reason thereof.

18. The aforesaid acts and practices of the respondent Symon Gould were and are all to the prejudice and injury of the public and constitute unfair and deceptive acts in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondent Symon Gould, individually and trading as The Health Guild, 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 the books "The Heart: Prevention and Cure of Cardiac Conditions," "Cancer: Its Cause, Prevention and Cure,"

[1] *American Communications Assn. C.I.O., et al.* v. *Douds*, 339 U.S. 382, 398 and cases therein cited.

"How to Avoid Cancer" and "New Hope for Arthritis Sufferers" and any other books or writings, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that the regimen set out in the respective books or other said books:

1. Provides an adequate, effective or reliable:

(a) treatment for any kind of heart disease;

(b) means of arresting the progress of, correcting the underlying causes of, or curing, any kind of heart disease;

(c) method of preventing the contraction or development of any kind of heart disease.

2. Provides an adequate, effective or reliable:

(a) treatment for cancer of any kind;

(b) means of arresting the progress of, correcting the underlying causes of, or curing, cancer of any kind;

(c) method of preventing the contraction or development of cancer of any kind.

3. Endows the reader with knowledge that will enable him to:

(a) recognize and avoid the causes of cancer of any kind;

(b) successfully prevent his contraction or development of cancer of any kind;

(c) lose any existing fear of the contraction or development of cancer.

4. Provides an adequate, effective or reliable:

(a) means of arresting the progress of, correcting the underlying causes of, or curing, any kind of arthritis, rheumatism, neuritis, lumbago, sciatica, bursitis, sacro-iliac pain;

(b) treatment that will afford relief from the pains of, any kind of arthritis, rheumatism, neuritis, lumbago, sciatica, or bursitis.

It is further ordered, That this proceeding be and the same hereby is dismissed as to respondent Raphael Gould.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

This matter having been heard on the appeal of respondent Symon Gould from the hearing examiner's initial decision; and

The Commission having considered the entire record, including briefs in support of and in opposition to said appeal, no oral argument having been requested, and having determined that the hearing examiner's findings and conclusions are fully substantiated on the record but that the order contained in the initial decision is not appropriate in all respects to dispose of this matter:

It is ordered, That the aforesaid appeal be, and it hereby is, denied.

It is further ordered, That the order to cease and desist contained in the initial decision be modified by deleting from the preamble thereof the words "having to do with the prevention, treatment or cure of heart disease, cancer, arthritis, rheumatism, neuritis, lumbago, sciatica, bursitis, sacro-iliac pain and similar conditions, which contain the same or substantially the same subject matter."

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

It is further ordered, That the respondent Symon Gould 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 contained in said initial decision.

IN THE MATTER OF

F. E. BOOTH COMPANY, INC.

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

Docket 7438. Complaint, Mar. 12, 1959—Decision, Aug. 4, 1959

Consent order requiring a San Francisco processor and canner of fish, fruits, and vegetables, to cease violating Sec. 2(c) of the Clayton Act by giving discounts or allowances reflecting the usual 2½% brokerage fee, to customers buying directly for their own accounts.

COMPLAINT

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

PARAGRAPH 1. Respondent F. E. Booth Company, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Nevada with its principal office and place of business located at 280 Battery Street, San Francisco, California. It is engaged in the business of purchasing, processing, canning, and selling fish, fish products, fruits, and vegetables. It has annual net sales of approximately $8,000,000.

PAR. 2. Respondent sells its food products on a nationwide basis, sometimes through brokers to which it pays commissions of 2½% and sometimes directly to large food chain retailers.

PAR. 3. In the course and conduct of its business respondent F. E. Booth Company, Inc., is engaged in commerce as "commerce" is defined in the Clayton Act, as amended, in that respondent ships its products or causes them to be shipped from its place of business in the State of California to purchasers located in States other than the State of California.

PAR. 4. In the course and conduct of its said business in commerce, respondent is now and has been in competition with other corporations, partnerships, individuals, and firms engaged in purchasing, processing, canning, and selling fish, fish products, fruits, and vegetables.

Many of respondent's purchasers are likewise, directly or indirectly, competitively engaged with each other and with the customers of respondent's competitors in the resale of said products within the trading area in which respondent's said competitors offer for sale and sell such products as those purchased from said respondent.

PAR. 5. In the course and conduct of its business as above-described, respondent F. E. Booth Company, Inc., has paid or granted, directly and indirectly, to some of its customers commissions, brokerage, or other compensation or allowances, or discounts in lieu thereof, in connection with purchases of products by such customers from respondent in their own names and for their own accounts for resale.

For example, specific illustrations of such allowances made in lieu of brokerage are as follows:

During the year 1957 respondent F. E. Booth Company, Inc., granted discriminatory allowances as described above in connection with purchases of respondent's products made for their own accounts to Regent Canfood Company of San Francisco, California (a wholly owned buying subsidiary of Safeway Stores, Inc.), The Great Atlantic & Pacific Tea Company of New York, New York, and The Kroger Company of Cincinnati, Ohio, part of which allowances were made in lieu of the 2½% brokerage fee paid by respondent when others of its customers make similar purchases through brokers.

PAR. 6. The acts and practices of the respondent F. E. Booth Company, Inc., as alleged above, violate subsection (c) of Section 2 of the Clayton Act, as amended.

Mr. Fredric T. Suss for the Commission.

Chickering & Gregory, by *Mr. W. Burleigh Pattee* and *Mr. John P. MacMeeken*, of San Francisco, Calif., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 12, 1959, charging respondent with violating §2(c) of the Clayton Act (U.S.C. Title 15, §13), as amended by the Robinson-Patman Act, approved June 19, 1936, by paying or granting, directly or indirectly, to some of its customers commissions, brokerage, or other compensation or allowances, or discounts in lieu thereof, in connection with purchases of products by such customers from Respondent in their own names and for their own accounts for resale.

Thereafter, on June 4, 1959, 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 of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies Respondent F. E. Booth Company, Inc. as a Nevada corporation, with its principal office and place of business located at 280 Battery Street, San Francisco, California.

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 and 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.

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 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 Respondent F. E. Booth Company, Inc., a corporation, its officers, representatives, agents or employees, directly or through any corporate or other device, in connection with the sale and distribution of canned foods, or other food products, in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying, granting or allowing, directly or indirectly, to any buyer, or anyone acting for or in behalf of, or who is subject to, the direct or indirect control of such buyers, anything of value as a commission, brokerage or other compensation or any allowance or discount in lieu thereof upon, or in connection with, any sale to such buyer for its own account.

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 4th day of August, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That Respondent F. E. Booth Company, Inc., 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

LENDERS SERVICE CORPORATION ET AL.

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

Docket 7449. Complaint, Mar. 17, 1959—Decision, Aug. 6, 1959

Consent order requiring a lending concern in Los Angeles, Calif., to cease misrepresenting the services it rendered in helping businessmen to obtain loans by such false representations as that it was an affiliate or agent of banks and other lending institutions which would make loans to anyone it recommended, that upon payment of a fee it would get clients larger loans than they applied for and would refund the fee if the loan was not obtained, and that it often made loans from its own funds or would get clients loans from the Small Business Administration.

Mr. John W. Brookfield, Jr., for the Commission.
Respondents for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued March 17, 1959, charging respondents with violation of the Federal Trade Commission Act by the use of false, misleading and deceptive statements and representations in their business of soliciting fees for services to be rendered in connection with obtaining loans for, or financing, businessmen and others.

Thereafter, on April 24, 1959, respondents William VanPinsker, Charles McCarthy and William Mitchell, and counsel supporting the complaint herein, entered into an Agreement Containing Consent Order To Cease And Desist, and on May 28, 1959, respondents Lenders Service Corporation, Ralph L. Sampson, Leonard Miller, Herbert Ruttenberg and U. T. Thompson, and counsel supporting the complaint herein, entered into a similar Agreement. Both agreements were 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 first agreement identifies Respondents William VanPinsker, Charles McCarthy and William Mitchell as individuals who are or were formerly Regional Directors of corporate respondent Lenders Service Corporation, with offices located in the cities of Chicago, Illinois, Atlanta, Georgia, and Denver, Colorado, respectively, their addresses being: William VanPinsker, 1521 Sherwin Avenue, Chicago, Illinois; Charles McCarthy, 795 Peachtree Street, Atlanta, Georgia; and William Mitchell, 621 17th Street, Denver, Colorado.

The second agreement identifies Respondent Lenders Service Corporation as a California corporation, with its office and principal place of business located at 5723 Melrose Avenue, Los Angeles, California; Respondents Ralph L. Sampson, Leonard Miller, Herbert Ruttenberg and Harvey Cova as individuals and officers of said corporation; and Respondent U. T. Thompson as an individual and Executive Vice President of said corporation; all of said individual Respondents having their office and principal place of business at the same location as said corporate Respondent.

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 rspondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the two agreements and the proposed orders, the hearing examiner is of the opinion that such orders constitute a satisfactory disposition of the proceeding. Accordingly, in consonance with the terms of the aforesaid agreements, the Hearing Examiner accepts the two Agreements 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 Lenders Service Corporation, a corporation, and its officers; Ralph L. Sampson, Leonard Miller, Herbert Ruttenberg and Harvey Cova, individually and as officers of said corporation; U, T. Thompson, individually and as Executive Vice President of said corporation; and William VanPinsker, Charles McCarthy and William Mitchell, individually, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising of or offering for sale or sale of their services in obtaining loans or financial assistance for businessmen or others, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Respondents will obtain loans within a short period of time; or in any other period of time that is not in accordance with the fact;

2. Respondents will refund the fee paid in the event they do not obtain a loan, unless such is the fact;

3. Respondents can or will obtain larger loans than the loans applied for;

4. Respondents are affiliated with banks or lending institutions;
5. Banks or other lending institutions will make loans to everyone recommended by Respondents;
6. Respondents are the agents of banks, insurance companies or other lending or financial institutions;
7. Respondents will obtain loans from the Small Business Administration for those who pay respondents for their service;
8. Respondents will make loans to clients from their own funds.

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, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents named in the caption hereof 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

EMIL LEICHTER WATCH CO., INC., ET AL.

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

Docket 7358. Complaint, Jan. 14, 1959—Decision, Aug. 8, 1959

Consent order requiring a New York City distributor to cease selling watches to retailers with tickets attached bearing fictitious prices represented thereby as the usual retail prices, advertising its products falsely as "railroad" watches, using the term "chrome" to describe tops or bezels which contained only a surface coating of chromium, and failing to disclose that bezels processed to simulate silver or gold were composed of base metals.

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

Weisman, Allan, Spett & Sheinberg, of New York, N.Y., by *Mr. Harry I. Rand*, for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act in connection with the advertising and sale of watches. 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 Emil Leichter Watch Co., Inc., is a corporation existing and doing business under the laws of the State of New York with its office and principal place of business located at 551 Fifth Avenue, New York, New York. The individual respondents, Emil Leichter and Gustave S. Hartman, are officers of the corporate respondent and have their office and principal place of business 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 Emil Leichter Watch Co., Inc., and its officers, and Emil Leichter and Gustave S. Hartman, 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 and distribution of watches or any 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 watches are "railroad" watches unless such watches are made to the specifications required for railroad watches.

2. Representing, directly or by implication, that a watch case which is "chrome" plated is a chrome watch case.

3. Failing to reveal the true metal content of watch cases, or portions thereof, which has the appearance of a different metal.

4. Representing, directly or by implication, that certain amounts are the usual and regular retail prices of merchandise when such amounts are in excess of the prices at which such merchandise is usually and regularly sold at retail.

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 8th day of August, 1959, 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.

IN THE MATTER OF

NICHOLS & ASSOCIATES, INC., ET AL.

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

Docket 7248. Complaint, Sept. 4, 1958—Decision, Aug. 11, 1959

Consent order requiring an officer of a Chicago real estate firm to cease making misrepresentations in soliciting the listing for sale and advertising of real estate, including false claims that prospective buyers were available and interested in the specific properties listed; that the listing fee was an advance on the sales commission and would be refunded when the property was sold, or within a certain time; that he financed listed properties; that buying his advertising and services would relieve the property owner of all risks and obligations; that he would advertise the property nationally, and was associated with over a thousand real estate brokers. As to all other respondents, the matter was disposed of by order of Oct. 21, 1959, p. 426, herein.

Mr. John W. Brookfield, Jr., and *Mr. John J. Mathias* for the Commission.

No appearance for respondent John G. Green.

INITIAL DECISION AS TO RESPONDENT JOHN G. GREEN BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with making certain misrepresentations in connection with soliciting the listing for sale and advertising of real estate and other property. An agreement for disposition of the proceeding as to respondent John G. Green has now been entered into between said respondent and counsel supporting the complaint. The agreement provides, among other things, that said respondent admits 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, said respondent 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 said respondent that he has violated the law as alleged in the complaint.

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

1. Respondent John G. Green is an individual and until 1958 was Secretary of Nichols & Associates, Inc., the corporate respondent herein, with his office and principal place of business located at 130 North Wells Street, Chicago, Illinois.

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

ORDER

It is ordered, That John G. Green, individually and as an officer of Nichols & Associates, Inc., corporate respondent, and said respondent's agents, representatives and employees, directly or through

any corporate or other device, in connection with the offering for sale, or sale of advertising in newspapers or in other advertising media, or of other services or facilities in connection with the offering or listing for sale, selling, buying or exchanging, of business or any other kind of property, 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 respondent has available prospective buyers who are interested in the purchase of specific property;

2. That property will be sold through the efforts of respondents;

3. That respondent engages in any form of financing in connection with the sale of property or businesses listed with the respondents;

4. That the purchase of his advertising and services will relieve the property owner of all or any risks and obligations in connection with the sale of property;

5. That respondent will advertise the property on a nation-wide scale in newspapers and periodicals, when such is not the case;

6. That 1,000 or any other large number of real estate brokers are associated with him in the sale of property, unless such brokers are actually engaged in selling property listed and advertised by respondent;

7. That the listing or service fee is intended only as an advance of the selling commission and will be refunded to the property owner if the property is not sold within a certain period of time;

8. That respondent's services, in all or most instances, have resulted in the sale of the advertised or listed properties.

ORDER CORRECTING RECORD AND DIRECTING THE FILING OF REPORT OF COMPLIANCE

The Commission, on April 22, 1959, having issued an order reciting that the hearing examiner's initial decison as to the respondent, John G. Green, had on that date become the decision of the Commission, and directing said respondent, within sixty (60) days after service upon him of the order, to file with the Commission a report of compliance with the order to cease and desist contained in the initial decision; and

It now appearing that the initial decision referred to in said order was not served upon the respondent until July 9, 1959, and that said initial decision did not become the decision of the Commission under the provisions of §3.21 of the Rules of Practice until August 11, 1959; and

The Commission being of the opinion that the record should be corrected to reflect the above:

It is ordered, That the aforesaid order of the Commission, dated April 22, 1959, be, and it hereby is, vacated and set aside.

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

IN THE MATTER OF

THE BAILEY COMPANY

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

Docket 7465. Complaint, Apr. 1, 1959—Decision, Aug. 11, 1959

Consent order requiring a furrier in Cleveland, Ohio, to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements; and by advertising which failed to disclose the names of animals producing certain furs or that some fur products contained artificially colored or cheap or waste fur, and failed to use the terms "Persian Lamb," "Dyed Mouton processed Lamb," and "Dyed Broadtail processed Lamb" where required.

Mr. Kent Kratz for the Commission.

Mr. Samuel G. Wellman, of Cleveland, Ohio, for respondent.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, the Federal Trade Commission on April 1, 1959, issued and subsequently served its complaint in this proceeding against the above-named respondent.

On June 5, 1959, there was submitted to the undersigned hearing examiner an agreement between respondent and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity

of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondent that it has violated the law as alleged in the compaint.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondent The Bailey Company is a corporation existing and doings business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at Ontario Street and Prospect Avenue, in the City of Cleveland, State of Ohio.

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

ORDER

It is ordered, That The Bailey Company, a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction 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 are 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. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the sub-sections of Section 4(2) of the Fur Products Labeling Act.

B. Failing to affix labels to fur products showing the item number or mark assigned to a fur product.

C. Setting forth on labels affixed to fur products:

(1) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, mingled with non-required information;

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

D. Failing to set forth all the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on one side of labels.

E. Failing to set forth on labels the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence.

F. Affixing to fur products labels that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches.

2. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the sub-sections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Failing to set forth the term "Dyed Mouton processed Lamb" in the manner required.

3. 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:

A. Fails to disclose:

(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 bleached, dyed or otherwise artificially colored fur, when such is the fact;

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

B. Fails to set forth the term "Persian Lamb" in the manner required.

C. Fails to set forth the term "Dyed Mouton processed Lamb" in the manner required.

D. Fails to set forth the term "Dyed Broadtail processed Lamb" in the manner required.

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 11th day of August, 1959, become the decision of the Commission; and accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after a 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

SAMUEL SARESKY ET AL. DOING BUSINESS AS ROBINSON KNIFE COMPANY

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

Docket 7428. Complaint, Feb. 27, 1959—Decision, Aug. 12, 1959

Consent order requiring manufacturers in Springville, N.Y., to cease representing falsely that greatly exaggerated prices were the regular retail prices by attaching to their cutlery, and furnishing to their purchasers for attachment, tags bearing fictitious prices, and by causing such prices to be stamped on the packaging cartons of the merchandise.

Mr. Ames W. Williams for the Commission.
Respondents not represented by counsel.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on February 27, 1959, issued and subsequently served its complaint in this proceeding against the above-named respondents.

On June 5, 1959, there was submitted to the undersigned hearing examiner an agreement between respondents and counsel supporting the complaint providing for the entry of a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity

of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner having considered the agreement and proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the agreement is hereby accepted, and it is ordered that said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission. The following jurisdictional findings are made and the following order issued.

1. Respondents Samuel Saresky, Elliot Wagner, Roye Goodrich, David Skerker and Bernard Skerker are co-partners trading and doing business as Robinson Knife Company. The address of respondents Samuel Saresky and Elliot Wagner is 230 Fifth Avenue, New York, New York and that of respondents Roye Goodrich, David Skerker and Bernard Skerker is Springville, New York.

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

ORDER

It is ordered, That the respondents Samuel Saresky, Elliot Wagner, Roye Goodrich, David Skerker and Bernard Skerker, individually and as co-partners trading and doing business as Robinson Knife 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 cutlery, or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from directly or indirectly:

1. Representing, by preticketing or in any other manner, that a certain amount is the retail price of merchandise when said amount is in excess of the price at which said merchandise is customarily and usually sold at retail.

2. Furnishing any means or instrumentality to others by and through which they may mislead the public as to the usual and customary prices of respondents' products.

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 August, 1959, 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

HOWARD STORES CORPORATION

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

Docket 7074. Complaint, Feb. 28, 1958—Decision, Aug. 26, 1959

Consent order requiring the corporate operator of numerous retail clothing stores in various States which sold men's and boys' clothing, shoes, and haberdashery, to cease representing falsely in advertising in newspapers, by such phrases as "$60 VALUES," "$70 VALUES," and "Usually $70.00," that such figures were the regular retail prices.

Mr. Edward F. Downs for the Commission.

Kaye, Scholer, Fierman, Hays & Handler, of New York City, for respondent.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated February 28, 1958, the respondent is charged with violating the provisions of the Federal Trade Commission Act.

On June 10, 1959, the respondent and its attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it 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.

The hearing examiner finds that the content of the agreement meets all of the requirements of section 3.25(b) of the Rules of the Commission.

The hearing examiner being of the opinion that the agreement and the proposed order provide an appropriate basis for disposition of this proceeding as to all of the parties, the agreement is hereby accepted and it is ordered that the 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 following jurisdictional findings are made and the following order issued.

1. Respondent Howard Stores Corporation is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 40 Flatbush Avenue Extension, Brooklyn, New York.

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

ORDER

It is ordered, That respondent Howard Stores Corporation, 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 wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication:

1. That certain prices are the regular and customary prices charged by respondent for certain merchandise when such prices are in excess of the prices for which it has regularly and customarily sold such merchandise.

2. That respondent has reduced its prices when the prices it is charging are its regular and customary prices.

B. Misrepresenting in any manner the amount of savings available to purchasers of respondent's merchandise, or the amount by which the price of said merchandise is reduced from the price at which it is usually and customarily sold by respondent in the normal course of its business.

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

August, 1959, 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

WINSTON GARMENT, INC., ET AL.

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

Docket 7402. Complaint, Feb. 6, 1959—Decision, Aug. 26, 1959

Consent order requiring furriers in New York City to cease violating the Fur Products Labeling Act by falsely labeling certain fur products with respect to the names of animals producing the fur, and by failing in other respects to comply with labeling and invoicing requirements.

Mr. Thomas A. Ziebarth for the Commission.

Nemeroff, Jelline, Danzig & Paley, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding and with falsely and deceptively invoicing certain of their fur products, 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, their counsel, 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 states that respondent Winston Garment, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 247 West 38th Street, New York, New York, and that individual respondents Miles Rose, Thomas Brennan and George Ahrens are president, secretary and treasurer, re-

spectively, of the corporate respondent and have the same address as the corporate respondent.

The agreement provides, among other things, that 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 Winston Garment, Inc., a corporation, and its officers, and Miles Rose, Thomas Brennan and George Ahrens, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, advertising, offering for sale, transportation, or distribution, in commerce, of fur products, or in connection with the sale, manufacture for 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:

1. 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;

2. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of §4(2) of the Fur Products Labeling Act;

B. Failing to set forth on the required labels the item number or mark assigned to a fur product;

C. Setting forth on labels affixed to fur products information required under §4(2) of the Fur Products Labeling Act and the Rules and the Regulations promulgated thereunder in abbreviated form;

D. Affixing to fur products labels that do not comply with the minimum size requirements of one and three-quarter inches by two and three-quarter inches;

3. Falsely or deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of §5(b)(1) of the Fur Products Labeling Act;

B. Failing to set forth on the required invoices the item number or mark assigned to a fur product;

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

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 August, 1959, become the decision of the Commission; and accordingly:

It is ordered, That respondents Winston Garment, Inc., and Miles Rose, Thomas Brennan and George Ahrens, 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

FIELDCREST MILLS, INC., TRADING AS KARASTAN RUG MILLS, INC.

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

Docket 7445. Complaint, Mar. 17, 1959—Decision, Aug. 26, 1959

Consent order requiring a manufacturer in Spray, N.C., to cease attaching to its rugs, labels giving an "approx" size which was larger than was the fact, thus enabling retailers to mislead the public.

Mr. Alvin D. Edelson for the Commission.

Lovejoy, Morris, Wasson & Huppuch, of New York, N.Y., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 17, 1959, charging respondent with the use on labels of false, misleading and deceptive statements as to the sizes of its rugs, and with placing in the hands of retailers means and instrumentalities by and through which they may mislead the public with respect thereto, in violation of the provisions of the Federal Trade Commission Act.

Thereafter, on June 17, 1959, 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 Fieldcrest Mills, Inc., as a Delaware corporation, with its office and principal place of business located in Spray, North Carolina, and Karastan Rug Mills, Inc., as an unincorporated subdivision of the corporate respondent, with office and principal place of business at 295 Fifth Avenue, New York, New York.

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 and 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.

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 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 respondent Fieldcrest Mills, Inc., a corporation, trading as Karastan Rug Mills, Inc., or under any other name, and respondent's agents, representatives and employees, directly or through any corporate or other device in connection with the manufacture, offering for sale, sale or distribution of rugs or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication, the size of their said rugs or other merchandise to be of larger dimensions than 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 August, 1959, become the decision of the Commission; and accordingly:

It is ordered, That respondent Fieldcrest Mills, Inc., a corporation, trading as Karastan Rug Mills, Inc., 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

STEVENS FURS, INC., ET AL.

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

Docket 7258. Complaint, Sept. 12, 1958—Decision, Aug. 27, 1959

Order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements.

Mr. John T. Walker for the Commission.

Mr. Jonas H. Bernstein and *Mr. Joseph J. Bernstein*, of New York, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on September 12, 1958, charging respondents with misbranding and falsely and deceptively invoicing certain of their fur products, in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

Thereafter, on March 5, 1959, respondents and counsel supporting the complaint herein entered into a Stipulation As To The Facts, subject to the approval of the hearing examiner, whereby they agreed that the statement of facts so made should become a part of the record herein and might be taken as the facts in this proceeding in lieu of evidence in support of the charges stated in the complaint or in opposition thereto. The stipulation further provided that the hearing examiner might proceed, on the basis of said stipulation of facts, to make his initial decision, stating his findings as to the facts, including inferences which he might draw from the stipulation as to the facts, and his conclusions based thereon, and might enter an order disposing of this proceeding without the necessity of counsel filing proposed findings as to the facts and proposed conclusions, or the presentation of oral argument.

The Stipulation As To The Facts further provided that the Federal Trade Commission might, if this proceeding should come before it upon appeal or by review upon its own motion, set aside the stipulation and remand the case to the hearing examiner for further proceedings under the complaint.

The stipulation further provided that all admissions of fact made by the respondents therein are solely for the purpose of this proceeding, including any reviews thereof by the Courts.

The stipulation then specifically provides as follows:

1. Respondents admit all of the material allegations of fact set forth in said complaint and waive all further hearing as to said facts.

2. In support of the allegations of Paragraph Three of said complaint, the facts are that the respondents failed to affix labels to certain fur products showing that the fur product contained or was composed of dyed, or otherwise artificially colored fur, when such was the fact.

3. In support of the allegations of Paragraph Five of said complaint, the facts are that the respondents falsely or deceptively invoiced fur products by failing to furnish invoices to purchasers of certain fur products showing that the fur product contained or was composed of dyed, or otherwise artificially colored fur, when such was the fact, and by failing to furnish invoices to purchasers of certain fur products showing the name or names of the animal or animals producing the fur products, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, and such qualifying statements as are required pursuant to §7 of the Fur Products Labeling Act.

After consideration of the allegations of the complaint, the provisions of the Stipulation As To The Facts, and the provisions of the law relative thereto, the hearing examiner makes his findings as to the facts and conclusions, as follows:

1. Respondent Stevens Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its offices and principal place of business at 231 West 29th Street, New York, New York.

Individual respondent Harry Silverman is president of said corporate respondent, and individual respondent Edward Jenkins is secretary-treasurer of said corporate respondent, and said individual respondents control, formulate and direct the acts, practices and policies of the corporate respondent. The office and principal place of business of the individual respondents is the same as the corporate respondent.

2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondents have been, and are now, engaged in the introduction into commerce, and in the manufacture for introduction into commerce, and in the sale, and offering for sale, in commerce, and in the transportation and distribution in commerce, of fur products, and have manufactured for sale, sold, offered for sale, transported and distributed fur products which have been made in whole or in part of fur which had been shipped and re-

ceived in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act.

3. Certain of said fur products were misbranded in that they did not have affixed to them labels as required under Section 4(2) of the Fur Products Labeling Act, showing that such fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact.

4. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was mingled with non-required information, in violation of Rule 29(a) of the Rules and Regulations promulgated under the aforesaid Act.

5. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was in handwriting, in violation of Rule 29(b) of the Rules and Regulations promulgated under said Act.

6. Certain of said fur products were misbranded in that labels affixed thereto did not contain item numbers or marks of the fur products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

7. Certain of said fur products were falsely and deceptively invoiced in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act to show:

a. that the fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact;

b. the name or names of the animal or animals producing the fur products, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, and such qualifying statements as are required pursuant to Section 7 of the Fur Products Labeling Act.

8. Certain of said fur products were falsely and deceptively invoiced in that item numbers of the fur products were not set forth on the invoices pertaining to such products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

CONCLUSIONS

1. The Commission has jurisdiction over the respondents and over their acts and practices as herein found.

2. This proceeding is in the public interest.

3. The aforesaid acts and practices of respondents, as herein found, are in violation of the Fur Products Labeling Act and the

Rules and Regulations thereunder, and constitute unfair and deceptive acts and practices in commerce, under the Federal Trade Commission Act.

ORDER

It is ordered, That Stevens Furs, Inc., a corporation, and Harry Silverman and Edward Jenkins, individually and as officers of said corporation, and their 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 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 thereto showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act;

2. Failing to affix labels thereto showing the item numbers or marks assigned to such fur products;

3. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is mingled with non-required information;

4. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is in handwriting.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of such fur products invoices showing all of the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act;

2. Failing to furnish to purchasers of such products invoices showing the item numbers or marks assigned to said fur products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The hearing examiner, on May 8, 1959, having filed his initial decision herein based on a record consisting of the complaint, the respondents' answer thereto, a number of interlocutory motions and rulings thereon, and a stipulation as to the facts entered into

by and between counsel for the respondents and counsel in support of the complaint in lieu of all other evidence in support of and in opposition to the allegations of the complaint; and

The Commission, on June 8, 1959, having issued its order, effective June 4, 1959, extending until further order the date on which said initial decision otherwise would have become the decision of the Commission; and

It appearing that the initial decision is deficient in that it fails to cover some of the material allegations of fact set forth in the complaint, all of which were expressly admitted in the stipulation; and, accordingly:

It is ordered, That the initial decision be, and it hereby is, modified by striking all of pages 3 and 4 except the first paragraph, numbered "2" on page 3, and substituting therefor the following:

"3. Certain of said fur products were misbranded in that they did not have affixed to them labels as required under Section 4(2) of the Fur Products Labeling Act, showing that such fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact.

"4. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was mingled with non-required information, in violation of Rule 29(a) of the Rules and Regulations promulgated under the aforesaid Act.

"5. Certain of said fur products were misbranded in that labels affixed thereto contained information required under Section 4(2) of the Fur Products Labeling Act which was in handwriting, in violation of Rule 29(b) of the Rules and Regulations promulgated under said Act.

"6. Certain of said fur products were misbranded in that labels affixed thereto did not contain item numbers or marks of the fur products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

"7. Certain of said fur products were falsely and deceptively invoiced in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act to show:

"a. that the fur products contained or were composed of dyed, or otherwise artificially colored, fur, when such was the fact;

"b. the name or names of the animal or animals producing the fur products, as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations, and such qualifying statements as are required pursuant to Section 7 of the Fur Products Labeling Act.

"8. Certain of said fur products were falsely and deceptively invoiced in that item numbers of the fur products were not set forth on the invoices pertaining to such products, as required by Rule 40 of the Rules and Regulations promulgated under the Fur Products Labeling Act.

"CONCLUSIONS

"1. The Commission has jurisdiction over the respondents and over their acts and practices as herein found.

"2. This proceeding is in the public interest.

"3. The aforesaid acts and practices of respondents, as herein found, are in violation of the Fur Products Labeling Act and the Rules and Regulations thereunder, and constitute unfair and deceptive acts and practices in commerce, under the Federal Trade Commission Act.

"ORDER

"*It is ordered*, That Stevens Furs, Inc., a corporation, and Harry Silverman and Edward Jenkins, individually and as officers of said corporation, and their 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 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 thereto showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of Section 4(2) of the Fur Products Labeling Act;

"2. Failing to affix labels thereto showing the item numbers or marks assigned to such fur products;

"3. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is mingled with nonrequired information;

"4. Setting forth on labels affixed thereto information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder which is in handwriting.

"B. Falsely or deceptively invoicing fur products by:

"1. Failing to furnish to purchasers of such fur products in-

voices showing all of the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act;

"2. Failing to furnish to purchasers of such products invoices showing the item numbers or marks assigned to said fur products."

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

It is further ordered, That the respondents, Stevens Furs, Inc., a corporation, and Harry Silverman and Edward Jenkins, 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 above order to cease and desist.

IN THE MATTER OF

CONTINENTAL MANUFACTURING CORPORATION ET AL.

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

Docket 7329. Complaint, Dec. 10, 1958—Decision, Aug. 28, 1959

Consent order requiring distributors of "Life Time" batteries in Culver City, Calif., to cease representing falsely—in advertising in magazines, folders, etc., of nation-wide circulation and in advertising material furnished their dealers—that their said batteries were self-charging, carried a bonded six-year guarantee and a money-back guarantee unlimited as to time and were guaranteed for 50,000 miles of use, and that they manufactured the batteries and owned factories in Chicago, Scranton and Reading, Pa., and Des Moines, Iowa.

Mr. John J. McNally 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 13, 1959, 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 coun-

sel supporting the complaint, under date of April 27, 1959, 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 Continental Manufacturing Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California, and with its principal office and place of business located at 10411 Washington Boulevard, in the City of Culver City, State of California.

Respondent Frank E. Williams is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

2. Respondents admit all the jurisdictional facts alleged in the complaint, which was issued on December 10, 1958, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

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

4. In the agreement it is recommended that the complaint be dismissed as to respondent Ralph G. Shroyer for the reasons that he resigned as an officer and employee of the respondent corporation in October 1958, and since that date has not served either as an officer or employee of the respondent corporation, nor has he directed, formulated, or controlled the acts and practices thereof, as set forth in the affidavit which is attached to and made a part of the said agreement.

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," said agreement is hereby approved and accepted and is 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 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 legal causes 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 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 Continental Manufacturing Corporation, a corporation, and its officers and Frank E. Williams, individually and as an officer of said corporate respondent, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution, in commerce, of their electric storage battery, spark plug and oil filter known as "Life Time" battery, "Life Time" spark plug and "Life Time" oil filter, or any other battery, spark plug or oil filter of the same or substantially the same composition or type, or possessing substantially similar properties, functions or characteristics, whether sold under the same or any other name, or in connection with the sale of any other product in commerce, as "commerce" is defined in the Federal Trade

Commission Act, do forthwith cease and desist from representing, directly or by implication:

(a) That their battery is self charging;

(b) That any product is guaranteed in any respect unless the terms and conditions of the guarantee are clearly and conspicuously disclosed in connection therewith, and unless respondents in fact comply with the represented guarantee;

(c) That they manufacture all of the products sold by them; or that they manufacture any of such products, which in fact they purchase from the manufacturer thereof;

(d) That they own or maintain an office, factory, or warehouse in any city other than that in which an office, factory, or warehouse is in fact maintained, occupied, and used by respondents.

It is further ordered, That the complaint herein be dismissed as to respondent Ralph G. Shroyer.

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 28th day of August, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Continental Manufacturing Corporation, a corporation, and Frank E. Williams, individually and as an officer 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

HOMEMAKER RUGS, INC., ET AL.

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

Docket 7404. Complaint, Feb. 12, 1959—Decision, Aug. 28, 1959

Consent order requiring a distributor in New York City to cease representing falsely—by such practices as use on attached labels of the terms "The Woolette," "The Wool-O-Way," etc.—that rugs which contained a substantial quantity of "reprocessed" wool were composed entirely of "wool"; and to cease selling rugs composed in part of rayon without clearly disclosing the rayon content.

Mr. Alvin D. Edelson for the Commission.
Berley & Berley, of New York, N.Y., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with the use of false, misleading and deceptive statements as to the fiber content of their rugs, by means of various terms descriptive thereof on labels attached thereto, representing that said rugs were composed entirely of wool; and with failing to disclose the rayon content of their rugs, in violation of the Federal Trade Commission Act.

After the issuance of the complaint, respondents, their counsel, 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 states that respondent Homemaker Rugs, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and place of business located at 295 Fifth Avenue, New York, New York, and that respondents Bernard G. Blum and Molly Blum are officers of the said corporate respondent, and also trade as copartners under the name of B. G. Blum Associates, the address of the individual respondents and the partnership being the same as that of the corporate respondent.

The agreement provides, among other things, that 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 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 Homemaker Rugs, Inc., a corporation, and its officers, and Bernard G. Blum and Molly Blum, individually and as officers of said corporation, and trading under the name of B. G. Blum Associates, 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 carpets and floor coverings, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Misrepresenting the fiber content of their merchandise;

2. Using the word "wool," or any word or term indicative of wool, to designate or describe any product or portion thereof which has been reclaimed from any woven or felted product, provided, however, that nothing herein shall prohibit the use of the term "reprocessed wool" when the product, or those portions thereof referred to, have been reclaimed from woven or felted products;

3. Failing to clearly set forth the rayon content of merchandise composed in whole or in part of rayon on invoices and labels and in the advertising of such merchandise.

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 28th day of August, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Homemaker Rugs, Inc., a corporation, and Bernard G. Blum and Molly Blum, individually and as officers of said corporation, and as copartners trading as B. G. Blum Associates, 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

IRVING LEBO & SON, INC., ET AL.

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

Docket 7425. Complaint, Feb. 26, 1959—Decision, Aug. 28, 1959

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by failing to furnish to purchasers invoices showing required information; by representing, on invoices and in advertisements, prices of fur products as reduced from regular prices which were in fact fictitious; and by failing to keep adequate records as a basis for such pricing claims.

Mr. John T. Walker for the Commission.
Mr. Fred L. Weisler of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On February 26, 1959 the Federal Trade Commission issued a complaint charging Irving Lebo & Son, Inc., a corporation, and Irving Lebo, Stanley Lebo, and Harvey Lebo, individually and as officers of said corporation, hereinafter referred to as respondents, with fasely and deceptively invoicing and advertising certain of their fur products in violation of the Federal Trade Commission Act and the Fur Products Labeling Act.

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

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. Respondent Irving Lebo & Son, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 330 Seventh Avenue, New York, New York.

2. The individual respondents, Irving Lebo, Stanley Lebo and Harvey Lebo, are president, vice president, and secretary and treasurer, respectively, of said corporate respondent. Their addresses are the same as that of the corporate respondent.

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 Irving Lebo & Son, Inc., a corporation, and Irving Lebo, Stanley Lebo, and Harvey Lebo, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, and manufacture for introduction, into commerce, or the sale, advertising, offering for sale, transportation or distribution, in commerce, of fur products, or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation, or distribution of fur products which are 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 to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.

B. Representing, directly or by implication, on invoices, that the regular or usual price of any fur 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 business.

2. Falsely or deceptively advertising fur proucts 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:

A. Represents, directly or by implication, in advertisements, that the regular or usual price of any fur 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 business.

3. Making price claims and representations of the type referred to in Paragraph 2A above, unless respondents maintain full and 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 28th day of August, 1959, 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

H. W. GIVEN COMPANY ET AL.

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

Docket 7444. Complaint, Mar. 16, 1959—Decision, Aug. 28, 1959

Consent order requiring sellers in Ardmore, Pa., to cease advertising their "Table King" margarine in such terms as to represent or suggest that it was a dairy product.

Mr. Morton Nesmith for the Commission.

Mr. T. Ewing Montgomery, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter issued March 16, 1959, charges the respondents with making certain misrepresentations in connection with the advertising and sale of their oleomargarine, in violation of 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 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 H. W. Given Company is a corporation existing and doing business under the laws of the Commonwealth of Pennsylvania with its office and principal place of business located at 35 East Cricket Terrace, Ardmore, Pennsylvania. Respondent H. Woody Given, Jr., is an officer of said corporate respondent, and his address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents H. W. Given Company, a corporation, and its officers, and H. Woody Given, Jr., individually and as an officer of said corporation, and respondents' agents, represen-

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

1. Disseminating, or causing to be disseminated, by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any statement, word, grade designation, design, device, symbol, sound, or any combination thereof, which represents or suggests that said product is a dairy product;

2. Disseminating, or causing to be disseminated, as described in paragraph 1 of this order, any advertisement in which the words or words "milk," "churn," "dairy formula," are used, except as a part of a truthful, accurate and full statement of all the ingredients contained in said product;

3. Disseminating, or causing to be disseminated, by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said product, any advertisement which contains any of the representations prohibited in paragraphs 1 and 2 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 28th day of August, 1959, 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.

IN THE MATTER OF

BERNARD MORRIS DOING BUSINESS AS MORRIS MOULDED SHOE CO.

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

Docket 7483. Complaint, May 6, 1959—Decision, Aug. 28, 1959

Consent order requiring a New York City distributor to cease representing falsely in advertising that his moulded shoes would relieve discomforts of

arthritis and rheumatism, corns, callouses, bunions, hammertoes, fatigue, long hours of standing, etc.; and would insure correct support and body balance, eliminate fatigue, and revitalize foot and leg muscles; and to cease using the word "Manufacturers" in connection with his trade name so long as he manufactured only a few, if any, of the shoes he sold.

Mr. Ames W. Williams for the Commission.
Respondent not represented by counsel.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On May 6, 1959, the Federal Trade Commission issued its complaint against the above-named respondent charging him with violating the provisions of the Federal Trade Commission Act in connection with the advertising and sale of moulded shoes designated as "Morris Moulded Shoes." On July 1, 1959, the respondent and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint and agrees, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent Bernard Morris is an individual trading and doing business as Morris Moulded Shoe Co., with his office and principal

place of business located at 841 Eighth Avenue, New York 19, New York, formerly located at 234 Fifth Avenue, New York, New York.

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 Federal Trade Commission Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent Bernard Morris, an individual doing business as Morris Moulded Shoe Co., or under any other name or names, 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 shoes designated as "Morris Moulded Shoes," or any other shoe of similar construction irrespective of the designation applied thereto, do forthwith cease and desist from:

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

(a) That the wearing of respondent's shoes will relieve the discomfort of arthritis or rheumatism; or will relieve the discomfort of corns, callouses, bunions, hammertoes, arch conditions, excess fatigue, crippled or deformed feet, or of people who must stand or walk for long hours at a time, unless expressly and clearly limited to the relief of the discomfort of such conditions when caused by ill-fitting shoes.

(b) That the wearing of said shoes will insure correct support or body balance.

(c) That the wearing of said shoes will revitalize foot or leg muscles; or will eliminate fatigue, unless expressly and clearly limited to fatigue that may result from ill-fitting shoes.

(d) Through the use of the word "Manufacturers" or any other word or words of similar import, or in any other manner, that respondent manufactures the shoes sold by him, provided, however, that this shall not prohibit him from representing that certain of the shoes sold by him are manufactured by him when such is the fact.

2. Disseminating, or causing to be disseminated, any advertisement, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said

shoes, which advertisement contains any of the representations prohibited in 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 28th day of August, 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

LAWRENCE C. WILSON DOING BUSINESS AS MIDWEST REAL ESTATE APPRAISAL TRAINING SERVICE ET AL.

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

Docket 7486. Complaint, May 7, 1959--Decision, Aug. 28, 1959

Consent order requiring Denver, Colo., sellers of a correspondence course in real estate appraisal, to cease representing falsely, in advertisements inserted in newspapers to obtain leads to prospective students and by statements of salesmen to persons so contacted, that those completing the course would be offered employment or assisted in securing employment as real estate appraisers, and at substantial salaries; that persons accepted for enrollment required special qualifications; and that only a limited number would be accepted.

Mr. Terral A. Jordan for the Commission.

Mr. James J. Delaney and *Mr. Jack G. Howe*, of Denver, Colo., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein on May 7, 1959, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On June 26, 1959, 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 attorneys for both parties, under date of June 18, 1959, 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 Lawrence C. Wilson is an individual trading and doing business under the name of Midwest Real Estate Appraisal Training Service. Respondent C. L. Spears is an individual. Respondents' office and principal place of business is located at 336 McClintock Building in the City of Denver, State of Colorado.

2. 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.

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

4. 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.

5. 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.

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

7. 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.

8. 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," said agreement is hereby approved and accepted and is 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 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 legal causes 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 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 Lawrence C. Wilson, an individual trading and doing business as Midwest Real Estate Appraisal Training Service, or under any other trade name, and C. L. Spears, an individual, 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 courses of study and instruction including a course of study and instruction in real estate appraisal, or the supplies and equipment used in connection therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly:

1. That persons completing said course of study and instruction in real estate appraisal will be offered employment or will be assisted by respondents to secure employment as real estate appraisers; or that persons completing any of said courses of study and instruction will be employed or assisted to secure employment in any occupation unless such is the fact;

2. That persons completing said course of study and instruction in real estate appraisal will be employed or will be assisted by respondents to secure employment as real estate appraisers at salaries from $325.00 to $450.00 per month; or that persons completing any of said courses of study and instruction will be employed or will be assisted to secure employment at wages or other compensation greater than will be in fact paid to such persons;

3. That persons accepted for enrollment in said course of study and instruction in real estate appraisal must have special qualifica-

tions; or that persons accepted for enrollment in any of said courses of study and instruction must have qualifications more extensive than are in fact required;

4. That the number of persons accepted for enrollment in said course of study and instruction in real estate appraisal is limited or restricted; or that enrollment in any of said courses is limited or restricted to any degree greater than is the fact.

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 initial decision filed by the hearing examiner on June 29, 1959:

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

It is further ordered, That the respondents named in the caption hereof 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

AUTOMOTIVE SUPPLY COMPANY DOING BUSINESS AS CENTRAL WAREHOUSE COMPANY, ETC.

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

Docket 7142. Complaint, May 7, 1958—Decision, Aug. 29, 1959

Consent order requiring a wholesaler with main office in Altoona, Pa., and some 16 branches in Pennsylvania, West Virginia, and Arizona—an important outlet of tires and tubes, automotive products, household appliances, and home and garden and recreation supplies, with annual sales approximating $16,000,000—to cease violating Sec. 2(f) of the Clayton Act by exerting the influence of its strong buying power on suppliers and demanding and receiving from them, special and substantial rebates, allowances, commissions, and other forms of substantial price reductions—ostensibly as warehousing and distribution services—not offered or granted to its competitors, and replacing suppliers not acceding to such demands by others who could be induced to grant the price concessions demanded.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more

particularly designated and described, has violated and is 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, Section 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Automotive Supply Company, hereinafter sometimes referred to as Automotive, is a corporation organized, existing and doing business since June 1946 under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 1917 Margaret Avenue, Altoona, Pennsylvania.

Respondent, since June 1946, has also engaged in business under the trade name and style of Central Warehouse Company, hereinafter sometimes referred to as Central Warehouse, which is registered under the Fictitious Names Law of the State of Pennsylvania, and is located at the same mailing address as respondent, 1917 Margaret Avenue, Altoona, Pennsylvania. Central Warehouse's physical premises are a part of, and are indistinguishable from, respondent's. No separate records of assets, liabilities, income, expenses, or other financial or operating data, are separately maintained for Central Warehouse, and all such records and data are integrated with those of respondent, with the exception of certain inventory and stock records, which are maintained by an employee of respondent. At all times herein mentioned, Central Warehouse has been maintained, managed, and controlled by and for respondent.

Respondent, since about December 1946, has also engaged in business under the trade name and style of Complete Auto and Home Supply Company, Division of Automotive Supply Company, hereinafter sometimes referred to as Complete, with its principal office and place of business located at 530 North Stone Avenue, Tucson, Arizona. Since its inception in or about December 1946, Complete's operations have been integrated with Automotive's, and Complete now is, and at all times herein mentioned has been, maintained, managed, controlled and operated by and for respondent.

PAR. 2. Respondent is now, and for many years past has been, engaged in the purchase, resale and distribution, at the wholesale level, of tires and tubes and related items, hereinafter referred to as "tires and tubes"; a line of products which includes, among other products, household appliances, home and garden supplies, recreation supplies and automotive supplies, hereinafter referred to as "Home and Auto Supplies"; and numerous other automotive parts, equipment and accessories and other products, hereinafter referred to as "automotive and other products."

The purchase, resale and distribution of the aforesaid products and supplies is effected through (1) the principal offices and places of business of Automotive, either directly or through Central Warehouse, and Complete; (2) the sixteen branches of Automotive, located as follows: Barnesboro, Bedford, Chambersburg, Ebensburg, Johnstown, Philipsburg, Shippensburg, State College, Tyrone, Somerset, Harrisburg, Lock Haven, Selinsgrove, Williamsport, all in the State of Pennsylvania, and Kingwood and Morgantown, in the State of West Virginia; and (3) the seven branches of Complete, located as follows: Casa Grande, Chandler, Coolidge, Douglas, Mesa, Nogales, and Phoenix, all in the State of Arizona.

During all the times herein mentioned Central Warehouse has served little purposes other than as a conduit or bookkeeping device through which respondent purchases certain of its products and supplies for sale and distribution at the wholesale level through respondent's principal place of business and branches in the States of Pennsylvania and West Virginia, as heretofore described.

Respondent's total sales of all products amount to approximately $10,000,000. annually.

PAR. 3. Respondent purchases the various products which it distributes and resells from numerous manufacturers or other suppliers thereof located throughout the United States, some, but not all, of whom are the following: The Firestone Tire and Rubber Company, Akron, Ohio; Willard Storage Battery Division of Electric Storage Battery Company, Cleveland, Ohio; Dayton Rubber Company, Dayton, Ohio; Purolator Products, Inc., Rahway, New Jersey; Simoniz Company, Chicago, Illinois, and Wilkening Manufacturing Company, Philadelphia, Pennsylvania, hereinafter respectively referred to as Firestone, Willard, Dayton, Purolator, Simoniz, and Wilkening.

There is and has been at all times mentioned herein a continuous course of trade and commerce in tires and tubes, Home and Auto Supplies, and automotive and other products, across State lines, between the factories, warehouses, or other points of origin of the respective suppliers thereof and respondent's principal offices and places of business, or the branches thereof. Said products are purchased by respondent and others for use, consumption, or resale within the United States and the District of Columbia.

PAR. 4. Respondent is now and for many years past has been one of the largest, if not the largest, of the purchasers of tires and tubes, and a substantial purchaser of Home and Auto Supplies, from Firestone. For example, in 1955 respondent's purchases of tires and tubes from Firestone amounted to approximately $2,400,-

000., and its purchases of Home and Auto Supplies from Firestone amounted to approximately $420,000. During the times herein mentioned, respondent has been one of the largest, if not the largest, of the purchasers, sellers and distributors of tires and tubes, Home and Auto Supplies, and automotive and other products at the wholesale level within the various trading areas in the States of Pennsylvania, West Virginia and Arizona wherein it is engaged in business, with total active accounts in excess of 6,000. As such, respondent is an important outlet to suppliers of such products and supplies.

In the course and conduct of its business, as aforesaid, respondent is now, and during the times herein mentioned has been, in substantial competition with other corporations, partnerships, individuals and firms, in the purchase, resale and distribution of said products and supplies at the wholesale level to automobile dealers, service stations, garages, retail stores, fleet operators, and others. Many of respondent's competitors also purchase products and supplies of like grade and quality from Firestone and other of respondent's suppliers.

Respondent's suppliers are now and during the times herein mentioned have been in active competition with other suppliers of similar products and supplies within the various States of the United States and in the District of Columbia.

PAR. 5. Respondent, in the course and conduct of its business, as above described, is now and has been for many years past, knowingly exerting the influence of its strong bargaining power on the suppliers hereinbefore described and others and has knowingly demanded and received from them, or some of them, special and substantial rebates, allowances, commissions, discounts, terms and conditions of sale, and other forms of substantial price reductions, direct and indirect, which are not offered or granted by said suppliers on goods of like grade and quality to other of their purchasers, many of whom are competitively engaged with respondent in the sale and distribution of such products within the various trading areas wherein respondent is engaged in business. Suppliers not acceding to such demands are usually replaced, or threatened with replacement, as sources of supply for the commodities concerned and such business is, or may be, closed to them in favor of such suppliers as can be and are induced to grant the aforesaid substantial and special price concessions so demanded.

PAR. 6. The discriminations in price knowingly induced or received by respondent, referred to in paragraph 5 hereof, now are and have been for many years past effected by numerous ways and

means, some, but not all, of which are more particularly described as follows:

1. Respondent, by knowingly representing that Automotive, or Central Warehouse, or Complete, is rendering bona fide warehousing and distribution services for suppliers in the distribution of their products to other purchasers from said suppliers, has entered into agreements, contracts, or understandings, either written or oral, with said suppliers, whereby respondent is now and has been knowingly receiving from them commissions, discounts, allowances, or other forms of compensation, ostensibly for such services rendered said suppliers, when in fact substantially all products and supplies so purchased by, or consigned to, Automotive, or Central Warehouse, or Complete, are now and have been for many years past purchased by respondent for resale by it, in many instances in competition with the aforesaid other purchasers from said suppliers, through respondent's various outlets in the States of Pennsylvania, West Virginia and Arizona.

Typical of the warehouse or distribution commissions, discounts, allowances, or other forms of similar compensation knowingly induced or received by respondent on purchases by it in the manner aforesaid are the following:

(a) From Firestone on tires and tubes, and from Willard, Purolator, Simoniz, and Dayton on automotive and other products, respondent, through Central Warehouse, is now and has been knowingly inducing or receiving such warehouse or distribution compensation in the amounts of 5% 8%, 9.1% 10% and 15%, respectively;

(b) From Firestone on Home and Auto Supplies, and from Wilkening on automotive and other products, respondent, both directly and through Complete, is now and has been knowingly inducing or receiving such warehouse or distribution compensation in the amounts of 5% and up to 28%, respectively;

(c) From Firestone on tires and tubes, respondent, through Complete, is now and has been knowingly inducing or receiving such warehouse or distribution compensation in the amount of 5%.

In 1955 the total amount of the 5% warehouse or distribution commission or allowance knowingly induced or received by respondent from Firestone, in the manner above described, amounted to approximately $120,000 on tires and tubes, and approximately $21,000 on Home and Auto Supplies.

2. By means of the inducements and representations heretofore described, respondent has knowingly induced Firestone to arbitrarily classify it as a "warehouse dealer," whereby respondent, directly

or indirectly, is now and has been knowingly receiving special rebates, allowances, commissions, discounts, terms and conditions of sale, and other forms of price reductions, direct and indirect, on tires and tubes purchased from Firestone over and above those offered or granted by Firestone to other of its purchasers on goods of like grade and quality. Some, but not all, of such special price concessions are as follows:

(a) The 5% warehouse or distribution commission or allowance as heretofore described.

(b) Special terms of sale on consigned stocks of merchandise, whereby respondent not only is consigned stocks without charge but, in addition thereto, receives the 5% warehouse or distribution commission or allowance as heretofore described, whereas stocks consigned to other purchasers by Firestone are subject to a "service charge" at the rate of 5% per annum.

(c) A 3% discount, designated "truck or carload discount" but received on all purchases by respondent regardless of size of individual quantity shipments, whereas a similar discount is only granted by Firestone to other purchasers on a single quantity shipment basis and in accordance with other stated conditions and terms of sale.

(d) Special terms of sale on certain tube types whereby respondent receives the maximum single lot quantity discounts available on all purchases thereof regardless of size of individual quantity shipments, whereas such discounts, which range from 5% to 20 plus 7½% on some tube types, and from 3% to 12½% on other tube types, are only granted by Firestone to other purchasers on the basis of single lot quantity shipments and in accordance with other stated conditions and terms of sale.

(e) The prepayment or allowance of freight costs on all shipments of goods, regardless of size, from Firestone's factories or warehouses to respondent's various outlets, including direct shipments to respondent's branches, whereas other purchasers are only granted freight allowances or prepayments by Firestone on shipments by it from its factories or warehouses to one destination only, and only on a minimum single order shipment basis and in accordance with other stated conditions and terms of sale.

3. Respondent, by knowingly representing that Automotive, or Central Warehouse, or Complete, is rendering bona fide warehousing and distribution services in the manner heretofore described, is now and has been knowingly inducing its suppliers, or some of them, to offer and sell their products and supplies at lower list or base prices to it, either directly or indirectly, than said

suppliers would offer or sell their products and supplies to respondent without such representations and inducements.

The warehouse or distribution commissions, discounts, allowances, or other forms of similar compensation, and the special rebates, allowances, commissions, discounts, terms and conditions of sale, and other forms of price reductions, knowingly induced or received by respondent on purchases by it, directly or indirectly, of tires and tubes, Home and Auto Supplies, and automotive and other products, result, either directly or indirectly in reducing prices charged respondent to substantially lower amounts, on goods of like grade and quality, than respondent's suppliers charge other of their purchasers, many of whom compete with respondent in the sale and distribution of such products and supplies within the various trading areas wherein respondent is engaged in business.

PAR. 7. Respondent has induced or received from its suppliers, in the manner aforesaid, favorable prices, rebates, allowances, commissions, discounts, terms and conditions of sale, and other forms of substantial price reductions, which it 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. 8. The effect of the knowing inducement or receipt by rerepondent of the discriminations in price as above alleged has been and may be substantially to lessen competition or tend to create a monopoly in the lines of commerce in which respondent and respondent's suppliers are respectively engaged; or to injure, destroy or prevent competition with respondent, or with respondent's suppliers.

PAR. 9. The aforesaid alleged acts and practices of respondent, 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. James S. Kelaher for the Commission.

Mr. Philip B. Perlman and *Mr. Ellis Lyons* of *Perlman, Lyons & Browning*, of Washington, D.C.; and *Mr. Emanuel S. Leopold* of *Scheeline & Leopold*, of Altoona, Pa., for respondent.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On May 7, 1958, the Federal Trade Commission issued its complaint against the above-named respondent charging it with violating the provisions of subsection (f) of Section 2 of the Clayton Act,

as amended, in connection with the purchase, resale and distribution, at the wholesale level, of tires and tubes and related items. On June 15, 1959, the respondent and its attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint and agrees, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that it 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. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent, Automotive Supply Company, is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 1917 Margaret Avenue, in the City of Altoona, State of Pennsylvania.

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 Clayton Act, as amended.

ORDER

It is ordered, That respondent, Automotive Supply Company, a corporation, and its officers, representatives, agents and employees, directly or through Central Warehouse Company or Complete Auto

and Home Supply Company, Division of Automotive Supply Company, or through any corporate or other device, in or in connection with the offering to purchase or purchase of tires and tubes and related items, and other automotive products and supplies in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Knowingly inducing, 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 which respondent knew or should have known 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 respondent is competing with other customers of the seller.

For the purpose of determining "net price" as used in this order, there shall be taken into account rebates, allowances, commissions, discounts, terms and conditions of sale, or other forms of direct or indirect price reductions, 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 29th day of August, 1959, 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

I. N. AGRONS TRADING AS I. N. AGRONS FURS

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

Docket 7430. Complaint, Feb. 27, 1959—Decision, Aug. 29, 1959

Consent order requiring a furrier in Atlantic City, N.J., to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements.

Mr. Thomas A. Ziebarth for the Commission.
Mr. Melvin Richter, of Washington, D.C., for respondent.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 27, 1959, the Federal Trade Commission issued its complaint against the above-named respondent charging him with violating the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act and the Rules and Regulations promulgated under the Fur Products Labeling Act. On June 4, 1959, the respondent and his attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

Under the foregoing agreement, the respondent admits the jurisdictional facts alleged in the complaint and agrees, among other things, that the cease and desist order there set forth may be entered without further notice and shall have the same force and effect as if entered after a full hearing. The agreement includes a waiver by the respondent of all rights to challenge or contest the validity of the order issuing in accordance therewith; and recites that the said agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission, and that it is for settlement purposes only and does not constitute an admission by the respondent that he has violated the law as alleged in the complaint. The hearing examiner finds that the content of the said agreement meets all the requirements of Section 3.25(b) of the Rules of Practice.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Section 3.21 of the Rules of Practice; and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent is an individual trading as I. N. Agrons Furs and has his office and principal place of business located at 1307-11 Pacific Avenue, Atlantic City, New Jersey.

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 Federal Trade Commission Act and the Fur Products Labeling Act, and this proceeding is in the interest of the public.

ORDER

It is ordered, That respondent I. N. Agrons, individually and trading as I. N. Agrons Furs, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the sale, offering for sale, transportation, or distribution in commerce, of fur products, or in connection with the sale, manufacture for sale, 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 products" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively labeling or otherwise identifying any such product as "natural," or in terms or words of similar import, when, in truth and in fact, the product is bleached, dyed, or otherwise artificially colored.

B. Misbranding fur products by:

1. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the sub-sections of Section 4(2) of the Fur Products Labeling Act;

2. Setting forth on labels affixed to fur products information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder:

(a) In abbreviated form;

(b) Mingled with non-required information;

(c) In handwriting.

C. Falsely or deceptively invoicing fur products by:

1. Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the sub-sections of Section 5(b)(1) of the Fur Products Labeling Act;

2. 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.

3. Failing to set forth the term "Broadtail-processed Lamb," in the manner required.

4. Failing to set forth an item number or mark assigned to a fur product.

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 29th day of August, 1959, become the decision of the Commission; and, accordingy:

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

IN THE MATTER OF

JOY HAT NOVELTY CORPORATION ET AL.

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

Docket 7460. Complaint, Apr. 1, 1959—Decision, Aug. 29, 1959

Consent order requiring manufacturers in New York City to cease selling hats to wholesalers, jobbers, and retailers for resale without disclosing in any manner that such products were discarded, secondhand, and previously used felt hat bodies which they had cleaned, shaped, and fitted with new trimmings; and to cease violating the Wool Products Labeling Act by labeling as "100% New Felt," hats which contained a substantial quantity of reclaimed woolen fibers, and by failing in other respects to comply with the labeling requirements of the Act.

Mr. S. F. House for the Commission.
Respondents, for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on April 1, 1959, charging Respondents with failing to mark or label their reconditioned, previously-used felt hats in such a manner as will disclose the fact that said products are made from used materials, and with misbranding such hats as "100% New Felt," thereby placing in the hands of distributors and retailers means and instrumentalities by which the public may be misled into the erroneous and mistaken belief that such hats are manufactured entirely from new and unused materials, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

Thereafter, on June 10, 1959, 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 Respondent Joy Hat Novelty Corporation as a New York corporation, with its office and principal place of business located at 9302 Ditmas Avenue, Brooklyn, New York, New York, and individual Respondent Stanley Fessel as an officer of said corporation, who formulates, directs and controls the policies, acts and practices thereof, and has the same address as the corporate Respondent. All parties agree that the complaint should be dismissed as to respondent Daniel Silverman, deceased.

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 into 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 Joy Hat Novelty Corporation, a corporation, and its officers, and Stanley Fessel, 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 offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of hats, do forthwith cease and desist from:

A. Offering for sale, selling or distributing discarded, secondhand or previously used hats that have been reconditioned, or hats that are composed in whole or in part of materials which are used, unless a statement that said hats are composed of secondhand or used materials is stamped in some conspicuous place on the exposed surface of the inside of the hat in conspicuous and legible terms which cannot be obliterated without mutilating the hat itself, provided that if sweat bands or bands similar thereto are attached to said hats, then such statement may be stamped upon the exposed surface of such bands, providing that said stampings be of such a nature that they cannot be removed or obliterated without mutilating the band and the band itself cannot be removed without rendering the hat unserviceable;

B. Representing in any manner that hats made in whole or in part from old, used, or secondhand materials are new or are composed of new materials.

It is further ordered, That respondents Joy Hat Novelty Corporation, a corporation, and its officers, and Stanley Fessel, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the 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 woolen hats or other wool products, as "wool products" are defined in the Wool Products Labeling Act, do forthwith cease and desist from:

C. Misbranding such products by:

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

2. Failing to fix securely 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 the total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool,

(4) each fiber other than wool where the 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 of such wool product in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to Daniel Silverman.

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 29th day of August, 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Joy Hat Novelty Corporation, a corporation, and Stanley Fessel, individually and as an officer 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

SALM'S, INC., ET AL.

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

Docket 7497. Complaint, May 18, 1959—Decision, Aug. 29, 1959

Consent order requiring a furrier in Evansville, Ind., to cease violating the Fur Products Labeling Act by failing to comply with labeling, invoicing, and advertising requirements, and by failing to maintain adequate records for pricing claims made in newspaper advertising.

Mr. William A. Somers supporting the complaint.
Mr. Jerome L. Salm of Evansville, Ind., for respondents.

INITIAL DECISION BY EDWARD CREEL, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on May 18, 1959, charging them with having violated the Fur Products Labeling Act, the Rules and Regulations issued thereunder, and the Federal Trade Commission Act by misbranding, falsely and deceptively invoicing and advertising certain of their fur products and failing to maintain full and adequate records disclosing the facts upon which their pricing and savings claims and representations are based.

On June 17, 1959 respondents entered into an agreement with counsel in support of the complaint for a consent order. The agreement disposes of all the proceedings as to all parties.

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. Respondent Salm's, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana with its office and place of business located at 400 Main Street, Evansville, Indiana.

2. Respondents Jerome L. Salm, Allan H. Salm and Margaret McCune are individuals and officers of said corporate respondent. Their address is the same as that of said corporate respondent.

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 Salm's, Inc., and its officers, and Jerome L. Salm, Allan H. Salm and Margaret McCune, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, 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 are made in whole or in part of fur which has been shipped in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by setting forth on labels attached to fur products information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder which is intermingled with non-required information.

2. Falsely or deceptively invoicing fur products by:

(A) Failing to furnish purchasers of fur products an invoice showing each element of information required to be disclosed under section 5(b)(1) of the Fur Products Labeling Act.

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

(C) Failing to set forth the information required under section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in a clear, legible, distinct and conspicuous manner;

(D) Failing to set forth the item number or mark assigned to a fur product.

3. 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 fails to set forth the information required under section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, in type of equal size and conspicuousness, and in close proximity with each other.

4. Making price claims or representations in advertisements respecting reduced prices, savings or value of fur products, unless

respondents maintain full and 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 29th day of August, 1959, 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

LINK SALES COMPANY, INC., ET AL.

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

Docket 7400. Complaint, Feb. 6, 1959—Decision, Sept. 1, 1959

Consent order requiring Washington, D.C., suppliers of watches, jewelry, cutlery, etc., to retailers for resale, to cease selling merchandise with attached tags printed with fictitious prices represented thereby as the regular retail prices, and to cease supplying to their customers unattached tags printed with fictitious retail prices.

Mr. Frederick McManus for the Commission.

Mr. Irving Turner, of Washington, D.C., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) issued its complaint herein on February 6, 1959, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars.

On July 8, 1959, 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 all respondents, except Selma Link, and the attorneys for both parties, under date of July 2, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.