

Complaint

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## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

MARCH 13, 1964

Pursuant to Section 3.21 of the Commission's Rules of Practice, effective August 1, 1963, the initial decision of the hearing examiner shall on the 13th day of March 1964, become the decision of the Commission; and, accordingly,

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

## IN THE MATTER OF

## AMERICAN LINEN SERVICE CO., INC., ET AL.

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

*Docket 8559. Complaint, Mar. 6, 1963—Decision, Mar. 13, 1964*

Consent order requiring 12 corporations engaged in the linen supply business in the District of Columbia, Maryland and Virginia, to cease cooperating among themselves, to allocate and trade customers, refusing to service competitors' customers except with such competitors' permission, notifying competitors when certain of their accounts asked for service, granting price concessions in reprisal against noncooperating linen suppliers, and falsely disparaging competitors and their operations; and

Further requiring said linen suppliers to cease entering into exclusive contracts requiring customers to obtain all their requirements from respondents for a period longer than one year—or for two years in the case of special articles—with provision for automatic renewal for six months; to refrain from acquiring the business of any competitor in the metropolitan Washington, D.C., area for five years without advance notice to the Commission, with the exception of accommodation sales; to refrain from placing owners or employees of acquired linen rental concerns under restrictive covenants not to compete for three years and not to solicit former customers for five years; and to refrain from permitting any officer or employee to serve at the same time as officer or employee of a competitor.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (38 Stat. 717, 15 U.S.C.A. Sec. 41, *et seq.*, 52 Stat. 111), and by virtue of the authority vested in it by said Act, the Federal Trade

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Commission, having reason to believe that the parties listed in the caption hereof, and hereinafter more fully described, have violated the provisions of Section 5 of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint against each and all of the parties named herein as respondents, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent American Linen Service Co., Inc., is a corporation organized and doing business under the laws of the District of Columbia, with its office and principal place of business located at 2306 Georgia Avenue, N.W., Washington, D.C. Said respondent is a successor to the partnership of Ben E. Singer and Joseph L. Fradkins, which was engaged in the linen supply business in the Washington, D.C. metropolitan area, trading under the name American Linen Supply Company, and is engaged in the linen supply business in the District of Columbia, Maryland and Virginia. Said respondent in 1958 had an approximate current annual dollar volume in linen rentals of \$980,000.

Respondent C & C Linen Service, Inc., is a corporation organized and doing business under the laws of the State of Maryland, with office and principal place of business located at 2120 L Street, N.W., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia and in the fiscal year ending May 1957, had an approximate dollar volume for linen rentals of \$416,000.

Respondent Capitol Towel Service Company, Inc., is a corporation organized and doing business under the laws of the State of Maryland, with its office and principal place of business at 500 Emerson Street, N.E., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia and for the fiscal year ending September 30, 1957, had an approximate dollar volume for linen rentals of \$280,000.

Respondent District Linen Service Company, Incorporated, is a corporation organized and doing business under the laws of the District of Columbia, with its office and principal place of business located at 50 L Street, S.E., Washington 3, D.C. Said respondent is a successor to the partnership of George J. Heon and George E. Callas, trading under the name District Linen Service Company and is engaged in the linen supply business in the District of Columbia, Maryland and Virginia. Respondent's predecessor, the District Linen Service Company in 1956 had an approximate dollar volume of \$316,000 for linen rentals.

Respondent Elite Laundry Company of Washington, D.C., Incorporated, is a corporation organized and doing business under the laws of the State of Virginia, with its office and principal place of business located at 2119-14th Street, N.W., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia. Said respondent in 1957 had an approximate dollar volume in linen rentals of \$658,000.

Respondent Modern Linen Service, Inc., is a corporation organized and doing business under the laws of the State of Maryland, with its office and principal place of business located at 1016 Bladensburg Road, N.E., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia and in 1957 had an approximate dollar volume for linen rentals ranging between \$96,000 to \$100,000.

Respondent National Laundry and Linen Service, Inc., is a corporation organized and doing business under the laws of the District of Columbia, with its office and principal place of business located at 2035 West Virginia Avenue, N.E., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia and in the fiscal year 1960 had a dollar volume of \$783,989 for linen rentals.

Respondent Palace Laundry, Inc., is a corporation organized and doing business under the laws of the State of Delaware, with its office and principal place of business located at 1659 N. Fort Myer Drive, Arlington, Virginia. Respondent Palace Linens, Inc., and respondent Standard Linen Supply, Inc., are corporations organized and doing business under the laws of the State of Virginia. Both Palace Linens, Inc., and Standard Linen Supply, Inc., are wholly-owned subsidiaries of Palace Laundry, Inc., with their offices and principal places of business located at 1659 N. Fort Myer Drive, Arlington, Virginia. Said respondent Palace Laundry, Inc., and its respondent subsidiaries, are engaged in the linen supply business in the District of Columbia, Maryland and Virginia and for the year 1958, had gross sales amounting to \$707,929.

Respondent Quick Service Laundry Company is a corporation organized and doing business under the laws of the State of Delaware, with its office and principal place of business located at 1016 Bladensburg Road, N.E., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia and in 1957 had a dollar volume of \$117,000 for linen rentals.

Respondent The Tolman Laundry, doing business as the Washington Linen Service, is a corporation organized and doing business

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under the laws of the District of Columbia, with its office and principal place of business located at 5248 Wisconsin Avenue, N.W., Washington, D.C. Said respondent is engaged in the linen supply business in the District of Columbia, Maryland and Virginia and in 1957 had an approximate dollar volume for linen rentals of \$310,000.

Central Linen Service Co., Inc., not made respondent herein, is a corporation organized and doing business under the laws of the State of Maryland with its offices and principal place of business located at 2149 Queens Chapel Road, N.E., Washington, D.C. Said corporation participated as a co-conspirator with the respondents herein in the conspiracy, combination and agreement charged herein and performed acts and made statements in furtherance of said conspiracy, combination and agreement.

PAR. 2. The linen supply business consists of leasing and delivering clean linens at recurrent intervals, generally of one week or less by respondents, to users located in the States of Maryland and Virginia and the District of Columbia in connection with the user's trade, business or profession. Part of the service consists in the removal of soiled linens for which the clean linens are replacements. The respondent linen suppliers regularly cause such soiled linens to be transported from their customers' places of business located in the States of Maryland and Virginia and the District of Columbia to laundries, and after laundering they are again regularly caused to be transported by the respondent linen suppliers from the laundries to their customers for reuse. Accordingly, there has been and is now a constant and continuous current and flow in interstate commerce of such linen supplies between respondents and their customers located in the States of Maryland and Virginia and the District of Columbia. Respondents, therefore, are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. The linen supply market in the Washington, D.C. metropolitan area, which consists of the District of Columbia, the Cities of Alexandria and Falls Church, Virginia, the Counties of Arlington and Fairfax, Virginia and the Counties of Montgomery and Prince Georges, Maryland, is dominated by the respondents herein who are the major suppliers in this market.

PAR. 4. For many years, and continuing to the present time, respondents have maintained, effectuated and carried out and maintain, effectuate, and carry out a conspiracy, combination, agreement and understanding in the rental of linen supplies in the metropolitan area of Washington, D.C. as more fully set out below. The respond-

ents entered this conspiracy at varying times and contributed to carrying it out and to its effect by different means and methods.

PAR. 5. As a part of, pursuant to and in furtherance of the aforesaid agreement, understanding, combination and conspiracy, respondents have for many years past and continuing to the present time, combined, conspired, agreed, and cooperated between and among themselves and others to control the solicitation and allocation of customers by various means and methods of which the following are typical, but not all inclusive:

1. Agreed among themselves and with others not to solicit the customers of certain of their competitors.
2. Instructed their salesmen not to solicit the accounts of certain competitors.
3. Refused to service customers of certain competitors even though such accounts requested their service.
4. Requested and secured permission of certain of their competitors to service the customers of such competitors.
5. Traded customers between and among themselves.
6. Warned competitors that certain of their accounts had approached respondents for service in order that such competitors could take measures to hold such accounts.
7. Made or caused to be made false and disparaging remarks concerning the financial standing, business integrity, and quality of service of new competitors attempting to enter the metropolitan Washington, D.C. linen supply market.
8. Offered the customers or prospective customers of new competitors in the metropolitan Washington, D.C. area free service or rentals below cost for the purpose of impairing the ability of newcomers to compete in the linen supply business.

PAR. 6. Further contributing to the elimination of competition between and among these respondents and to the effects of the agreement, understanding, combination and conspiracy, has been the utilization by certain of the respondents of requirements contracts. Such contracts requiring customers to take all their linen supplies from one supplier are characterized by unreasonably long term contracts and lengthy automatic renewal after the expiration date, with inadequate provision for cancellation by respondents' customers.

PAR. 7. Commencing on or about 1953, three of the respondents, American Linen Service Co., Inc., Elite Laundry Company of Washington, D.C., Incorporated and National Laundry and Linen Service, Inc., either directly or indirectly acquired fifty percent of the pre-

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ferred and voting common stock of the C & C Linen Service, Inc. These respondents at the time constituted four of the five largest of the eleven major linen suppliers in the metropolitan Washington, D.C. area. As a result of such stock acquisition, the related voting arrangement and the use of interlocking directors and officers, competition that normally would have existed and did exist to a certain extent between and among these particular respondents was restrained, hindered and substantially eliminated, thus further contributing to the deterioration of competition in this market. The foregoing relationship was not dissolved until on or about March of 1961.

PAR. 8. New entrants to the linen supply market in the metropolitan Washington, D.C. area, have been hindered, handicapped and prevented from competing successfully in the linen supply business because of the unfavorable competitive climate present in this market and brought about by the unfair practices and conditions hereinbefore described.

Some of these concerns have been acquired by respondents herein, thus removing them as competitive factors in this market. The purchase agreements placed these linen supply operators under restrictive covenants, prohibiting a return to the linen supply business, in many cases, for periods exceeding five years. These acquisitions coupled with the unreasonable length of the restrictive covenants have been an important factor in contributing to the anti-competitive practices in this market and facilitated these respondents in placing in effect and carrying out the agreement, understanding, and conspiracy as herein alleged.

For example, in June 1953, the linen supply business of Columbia Linen Service, Inc., was purchased by respondent, National Laundry and Linen Service, Inc., then operating as National Laundry Company; in December 1955, the linen supply business of Union Linen Service, Inc., was purchased by Palace Laundry, Inc.; in April 1956 the linen supply business of Capital Laundry, Inc., was purchased by C & C Linen Service; in April 1959, the stock of Lovely Linens, Inc., was acquired by the C & C Linen Service, Inc.

PAR. 9. The agreement, understanding, combination and conspiracy, and the acts and practices of respondents pursuant to and in furtherance of, or in contribution to same, as alleged herein, have had and do now have the effect of hindering, lessening, restricting, restraining, destroying and eliminating competition, actual and potential, in the rental of linen supplies; have deprived customers of

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the benefits of full and free competition and seriously hampered their exercising free choice in the selection of their suppliers; have had and do now have a tendency to unduly hinder competition or to create in respondents a monopoly; have constituted an attempt to monopolize; have foreclosed markets and access to markets to competitors or potential competitors in the linen supply business; and are all to the prejudice and injury of competitors of respondents and to the public; and constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

## DECISION AND ORDER

The respondents named in the caption hereof and counsel for the Commission having, pursuant to Part 3 of the Commission's Rules, executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint; and waivers and provisions as required by the Commission's rules; and

The Commission having considered the agreement and having heretofore issued its order accepting the agreement and deferring, as contemplated by such agreement, service of the decision and order of the Commission in disposition of this proceeding until issuance by the Commission of its decision and order *In the Matter of Central Linen Service Co., Inc.*, Docket No. 8558, and the Commission having determined that such condition is met inasmuch as decision in disposition of that matter is issuing simultaneously with the Commission's action herein.

Now, therefore, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

## ORDER

I. *It is ordered*, That American Linen Service Co., Inc., C & C Linen Service, Inc., Capitol Towel Service Company, Inc., District Linen Service Company, Incorporated, Elite Laundry Company of Washington, D.C., Incorporated, Modern Linen Service, Inc., National Laundry and Linen Service, Inc., Palace Laundry, Inc., Palace

Linens, Inc., Quick Service Laundry Company, Standard Linen Supply, Inc., The Tolman Laundry, doing business as Washington Linen Service, their subsidiaries and successors and their officers, representatives, agents and employees, directly, indirectly, or through any corporate or other device in connection with the furnishing of linen supplies in the metropolitan Washington, D.C. area, do forthwith cease and desist from entering into, cooperating in, carrying out or continuing any conspiracy, understanding, combination or agreement between any two or more of said respondents or between one or more of said respondents and others not a party hereto, to do or perform any of the following acts, practices or things:

1. Controlling the solicitation and allocation of customers.
2. Agreeing not to solicit the customers of their competitors.
3. Instructing salesmen not to solicit the accounts of competitors.
4. Refusing to service customers of competitors even though such customers requested their services.
5. Requesting and securing permission of certain of their competitors to service the customers of such competitors.
6. Trading customers between and among themselves.
7. Warning competitors that certain of their accounts had approached respondents for service in order that such competitors could take measures to hold such accounts.
8. Offering or granting price concessions for the purpose of taking reprisals against linen suppliers not adhering to agreements relating to the control of solicitation and allocation of customers or for the purpose of impairing the ability of other linen suppliers to compete.
9. Making statements falsely disparaging a competitor's business integrity, quality of service, or ability to stay in business.

II. *It is further ordered*, That American Linen Service Co., Inc., C & C Linen Service, Inc., Capitol Towel Service Company, Inc., District Linen Service Company, Incorporated, Elite Laundry Company of Washington, D.C., Incorporated, Modern Linen Service, Inc., National Laundry and Linen Service, Inc., Palace Laundry, Inc., Palace Linens, Inc., Quick Service Laundry Company, Standard Linen Supply, Inc., The Tolman Laundry, doing business as Washington Linen Service, their subsidiaries and successors, individually, and their officers, representatives, agents and employees, directly, or



through any corporate device, in connection with the furnishing of linen supplies in the metropolitan Washington, D.C. area, do forthwith cease and desist from:

1. Entering into contracts with their customers which require their customers to obtain all of their linen supply requirements generally or all their requirements of the linen supply articles listed on the contract from respondents unless the periods of such contracts do not exceed one year, except contracts which provide for the supplying of special articles (not usable by another customer) in which event such contracts may be for a period of not more than two years, and provided further that all contracts may contain provision for periods of automatic renewal not to exceed six months.

2. Acquiring directly or indirectly, by purchase, lease or otherwise, the business, including customer accounts, good will, capital stock, financial interest or physical assets, or any part thereof, of any competitive linen supplier, located in the metropolitan Washington, D.C. area, for a period of five years from the date of this order, unless the Commission is given 60 days' notice in writing in advance of the date of the proposed acquisition. Provided, however, that nothing in this paragraph 2 shall apply to accommodation sales (sales occurring when one linen company purchases used linens or surplus inventory of new linens from another linen company) and the acquisitions of such linens do not impair the ability of the seller to compete.

3. Placing under restrictive covenants not to compete in the linen supply business for periods exceeding three years, owners, officers and employees of linen rental concerns, which they have acquired.

4. Placing owners, officers and employees of linen rental concerns which they have acquired under restrictive covenants which prohibit them from soliciting customers formerly served by them for a period in excess of five years.

5. Permitting any of their officers, directors or employees to serve at the same time as an officer, director or employee of any competitive linen supply concern.

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

Commissioner Reilly not participating.

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## IN THE MATTER OF

AANSWORTH, LTD., TRADING AS COS COB &amp; CO. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTI-  
FICATION ACTS

*Docket C-722. Complaint, Mar. 16, 1964—Decision, Mar. 16, 1964*

Consent order requiring New York City manufacturers of textile fiber products to cease violating the Textile Fiber Products Identification Act by failing to label or otherwise identify said products, and furnishing false guaranties that certain of the products were not misbranded or falsely invoiced.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Aansworth, Ltd., a corporation, trading as Cos Cob & Co., and William M. Perry, Jr., individually and as an officer of Aansworth, Ltd., hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating it charges in that respect as follows:

PARAGRAPH 1. Respondent Aansworth, Ltd., trading as Cos Cob & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent William M. Perry, Jr., is president of Aansworth, Ltd., trading as Cos Cob & Co. He formulates, directs, and controls the acts and practices of Aansworth, Ltd., including the acts and practices hereinafter set forth.

Respondents Aansworth, Ltd., trading as Cos Cob & Co., and William M. Perry, Jr., are manufacturers and wholesalers of textile fiber products with their office and principal place of business located at 1407 Broadway, New York, New York.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for

sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States of textile fiber products; and have sold, offered for sale, advertised, delivered, transported, and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form as prescribed by the Rules and Regulations promulgated under said Acts.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products without labels.

PAR. 4. Respondents furnished false guaranties that certain of their textile fiber products were not misbranded or falsely invoiced, in violation of Section 10(b) of the Textile Fiber Products Identification Act.

PAR. 5. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

#### DECISION AND ORDER

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

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agree-

ment is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Aansworth, Ltd., trading as Cos Cob & Co., 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 1407 Broadway, New York, New York.

Respondent William M. Perry, Jr., is an officer of said corporation, and his address is the same as that of said corporation.

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

#### ORDER

*It is ordered,* That respondents Aansworth, Ltd., a corporation, trading as Cos Cob & Co., and its officers, and William M. Perry, Jr., individually and as an officer of Aansworth, Ltd., and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by failing to affix labels to such textile fiber products showing in a clear, legible and conspicuous manner each element of information required to be

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disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Furnishing false guaranties that textile fiber products are not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

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

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IN THE MATTER OF

SEABERG MILLS, INC., ET AL.

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

*Docket C-723. Complaint, Mar. 16, 1964—Decision, Mar. 16, 1964*

Consent order requiring converter-jobbers of textile fabrics in New York City, to cease using the word "Mills" as part of their corporate name unless qualified; to cease violating the Textile Fiber Products Identification Act by misbranding as "85% Celeperm and 15% Nylon", textile fiber products which contained substantially different amounts of acetate and nylon than as represented, failing to label and invoice fabrics with the required information including the generic names and percentage by weight of constituent fibers, and furnishing false guaranties that fabrics were not misbranded; and to cease violating the Flammable Fabrics Act by representing falsely that they had on file with the Commission a continuing guaranty that certain fabrics were not so highly flammable as to be dangerous when worn.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Flammable Fabrics Act and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Seaberg Mills, Inc., a corporation and George Greenberg and Norman Segal, individually and as officers of said corporation, hereinafter referred to as respondents have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act and the Flammable Fabrics Act and it appearing to the Commission that a proceeding by it in respect thereof

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

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

Individual respondents George Greenberg and Norman Segal are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the corporate respondent including the acts and practices complained of herein.

Respondents are converters and jobbers of textile fiber products, namely fabrics, with their office and principal place of business located at 39 West 37th Street, New York, New York.

PAR. 2. In the course and conduct of their business respondents are now and for sometime past have been engaged in the advertising, offering for sale, sale and distribution of textile products in commerce and now cause and for sometime past have caused their products when sold to be shipped from their place of business in the State of New York, to purchasers thereof in various other States of the United States and maintain and at all times mentioned herein have maintained a substantial course of trade of said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business in soliciting the sale of and in selling textile products, respondent Seaberg Mills, Inc., and the individual respondents doing business under the name Seaberg Mills, Inc., have used said name on letterheads, invoices, labels and tags and in advertisements of their products.

PAR. 4. Through the use of the word "Mills" as part of the corporate name of Seaberg Mills, Inc., the aforesaid respondents represented that they own or operate mills or factories in which the textile products sold by them are manufactured.

PAR. 5. In truth and in fact the aforesaid respondents do not own, operate or control the mills or factories where the textile products sold by them are manufactured but buy the finished products from others. The aforesaid representations are therefore false, misleading and deceptive.

PAR. 6. There is a preference on the part of many dealers to buy products including textile products directly from factories or mills believing that by doing so lower prices and other advantages thereby accrue to them.

PAR. 7. In the conduct of their business at all times mentioned herein said respondents had been in substantial competition in commerce with corporations, firms and individuals in the sale of textile

products of the same general kind and nature as those sold by respondents.

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

PAR. 9. The aforesaid acts and practices of respondents as alleged in Paragraphs Two through Eight were and are to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

PAR. 10. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, sale, advertising and offering for sale, in commerce, and in the transportation or causing to be transported in commerce and the importation into the United States of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale, in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 11. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products with invoices which set forth the fiber content as 85% Celeperm and 15% Nylon, whereas, in truth and in fact said products contained substantially different amounts of acetate and nylon.

PAR. 12. Certain of said textile fiber products were further misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were fabrics which were not labeled to show any of the information required to be disclosed under Section 4(b) of such Act and were not covered by invoices correctly disclosing the aforesaid information so as to entitle such products to the exemption from labeling provided by Section 3(d)(5) of such Act.

PAR. 13. The respondents have furnished false guaranties that their textile fiber products were not misbranded by falsely invoicing and writing on invoices that respondents had filed a continuing guaranty under the Textile Fiber Products Identification Act with the Federal Trade Commission, when such was not the fact, in violation of Section 10(b) of the Textile Fiber Products Identification Act and Rule 38(d) of the Rules and Regulations promulgated under said Act.

PAR. 14. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respect. The generic names and percentages by weight of the constituent fibers present in the textile fiber products, exclusive of permissive ornamentation, in amounts of more than five percentum were not in order of predominance by weight in violation of Rule 16(a) of the aforesaid Rules and Regulations.

PAR. 15. The acts and practices of respondents as set forth above were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 16. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have sold, and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported and caused to be transported in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale in commerce; as



"commerce" is defined in the Flammable Fabrics Act, fabrics as that term is defined therein.

PAR. 17. Respondents, by falsely representing in writing that they have a continuing guaranty under the Flammable Fabrics Act on file with the Federal Trade Commission, have furnished their customers with a false guaranty with respect to certain of the fabrics, mentioned in Paragraph Sixteen hereof, to the effect that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, show that said fabrics are not, in the form delivered by respondents, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals. There was reason for respondents to believe that the fabrics covered by such guaranty might be introduced, sold, or transported in commerce in violation of Section 8(b) of the aforesaid Act and Rule 10(d) of the Rules and Regulations promulgated under such Act.

Said guaranty was false in that respondents did not have such a continuing guaranty on file with the Federal Trade Commission.

PAR. 18. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder and as such constitute unfair methods of competition and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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## Decision and Order

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Seaberg Mills, 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 39 West 37th Street, in the city of New York, State of New York.

Respondents George Greenberg and Norman Segal are officers of said corporation and their address is the same as that of said corporation.

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

## ORDER

*It is ordered.* That respondents Seaberg Mills, Inc., a corporation, and its officers, and George Greenberg and Norman Segal, 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 offering for sale, sale or distribution of textile fabrics in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from the use of the name "Seaberg Mills, Inc." unless and until there be used, the following language of qualification in the manner set out below:

1. As to letterheads, invoices, and labels: "Converters, Jobbers, and Distributors of Fabrics—Not Textile Manufacturers or Mill Owners" in type no smaller than  $\frac{3}{4}$  the size of the type used in the trade name, and immediately under the trade name.

2. In all other printed matter, either the foregoing or in lieu thereof, preceded by an asterisk (\*) or equivalent, the same qualification, at the foot of each sheet of printed matter upon which the trade name appears, said trade name being followed by an asterisk (\*) or equivalent each time it appears in said printed matter, and said qualification being printed in type no smaller than  $\frac{3}{4}$  the size of the type used in the trade name.

*It is further ordered,* That respondents Seaberg Mills, Inc., a corporation and their officers, George Greenberg and Norman Segal, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device in connection with the introduction, delivery for introduction, sale, advertising or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act do forthwith cease and desist from:

A. Misbranding textile fiber products by:

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

2. Failing to affix labels to such textile fiber products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

3. Failing to affix labels to such textile fiber products setting forth the generic names and percentages by weight of the constituent fibers present in the textile fiber product, exclusive of permissive ornamentation, in amounts of more than five percentum, in order of predominance by weight.

B. Furnishing false guaranties that textile fiber products are not misbranded or falsely invoiced under the provisions of the Textile Fiber Products Identification Act.

*It is further ordered,* That respondents Seaberg Mills, Inc., a corporation, and its officers, George Greenberg and Norman Segal, 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 sale or offering for sale, in

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Syllabus

commerce, or the importation into the United States, or the introduction, delivery for introduction, transportation or causing to be transported in commerce, or the transporting or causing to be transported for the purpose of sale or delivery after sale in commerce, of fabric, as "fabric" is defined in the Flammable Fabrics Act do forthwith cease and desist from furnishing to any person a guaranty with respect to any fabric which respondents, or any of them, have reason to believe may be introduced, sold or transported in commerce, which guaranty represents, contrary to fact, that reasonable and representative tests made under the procedures provided in Section 4 of the Flammable Fabrics Act, as amended, and the Rules and Regulations thereunder, show that the fabric, covered by the guaranty, is not, in the form delivered or to be delivered by the guarantor, so highly flammable under the provisions of the Flammable Fabrics Act as to be dangerous when worn by individuals, provided, however, that this prohibition shall not be applicable to a guaranty furnished on the basis of, and in reliance upon, a guaranty to the same effect received by respondents in good faith signed by and containing the name and address of the person by whom the fabric was manufactured or from whom it was received.

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

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IN THE MATTER OF

THE MARYLAND ALUMINUM SALES COMPANY ET AL.

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

*Docket C-724. Complaint, Mar. 16, 1964—Decision, Mar. 16, 1964*

Consent order requiring Baltimore sellers to the public of home improvement materials, including storm-screen windows and doors, to cease—in statements by themselves and their salesmen and by newspaper advertising and other media—making "bait" offers to obtain leads to interested prospects, and representing falsely that aluminum windows and doors were on sale at a special reduced price for a limited time only.

Complaint

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## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Maryland Aluminum Sales Company, a corporation, and Milton Rabovsky and Jerome Rabovsky, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Maryland Aluminum Sales Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 2313 Homewood Ave. in the city of Baltimore, State of Maryland.

Respondents Milton Rabovsky and Jerome Rabovsky are officers of the corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of home improvement materials, including storm-screen windows and doors, to the public.

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

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, the respondents, their salesmen and representatives have made certain statements and representations with respect thereto in advertisements inserted in newspapers, and by other media, of which the following are typical:

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Complaint

A.

SPECIAL THREE DAY SALE

8 count  
Eight 'em

Picture  
of  
eight  
screen  
storm  
windows

3 Separate inserts (2 glass, 1 screen)  
Aluminum Combination Screen Storm Windows  
No size restriction except picture windows

Plus

ONE FREE  
combination  
screen-storm door

80  
\$96.

installation included

Additional  
windows  
\$9.55 each

P  
i  
c  
t  
u  
r  
e  
o  
f  
D  
o  
o  
r

\* \* \* \* \*

B.

Buy Now!

Buy Five-----This Week!  
get 6!

Aluminum storm windows

5 for \$54.50 { 3 separate inserts  
2 glass, one screen.  
Any size except  
picture window.

Additional windows  
\$9.55

INSTALLATION INCLUDED

\* \* \* \* \*

Complaint

64 F.T.C.

C.

Don't Wait!  
 Summerize Your Home Now!  
 Amazing Pre-Season Prices Now!

(Picture of eight storm & screen windows)	8	Limited time! SPECIAL OFFER! FULL TRIPLE-TILT Aluminum Combination SCREEN & STORM WINDOWS
—Extruded Aluminum		installation included
—Weather Stripped	\$76.25	any size except
—Finger tip control		picture windows
—3 Separate inserts		(Picture of a storm-screen door)
—Self storing		

## SPECIAL!

This genuine Alcoa Aluminum Storm and Screen  
 Door \$16.66 with the purchase of these 8 storm  
 windows, installation included.

\* \* \* \* \*

D.

Picture of 7 storm-screen windows  
 This low  
 Limited offer price includes  
 installation

## 7 TRIPLE TRACK WINDOWS

- Genuine Aluminum Triple Track Storm Door (Picture of storm door) ALL 7 For only
- Draft Free 16.88 \$64.55
- Top and Bottom ventilation with the purchase of 7 or more installation included
- E-Z slide type Storm-screen windows
- Installation

\* \* \* \* \*

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set out herein, and through oral statements made by their salesmen and representatives, respondents have represented, directly or by implication:

1. That they were making a bona fide offer to sell the aluminum triple-track storm screen windows and doors advertised at the prices set forth in the advertisements, said prices to include installation.

2. That they were offering the advertised products for sale at a special or reduced price or for a limited time only.

PAR. 6. In truth and in fact:

1. The offers set forth in Paragraph Four above were not genuine or bona fide offers but were made for the purpose of obtaining leads as to persons interested in the purchase of respondents' products. After obtaining such leads, respondents or their salesmen and representatives called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places, respondents and their salesmen and representatives would disparage the advertised storm-screen windows and doors and would then attempt to sell, and did sell, different and more expensive storm-screen windows and doors.

2. The advertised products were not on sale at a special or reduced price or for a limited time only. In fact, said merchandise is advertised regularly at the represented prices.

Therefore, the advertisements, statements and representations referred to in Paragraph Four and Five were and are false, misleading and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of home improvement materials, including storm-screen windows and doors of the same general kind and nature as that sold by the respondents.

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

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

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a



copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent The Maryland Aluminum Sales Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 2313 Homewood Avenue, in the city of Baltimore, State of Maryland.

Respondents Milton Rabovsky and Jerome Rabovsky are officers of said corporation, and their address is the same as that of said corporation.

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

#### ORDER

*It is ordered*, That respondents The Maryland Aluminum Sales Company, a corporation, and its officers, and Milton Rabovsky and Jerome Rabovsky, individually and as officers of said corporation and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of storm-screen windows and doors, or any other merchandise, or services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

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

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## Complaint

3. Representing, directly or indirectly, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell said merchandise or services.

4. Representing, directly or by implication, that:

(a) Merchandise is sold at a special or reduced price when the price quoted is the regular price at which such merchandise is sold.

(b) Merchandise is being offered for a limited time when such offer is not limited as to time.

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

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 IN THE MATTER OF

## UNION CIRCULATION COMPANY ET AL.

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

*Docket C-725. Complaint, Mar. 20, 1964—Decision, Mar. 20, 1964*

Consent order requiring publishers' agents in Atlanta, Ga., engaged in the sale of magazine subscriptions to the public by door-to-door solicitors whom they provided with order and receipt forms and identification cards bearing their name, to cease representing falsely, through statements of their salesmen and in printed matter, that their salesmen were selected young people working for cash awards and competing for college scholarships, that they were authorized to take subscriptions for numerous magazines which they had no authority to sell, and that refunds were not available for subscriptions to magazines not on their authorized list but that subscribers must accept substitutes.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Union Circulation Company, a corporation, and Charles E. Reinhardt, Elmer Loftin, Harry C. Jolly, R. L. Reinhardt, William Brady, Laura C. (Mrs. Louis W.) Spirite, and Lester T. Gay, individually and as officers of said corporation, and Lovel L. Masters, individually and as Sales Manager of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the

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

PARAGRAPH 1. Respondent Union Circulation Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 830 West Peachtree Street, N.W., Atlanta 8, Georgia.

Respondent Charles E. Reinhardt, Elmer Loftin, Harry C. Jolly, R. L. Reinhardt, William Brady, Laura C. (Mrs. Louis W.) Spirite and Lester T. Gay are officers and directors of the corporate respondent. Lovel L. Masters is Sales Manager of the corporate respondent. They formulate, direct and control its acts and practices, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents, as agents for various publishers and distributors, are now, and for some time last past have been, engaged in the sale of magazine subscriptions to the public. Respondents are only authorized to sell certain magazines which are set out on a list supplied to salesmen, as set out below. Respondents' said business is conducted by solicitors or salesmen who move from door-to-door making direct solicitations for the sale of such subscriptions, many of whom work under the supervision of independent contractors, and some of whom are independent contractors for the distribution of said magazines. Respondents provide such salesmen with order and receipt forms and identification cards bearing respondents' name and address and various other indicia identifying and having the effect of holding out such salesmen as the respondents' duly authorized agents.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents now sell, and for some time last past have sold, magazine subscriptions to customers located throughout the continental United States, Puerto Rico, Hawaii and parts of Canada. Said subscriptions, along with other contracts, agreements and commercial paper, are forwarded to magazine publishers or distributors located in various states other than those in which respondents' customers are located for the purpose of fulfilling the subscription contracts. Respondents thereby engage in extensive commercial intercourse among and between the several states and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said magazine subscriptions in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the purchase of said magazine subscriptions, respondents, through the statements of their solicitors and in said printed material now make, and have made, numerous statements and representations to prospective subscribers.

Among and typical of such statements and representations, but not all inclusive thereof, are the following:

A. That respondents are authorized to solicit and accept subscriptions, and do in fact solicit and accept subscriptions, to numerous magazines such as Vogue, The Sporting News, Living and others for which no such authorization in fact exists.

B. That individual solicitors are among a group of young people carefully selected to work for individual cash awards.

C. That said solicitors are competing for college scholarship awards.

D. That a refund is not available to subscribers who have been induced to purchase magazines which respondents were not authorized to sell, and that such persons must accept a substitute subscription from respondents' authorized list.

PAR. 5. In truth and in fact:

A. Respondents are not authorized to solicit and accept subscriptions to many magazines such as Vogue, The Sporting News and Living for which respondents in fact solicit and accept subscriptions.

B. Individual solicitors are not among a group of young people carefully selected to work for individual cash awards.

C. The solicitors are not competing for college scholarship awards, but are merely commissioned sales agents, and no scholarship of any type is offered for such sales.

D. Refunds are available to subscribers who have purchased magazines which respondents were not authorized to sell, but only after they have been subjected to coercion to accept a substitute from respondents' authorized list and have resisted such coercion.

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

PAR. 6. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals engaged in the sale of magazine subscriptions of the same general kind and nature as those sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and

now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the purchase of a substantial number of subscriptions for magazines from the respondents by means of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Union Circulation Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 830 West Peachtree Street, N.W., in the city of Atlanta, State of Georgia.

Respondents Charles E. Reinhardt, Elmer Loftin, Harry C. Jolly, R. L. Reinhardt, William Brady, Laura C. (Mrs. Louis W.) Spirite, and Lester T. Gay are officers of said corporation, and Lovel L. Masters is Sales Manager of said corporation, and their address is the same as that of said corporation.

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

## ORDER

*It is ordered,* That respondent Union Circulation Company, a corporation, and its officers, and Charles E. Reinhardt, Elmer Loftin, Harry C. Jolly, R. L. Reinhardt, William Brady, Laura C. (Mrs. Louis W.) Spirite, and Lester T. Gay, individually and as officers of said corporation, and Lovel L. Masters, individually and as Sales Manager 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 magazine subscriptions, periodicals, books or other publications 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 they are authorized to solicit or accept subscriptions to, or to sell any of, the aforesaid products other than those for which they are actually authorized to solicit or sell.

2. Accepting or taking subscriptions to, or selling any of, the aforesaid products other than those for which they are actually authorized to solicit or sell.

3. Representing, directly or by implication, that respondents' solicitors or agents are carefully selected from a group of young people to work for individual cash awards.

4. Representing, directly or by implication, that respondents' solicitors or agents are competing for scholarship awards.

5. Representing, directly or by implication, that refunds are not available to purchasers of the aforesaid subscriptions for articles which respondents had no authorization to sell.

6. Seeking, in any manner, to induce purchasers of any of the aforesaid subscriptions or articles which respondents had no authority to sell to accept in lieu thereof any other subscriptions or articles.

7. Furnishing, or otherwise placing in the hands of others, the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

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

Complaint

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IN THE MATTER OF

W.M.R. WATCH CASE CORP. ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE  
COMMISSION ACT*Docket 8573. Complaint, May 31, 1963—Decision, Mar. 24, 1964*

Order requiring New York City distributors of watch cases to watch makers, assemblers of watches and wholesalers of watch makers' supplies, to cease selling watch cases and bezels made of base metal treated to simulate precious metal or stainless steel, or treated with an unsubstantial flashing of precious metal, without conspicuously disclosing the true metal composition; advertising and branding watch cases falsely as "water resistant"; selling watch cases from Hong Kong with housing movements from Switzerland and dials marked "Swiss," without conspicuous disclosure of their foreign origin.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that W.M.R. Watch Case Corp., a corporation, and Sheldon Parker, individually and as an officer of said corporation, and Sophia K. Cohen Huff and Sheldon Parker, co-partners trading as W.M.R. Watch Case Company, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent W.M.R. Watch Case Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 188 West 4th Street, in the city of New York, State of New York.

Respondent Sheldon Parker 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.

Respondents Sophia K. Cohen Huff and Sheldon Parker are co-partners trading as W.M.R. Watch Case Company. Their principal office and place of business is the same as that of the W.M.R. Watch Case Corporation.

All of the aforesaid respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of watch cases to watch makers, assemblers of watches and wholesalers of watch makers' supplies for resale to the public.

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

PAR. 4. Certain of the watch cases offered for sale and sold by respondents consist of two parts, that is, a back and a bezel. The back part has the appearance of stainless steel and is marked "stainless steel back". The bezel is composed of metal other than stainless steel which has been treated or processed to simulate or have the appearance of precious metal or stainless steel. Some of the bezels are finished in a color which simulates silver or silver alloy or stainless steel. Some of the bezels are finished in a color simulating gold or gold alloy. Said watch cases are not marked to disclose that the bezels are composed of base metal or metal other than stainless steel.

The practice of respondents to offering for sale and selling watch cases which incorporate bezels composed of base metal which have been treated or processed to simulate or have the appearance of precious metal or stainless steel as aforesaid, without disclosing the true metal composition of said bezels is misleading and deceptive and has a substantial tendency and capacity to lead members of the purchasing public to believe that the said bezels are composed of precious metal or stainless steel.

Respondents market some of their watch cases with bezels having the appearance of being "rolled gold plate", "gold filled", or "solid gold" and respondents do not disclose that these bezels are composed of a stock of base metal to which has been electrolytically applied a flashing or coating of precious metal of a very thin and unsubstantial character. This practice is deceptive and confusing to the consuming public unless the thin and unsubstantial character of the flashing or coating is disclosed by an appropriate marking.

PAR. 5. Respondents, in the course and conduct of their business and for the purpose of inducing the sale of their said watch cases have caused, and now cause, to be marked upon their watch cases the words "water resistant", and have advertised certain of their watch cases as "water resistant".



Complaint

64 F.T.C.

In truth and in fact, said watch cases are not water resistant. Therefore such representations were and are false, misleading and deceptive.

PAR. 6. Respondents import watch cases from Hong Kong and sell and distribute said watch cases without disclosing the country of origin of said watch cases except on the inside of the bezel which cannot be seen by prospective consumer purchasers after the watch movements have been assembled into the cases.

PAR. 7. The watch cases are used by watch movement importers to house and protect movements, many of such movements are imported from Switzerland. In such cases the dials are usually marked "Swiss". Therefore, in the absence of an adequate disclosure that the watch cases are of Hong Kong origin, the public believes and understands that they are of domestic or Swiss origin, a fact of which the Commission takes official notice.

As to such watch cases, a substantial portion of the purchasing public has a preference for domestic or Swiss products, of which fact the Commission also takes official notice. Respondents' failure clearly and conspicuously to disclose the country or place of origin of said watch cases is, therefore, to the prejudice of the purchasing public.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms and individuals in the sale of watch cases of the same general kind and nature as that sold by respondents.

PAR. 9. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of said watch cases by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

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

*Mr. B. Paul Noble*, Washington, D.C., for respondents.

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Initial Decision

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

OCTOBER 7, 1963

The respondents are charged in the Commission's complaint with violation of the Federal Trade Commission Act in connection with the sale of watch cases. Reception of evidence in the proceeding was concluded on August 12, 1963, at the close of a hearing held in New York, New York, on that date. Proposed findings and conclusions have been submitted by counsel for the respective parties. Commission counsel has not requested oral argument before the hearing examiner. While at the hearing respondents' counsel did request such argument, the request has since been withdrawn and the case is now before the hearing examiner for final consideration. Any proposed findings or conclusions not included herein have been rejected as not material or as not warranted by the evidence.

The corporate respondent, W.M.R. Watch Case Corp., is a New York corporation, with its principal office and place of business at 62 West 47th Street (formerly 188 West 4th Street), New York, New York.

Respondent Sheldon Parker is president of the corporation and formulates its policies and directs and controls its acts and practices (Resp. Ans.).

The corporation was organized in 1954. However, it was dormant for several years, the business being operated as a partnership under the name W.M.R. Watch Case Company. The partners were Mr. Parker and respondent Sophia K. Cohen Huff. Mrs. Huff's participation in the business was solely of a financial nature; that is, she supplied funds for use in the operation of the business. She had nothing to do with the formulation of policies nor with the actual operation of the business. In 1962 the corporation was reactivated and the partnership dissolved. At no time has Mrs. Huff had any connection with the corporation. In short, her relationship to the business has been completely severed (Tr. 6, 57-59).

In the circumstances, it is concluded that no useful purpose would be served by retaining Mrs. Huff as a party to the proceeding and that the complaint should be dismissed as to her. The term respondents, as used hereinafter, will not include her unless the contrary is indicated.

Respondents are and have been engaged in the sale and distribution of watch cases, the cases being sold by them to watch manufacturers, assemblers of watches, and wholesalers of watch-maker supplies.

In the sale and distribution of their products respondents are and have been engaged in interstate commerce, shipping their products when sold, from their place of business in the State of New York to numerous purchasers located in various other States of the United States (Tr. 2; CXs 3, 6, 8, 10).

In the course and conduct of their business, respondents are in substantial competition in interstate commerce with other corporations, firms, and individuals engaged in the sale of watch cases of the same general nature (Tr. 2-3).

The first issue raised in the complaint involves an alleged failure on the part of respondents to disclose the metal content of bezels used in certain of their cases. One watch case exemplifying respondents' practice in this regard is Commission Exhibit 1. The back of this case is made of stainless steel and is properly stamped "Stainless Steel Back". However, the bezel is made of a base metal, brass, which, as a result of treating or processing, has the appearance of silver or white gold. There is no marking either on the bezel or on the back of the case to indicate the true metal content of the bezel (CX 1; Tr. 13-14, 34, 35).

The charge in the complaint is that in the absence of adequate disclosure as to the actual metal content of the bezel a substantial portion of the consuming public will be misled by the appearance of the bezel and believe it to be made of precious metal.

In the examiner's opinion the charge is well founded. While there is no testimony on the point, such testimony is unnecessary in view of the appearance of the watch case itself. Unquestionably many members of the public would believe the bezel to be made of silver or white gold.

The same principle is applicable to another watch case of respondents, Commission Exhibit 2. Here again the back of the case is made of stainless steel and is so marked. The bezel, however, is made of brass which has been electroplated or flashed with a very thin coating of gold. In consequence, the bezel has the appearance of gold and in the absence of adequate disclosure would be accepted as such by many members of the public. There is no marking on either the back or the bezel showing the actual metal content of the bezel (CX 2; Tr. 13, 29).

The next charge in the complaint is that respondents have represented, contrary to fact, that certain of their watch cases are water resistant.

Nine of respondents' watch cases were obtained by Commission investigators from purchasers in Chicago, Illinois (in two of

the cases watch movements had been installed; that is, the articles obtained were complete watches). All of the cases are stamped on the back "Water Resistant". After being prepared for testing by a competent watch maker, the nine cases were subjected to tests by a recognized testing laboratory. The testing procedure used was that prescribed in the Commission's Trade Practice Rules for testing watch cases represented as water resistant. All nine of the cases failed the test (CXs 4A-C, 5, 7, 9A-C, 11; Stip. of counsel, Tr. 40-45; Trade Practice Rules, CX 15).

It is therefore concluded that respondent's representation of its cases as water resistant was unwarranted and misleading.

Finally, the complaint raises the issue of the alleged failure of respondents to disclose adequately the fact of the foreign origin of certain of their watch cases.

Respondents import many of their cases from Hong Kong. In some instances, marks indicating the place of origin appear on the inside of the back of the case, in other instances on the inside of the bezel, and in still other instances on the inside of both back and bezel. In any event, after the movement and dial have been placed in the case by the watch manufacturer, that is, after the complete watch has been assembled, the markings as to foreign origin are no longer visible. They are covered up by the movement and dial. There is no marking at all as to foreign origin on the outside of either back or bezel (Tr. 50-53, 56-57).

The failure of respondents to disclose adequately the foreign origin of such cases is accentuated by the fact that frequently watch manufacturers assemble into such cases watch movements which have been imported from Switzerland. In such instances the dial used in the watch usually bears the word "Swiss" (CX 7, Resp. Ans.).

In the absence of adequate disclosure that the cases are of Hong Kong origin, the public believes and understands that they are of domestic or Swiss origin. Official notice to this effect was taken by the Commission in the complaint. And further official notice was taken in the complaint that there is a preference on the part of a substantial portion of the public for domestic or Swiss watch cases over cases imported from Hong Kong. In neither instance was evidence offered by respondents to the contrary.

On this issue (failure to disclose foreign origin), it is concluded that respondents fail to disclose adequately that certain of their watch cases are of Hong Kong origin, and that such failure is misleading and prejudicial to the public.

In justice to respondents, it should be noted that some two years ago they discontinued representing any of their watch cases as water

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resistant, and also for about the same period of time they have been placing markings on the outside of their cases showing the metal content of both back and bezel. It should also be noted that both Mr. Parker and respondents' counsel were highly cooperative at the hearing, stipulating much of the evidence and thus obviating extended hearings.

The practices of respondents, as described herein, have the tendency and capacity to mislead a substantial number of members of the consuming public with respect to respondents' watch cases, and to cause such persons to purchase such cases or watches of which such cases form a part. In consequence, substantial trade has been diverted unfairly to respondents from their competitors. Respondents' practices constitute unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act. The proceeding is therefore in the public interest.

## ORDER

*It is ordered*, That respondent W.M.R. Watch Case Corp., a corporation, and its officers, and respondent Sheldon Parker, individually and as an officer of said corporation, and also as a co-partner trading as W.M.R. Watch Case 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 watch cases in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling watch cases composed in whole or in part of base metal which has been treated to simulate precious metal, without clearly disclosing on the exterior of such cases the true metal composition of such treated cases or parts;
2. Representing as water resistant any watch cases which are not such in fact;
3. Offering for sale or selling watch cases which are in whole or in part of foreign origin, without clearly disclosing on the exterior of such cases the name of the foreign country or place of origin of such cases or parts.

*It is further ordered*, That the complaint be dismissed as to respondent Sophia K. Cohen Huff.

## FINAL ORDER

The Commission, having considered the briefs filed in the cross-appeals of respondents and complaint counsel, denies respondents' appeal and grants complaint counsel's appeal except as to respondent Sophia K. Cohen Huff.

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## Final Order

The Commission adopts the initial decision, modifying it to include a finding that respondents' chromium-plated brass bezels may be confused with stainless steel as well as with precious metal.

In lieu of the order issued by the examiner, the Commission issues this final order.

*It is ordered*, That respondent W.M.R. Watch Case Corp., a corporation, and its officers, and respondents Sheldon Parker, individually and as an officer of said corporation, and Sheldon Parker, a co-partner trading as WMR Watch Case Company or under any other name or names, 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 watch cases, or any other merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale or selling watch cases

(a) which are in whole or in part composed of base metal that has been treated to simulate precious metal or stainless steel, or

(b) which are in whole or in part composed of base metal that has been treated with an electrolytically applied flashing or coating of precious metal of less than 1-1/2 of one thousandths of an inch over all exposed surfaces after completion of all finishing operations,

without clearly and conspicuously disclosing on such cases or parts the true metal composition in a form consistent with the Trade Practice Conference Rules for the Watch Industry (set forth in the Code of Federal Regulations, Title 16, Chapter 1, Part 174).

2. Offering for sale or selling watch cases which are in whole or in part of foreign origin without affirmatively disclosing the country or place of foreign origin thereof on the exterior thereof on an exposed surface or on a label or tag affixed thereto of such degree of permanency as to remain thereon until consummation of consumer sale of the completed watches and of such conspicuousness as likely to be observed and read by purchasers and prospective purchasers of the completed watches.

3. Representing, directly or by implication, that their watch cases are "water resistant", it being understood that respondents may successfully defend the use of such representation with respect to any watch case or watch, the case of which respondents can show will provide protection against water or moisture to the extent of meeting the test designated Test No. 2 of the Trade

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Practice Conference Rules for the Watch Industry, as set forth in the Code of Federal Regulations, Title 16, Chapter 1, Part 170.2(c) (16 CFR 170.2(c)).

4. Supplying to, or placing in the hands of, any dealer or other purchaser means or instrumentalities by or through which he may deceive and mislead the purchasing public in respect to practices prohibited in paragraphs one through three above.

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

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IN THE MATTER OF

GUARANTEE RESERVE LIFE INSURANCE COMPANY OF  
HAMMOND

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

*Docket C-726. Complaint, Mar. 25, 1964—Decision, Mar. 25, 1964*

Consent order requiring a health and accident insurance company with headquarters in Hammond, Ind., to cease misrepresenting the cost, coverage, benefits and conditions of their policies, in circulars, folders and other advertising material disseminated throughout the various States.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as that Act is applicable to the business of insurance under the provisions of Public Law 15, 79th Congress (Title 15, U.S. Code, Sections 1011 to 1015, inclusive), and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Guarantee Reserve Life Insurance Company of Hammond, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Guarantee Reserve Life Insurance Company of Hammond is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 128 North State Street in the city of Hammond, State of Indiana.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged as an insurer in the business of insurance in commerce, as "commerce" is defined in the Federal Trade Commission Act. As a part of said business in "commerce", respondent enters into insurance contracts with insureds located in various States of the United States other than the State of Indiana in which States the business of insurance is not regulated by State law to the extent of regulating the practices of respondent alleged in this complaint to be illegal.

PAR. 3. Respondent, in conducting the business aforesaid, has sent and transmitted and has caused to be sent and transmitted, by means of the United States mails and by various other means, letters, application forms, contracts, checks and other papers and documents of a commercial nature from its place of business in the State of Indiana to purchasers and prospective purchasers located in various other States of the United States and has thus maintained a substantial course of trade in said insurance contracts or policies in commerce between and among the several States of the United States.

PAR. 4. Respondent is licensed, as provided by the respective State laws, to conduct the business of insurance in the States of Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Mississippi, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee, Virginia and West Virginia. Respondent is not now, and for some time last past has not been, licensed as provided by State law to conduct the business of insurance in any State other than those hereinabove mentioned.

PAR. 5. Respondent solicits business by mail in the various States of the United States in addition to the States named in Paragraph Four above. As a result thereof, it has entered into insurance contracts with insureds located in many States in which it is not licensed to do business. Respondent's said business practices are, therefore, not regulated by State law in any of those States in which respondent is not licensed to do business as it is not subject to the jurisdiction of such States.

PAR. 6. In the course and conduct of said business, and for the purpose of inducing the purchase of said policies respondent has made, and is now making, numerous statements and representations concerning the benefits provided in said policies by means of circulars, folders and other advertising material disseminated throughout the various States of the United States and in the District of Columbia. Typical, but not all inclusive of such statements and representations, are the following, together with an indication of the policy to which they apply:



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## (POLICY NO. 6-412)

1. Only 3¢ puts this great HOSPITAL SICKNESS and ACCIDENT INSURANCE in force for 30 days to protect you and your family.

2. \$100.00 a month IF DISABLED BY ACCIDENT payable from the very first day of medical attention at the rate of \$25.00 per week for a maximum of ten weeks if caused by a great many specified accidents such as while traveling on trains or in private automobiles or as a pedestrian.

3. \$71.00 to \$100.00 a month IF LAID UP BY SPECIFIED SICKNESS originating 30 days after issue of policy. Payable from the first day of medical attention when disabled and house confined at the rate of \$30.00 per month for the first week, at the rate of \$60.00 per month for the second week and at a rate of \$100.00 per month for the remaining period up to eight weeks, if sickness is caused by certain diseases \* \* \*.

4. \$100.00 a month IF YOU GO TO HOSPITAL for any accident or for certain sicknesses as shown in previous paragraph for a maximum of six weeks, payable at the rate of \$25.00 a week from the very first day of confinement. This benefit in lieu of other benefits in this policy.

5. \$5,000.00 accumulating to \$7,500.00 for accidental loss of life, hands, feet or eyes. These benefits are payable for accidental death or accidents occurring when riding as fare-paying passenger on a train, bus, streetcar, subway or airplane and involved in the wrecking of such common carrier.

6. \$1,000.00 ACCIDENTAL DEATH INDEMNITY. Your beneficiary will receive a death benefit of \$1,000.00 if you lose your life within 30 days from date of any accident in or out of business \* \* \*.

7. ADDITIONAL LIMITATIONS. There are of course exceptions enumerated in the policy, including miners, employees of common carriers, news companies, or governmental mail service while on duty, insanity, violations of criminal law, suicide or race driving.

## (POLICY NO. 510)

8. Pays your family \$2,500.00 if you die from any cause within the next ten years.

## (POLICY NO. 5-415)

9. PAYS \$100.00 a month beginning the first day you are injured. This policy provides that if you have an auto accident while driving or riding in any automobile, truck or bus and you are immediately and totally disabled and confined at home or in the hospital under medical care, you will be paid at the rate of \$100.00 a month from the first day of injury, EVEN FOR LIFE!

## (POLICY NO. F.U.-14)

10. Triple Benefit Family Group Life Insurance Policy Total Cost \$1.00 a month \* \* \* \$1000.00 Per Family For Natural Deaths or Ordinary Accidental Deaths.

\$2,000.00 Per Family For Auto Collision Accidental Deaths.

\$3,000.00 Per Family For Railway Travel Accidental Deaths.

These figures are approximate amounts based on an average family of five consisting of two adults and three minor children \* \* \* This is a yearly reducing term contract and the benefits are payable in the manner and to the

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extent provided in the policy and are explained on the last page of this folder. (EXPLANATION FOLLOWS).

*Amount of Insurance Purchased Per One Dollar of Monthly Premium*

[Natural death]

Attained age nearest birthday	Amount of insurance	Attained age nearest birthday	Amount of insurance	Attained age nearest birthday	Amount of insurance	Attained age nearest birthday	Amount of insurance	Attained age nearest birthday	Amount of insurance
1	\$251	16	\$1094	31	\$990	46	\$738	61	\$302
2	401	17	1090	32	980	47	712	62	279
3	561	18	1085	33	968	48	684	63	257
4	700	19	1081	34	956	49	654	64	237
5	835	20	1075	35	944	50	623	65	218
6	959	21	1068	36	930	51	592	66	200
7	1050	22	1062	37	916	52	560	67	184
8	1099	23	1055	38	900	53	528	68	169
9	1116	24	1049	39	884	54	497	69	155
10	1117	25	1042	40	866	55	466	70	142
11	1114	26	1034	41	848	56	436	71	130
12	1110	27	1026	42	829	57	407	72	119
13	1107	28	1018	43	809	58	379	73	110
14	1103	29	1009	44	786	59	352	74	101
15	1097	30	1000	45	764	60	326	75	93

Note: Amounts shown for ages 65 are for renewal only.

(POLICY NO. 101-1)

11. This Policy is truly Non-Cancellable and Guaranteed Renewable Until Age 70.

PAR. 7. By and through the use of the aforementioned statements, and others of similar import and meaning not specifically set out herein, respondent has represented, directly or by implication:

(POLICY NO. 6-412)

1. That for a payment of three cents respondent issues an insurance policy providing indemnification for loss due to sickness and accident for a period of 30 days from the date of issuance.

2. That said policy provides indemnification in the form of cash benefits for a maximum of ten weeks in all instances where the insured is disabled while traveling on a train or in a private automobile or as a pedestrian.

3. That said policy provides indemnification in the form of cash benefits for a period of ten weeks if the insured is disabled and

house confined by specified sickness or disease originating 30 days after date of issuance of the policy.

4. That said policy provides monthly payments in the amount of \$100 a month, for a total of six weeks, if the insured is confined in a hospital for any accident or for certain sicknesses or diseases as shown in the previous paragraph, regardless of the time of entering the hospital.

5. That said policy provides for cash benefits up to \$7,500 for all accidental loss of life, hands, feet or eyes occurring when insured is riding as a fare-paying passenger on a train, bus, streetcar, subway or airplane and involving the wrecking of such common carrier.

6. That said policy provides for cash benefits in the amount of \$1,000 should the insured lose his life within 30 days from the date of any accident occurring in or out of the course of the insured's business.

7. That the limitations and exceptions enumerated in said policy are limited to miners; employees of common carriers, news companies or governmental mail service while on duty; insanity, violations of criminal law, suicide or race driving.

(POLICY NO. 510)

8. That said policy provides for the payment of \$2500 should insured die from any cause within ten years from the date of issuance of the policy.

(POLICY NO. 5-415)

9. That said policy provides for the payment of cash benefits each month in a specified amount if the insured is immediately and totally disabled and confined at home or in a hospital under medical care resulting from an accident while driving or riding in any automobile, truck or bus for the duration of such disability, up to a life time.

(POLICY NO. F.U.-14)

10. That said insurance policy provides for cash benefits in the amount of \$1,000 per family for all natural deaths or ordinary accidental deaths; \$2,000 per family for all accidental deaths resulting from automobile collision; and \$3,000 per family for all accidental deaths resulting from railway travel; and that the amount of insurance provided per one dollar of monthly premium for natural death is as stated in the chart set forth in Paragraph Six.

(POLICY NO. 101-1)

11. That said policy is non-cancellable and **guaranteed renewable** with no reduction in benefits until the insured reaches the age of 70.

PAR. 8. In truth and in fact:

(POLICY NO. 6-412)

1. Respondent, upon payment of three cents, does not issue an insurance policy providing indemnification for loss occasioned by sickness and accident for a period of thirty days from the date of issuance. On the contrary, said policy provides no indemnification for loss from sickness until the policy has been in force at least thirty days from the date of issuance.

2. Said policy does not provide indemnification in the form of cash benefits for a maximum of ten weeks in all instances where the insured is disabled while traveling on a train or in a private automobile or as a pedestrian, regardless of the conditions of such travel. On the contrary, said policy contains numerous exceptions and limitations concerning the conditions of such travel under which no indemnification is provided.

3. Said policy does not provide indemnification in the form of cash benefits for a period of ten weeks if the insured is disabled and house confined by specified sickness or disease originating 30 days after date of issuance of the policy. On the contrary, indemnification is provided in such instance only for a period of eight weeks; and then only if insured is regularly attended by a legally qualified medical or osteopathic physician or surgeon and is wholly prevented from transacting any and every kind of business or labor.

4. Said policy does not provide indemnification in the amount of \$100 a month for a total of six weeks if the insured goes to a hospital for any accident or for certain sickness or disease, regardless of the time of entering the hospital. On the contrary, said benefits will not be paid unless the insured is confined in a hospital continuously from the date of the accident.

5. Said policy does not provide for cash benefits up to \$7,500 for all accidental loss of life, hands, feet or eyes occurring when riding as a fare-paying passenger on a train, bus, streetcar, subway or airplane and involving the wrecking of such common carrier. On the contrary, said policy provides that no indemnity will be paid for more than one of the losses, the largest, as the result of one accident.

6. Said policy does not provide for cash benefits in the amount of \$1,000 for loss of life within 30 days from the date of any accident

occurring in or out of the course of the insured's business. On the contrary, said policy provides that death must be caused solely by such accident and the insured must be totally and continuously disabled from the date of the accident to the date of death.

7. The exceptions enumerated in said policy are not limited to miners; employees of common carriers, news companies, or governmental mail service while on duty; insanity, violations of criminal law, suicide or race driving. On the contrary, said insurance policies exclude, in addition, injuries (except drowning) of which there shall be no visible mark or contusion on the exterior of the body at the place of injury; and any loss unless sustained in the Continental United States or Canada.

(POLICY NO. 510)

8. Said policy does not provide cash benefits in the amount of \$2,500 should the insured die from any cause within a period of ten years from the date of issuance of the policy. On the contrary, said policy provides that if the insured shall commit suicide within two years from the contract date, the limit of recovery thereunder shall be the premiums paid less any indebtedness.

(POLICY NO. 5-415)

9. Said policy does not provide for the payment of cash benefits each month if the insured is immediately and totally disabled and confined at home or in a hospital under medical care resulting from an accident while driving or riding in any automobile, truck or bus. On the contrary, said policy does not cover disability or loss from accidents while insured is in the military or naval service, nor any loss unless sustained in the continental limits of the United States or Canada.

(POLICY NO. F.U.-14)

10. Said policy does not provide indemnification in the amount of \$2,000 per family for all accidental deaths resulting from automobile collision or \$3,000 per family for all accidental deaths resulting from railway travel. On the contrary, said policy contains a number of exceptions and limitations under which no indemnification is payable and the amount of coverage per one dollar of monthly premium is only a fractional part of the amount set forth in said chart.

(POLICY NO. 101-1)

11. Said policy is not guaranteed renewable upon the same terms and with no reduction in benefits until the insured reaches the age

of 70. On the contrary, said policy provides that all benefits therein shall be reduced fifty percent after the insured reaches his sixtieth birthday.

PAR. 9. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of insurance of the same general kind and nature as that sold by respondent.

PAR. 10. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's policies by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Guarantee Reserve Life Insurance Company of Hammond is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its

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office and principal place of business located at 128 North State Street, in the city of Hammond, State of Indiana.

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 Guarantee Reserve Life Insurance Company of Hammond, 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 and distribution of any insurance policy or policies, in commerce, as "commerce" is defined in the Federal Trade Commission Act, except in those States where respondent is licensed and regulated by State law to conduct the business of insurance, do forthwith cease and desist from:

## A. Representing, directly or by implication:

1. That, for a payment of three cents or any other amount, respondent will issue a policy which will provide indemnification for loss due to sickness and accident for a period of thirty days, or any other length of time, when such policy specifies that any of such benefits shall not accrue until the policy has been in force for thirty days, or such other length of time, from date of issuance.

2. That a policy provides for indemnification for accidental disablement in all instances where the insured is traveling on a train or in a private automobile or as a pedestrian when said policy contains exceptions and limitations concerning the conditions of such travel under which no payment will be made.

3. That a policy provides for indemnification for sickness or disease for a greater length of time or in a greater amount than is actually specified in the policy.

4. That a policy provides for indemnification for all accidental loss of life, hands, feet, eyes or any other part or parts of the body, when such policy provides that no payment will be made for more than one of such losses resulting from any one accident.

5. That a policy provides for indemnification for the death of the insured from any cause when said policy provides that no payment shall be made if the insured commits suicide within a specified time from the date of the policy.

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6. That a policy is non-cancellable or guaranteed renewable without reduction in benefits for a certain length of time when said policy provides that the benefits therein may be reduced before the said length of time expires.

## B. Representing, directly or by implication:

1. That any policy may be continued in effect indefinitely or for any stated period of time unless full disclosure of any reduction in benefits or any other such provision, condition or limitation contained in the policy is made conspicuously, prominently and in sufficiently close conjunction with the representation as will fully relieve it of all capacity to deceive.

2. That any policy provides for indemnification against disability or loss due to sickness, disease, accident or death, in any amount or for any period of time, unless a statement of all the conditions, exceptions, restrictions and limitations affecting the indemnification actually provided is set forth conspicuously, prominently and in sufficiently close conjunction with the representation as will fully relieve it of all capacity to deceive.

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

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 IN THE MATTER OF

KAHN BROS. AND PINTO, INC., ET AL.

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

*Docket C-727. Complaint, Mar. 26, 1964—Decision, Mar. 26, 1964*

Consent order requiring New York City manufacturing furriers to cease violating the Fur Products Labeling Act by such practices as failing to disclose on invoices when fur was bleached or dyed, and showing bleached or artificially colored fur as natural; and furnishing false guaranties that certain of their fur products were not misbranded, falsely invoiced or falsely advertised.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and by virtue of the authority



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

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

Respondents Leonard H. Kahn and Leonard Kahn are officers of the corporate respondent and formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers of fur products with their office and principal place of business located at 130 West 30th Street, New York, New York.

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

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

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

PAR. 4. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural, when in fact such fur was pointed,

bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 5. Respondents furnished false guaranties that certain of their fur products were not misbranded, falsely invoiced or falsely advertised when respondents in furnishing such guaranties had reason to believe that fur products so falsely guaranteed would be introduced, sold, transported or distributed in commerce, in violation of Section 10(b) of the Fur Products Labeling Act.

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

#### DECISION AND ORDER

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Kahn Bros. and Pinto, 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 130 West 30th Street, New York, New York.

Respondents Leonard H. Kahn and Leonard Kahn are officers of the corporate respondent and their address is the same as that of 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 Kahn Bros. and Pinto, Inc., a corporation, and its officers, and Leonard Kahn and Leonard H. Kahn, individually and as officers of the said corporation and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed in 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 fur contained in fur products is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

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

## Complaint

## IN THE MATTER OF

## CARSON PIRIE SCOTT &amp; CO.

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

*Docket C-728. Complaint, Mar. 26, 1964—Decision, Mar. 26, 1964*

Consent order requiring a Chicago department store to cease violating the Textile Fiber Products Identification Act by failing to label textile fiber products with the required information; failing, in newspaper advertising, to set forth the true generic names of the fibers contained in products represented to be "velvet", "terry", "percale", etc.; and failing in other respects to make disclosures required by the Act.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Carson Pirie Scott & Co., a corporation, hereinafter referred to as respondent, has violated the provisions of the said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Carson Pirie Scott & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at One South State Street, Chicago, Illinois.

The respondent is primarily a retail department store engaged in selling and distributing clothing, housewares and general department store items to the general public. The respondent also acts as a wholesaler in regard to certain products among which are floor coverings.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act of March 3, 1960, respondent has been and is now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and has sold, offered for sale, advertised, delivered, transported, and caused to be transported textile fiber products, which have been advertised or offered

for sale in commerce; and has sold, offered for sale, advertised, delivered, transported, and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondent in that they were not stamped, tagged, labeled, or otherwise identified to show any of the information required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and the Rules and Regulations promulgated under said Act.

PAR. 4. Certain of said textile fiber products which were manufactured specifically for particular customers after the sale of such products was effected from labeled samples, swatches or specimens and which products were not accompanied by an invoice or other paper showing the information otherwise required to appear on a label affixed to the product, were misbranded in that they were not labeled with the information required by the Textile Fiber Products Identification Act and the Rules and Regulations thereunder, in violation of Section 4(b) of such Act and Rule 21(b) of the aforesaid Rules and Regulations.

PAR. 5. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were textile fiber products falsely and deceptively advertised by means of advertisements inserted in the Chicago Daily Tribune, the Chicago American, and other newspapers published in Chicago, Illinois, in that such advertisements contained representations and implications of fiber content by means of the use of such terms, among others but not limited thereto, as "velvet", "terry", "percale", "sateen", "flannelette", "antron", "Dacron", "Lycra", "crepe", without the true generic names of the fibers contained in such textile fiber products being set forth.

PAR. 6. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised in the following respects by means of advertisements placed by the respondent in the Chicago Daily Tribune, the Chicago American, and other newspapers published in Chicago, Illinois in that:

A. In disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such required fiber content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding, in violation of Rule 11 of the aforesaid Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber products without a full disclosure of the fiber content information required by the said advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber products containing only one fiber and such fiber trademark did not appear at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

PAR. 7. The acts and practices of the respondent as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Carson Pirie Scott & Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at One South State Street, Chicago, Illinois.

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

ORDER

*It is ordered*, That respondent Carson Pirie Scott & Co., 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, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to affix labels to such textile fiber products showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to label textile fiber products with the information required by such Act and the Rules and Regulations promulgated thereunder where the sale of such products is effected by means of properly labeled samples, swatches or specimens and such products are manufactured specifically for a particular customer after the sale is consummated and are not accompanied by an invoice or other paper show-

ing the information otherwise required to appear on the label.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label, or other means of identification under Sections 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to disclose the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, in such a manner as to indicate that such fiber content information relates only to the face, pile, or outer surface of the floor covering and not to the backing, filling or padding.

3. Using a fiber trademark in advertisements without a full disclosure of the required content information in at least one instance in the said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement, in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

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

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IN THE MATTER OF

CLARISE INTERNATIONAL COMPANY, INC., ET AL.

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

*Docket C-729. Complaint, Mar. 26, 1964—Decision, Mar. 26, 1964*

Consent order requiring New York City importer-wholesalers of wool products to cease violating the Wool Products Labeling Act by such practices as



Complaint

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tagging "93% Reprocessed Wool, 7% Nylon", wool products which contained substantially different amounts of fibers than thus represented and also contained other fibers; labeling as made in the United States, wool products which were manufactured and imported from Italy; labeling wool products as being made by "Skirts International" (their trade name) when they had no factories; and labeling wool products falsely as made of "Italy's Finest Wools."

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Clarise International Company, Inc., a corporation, trading as Skirts International Corp., and Donald W. Jacobson and Maurice Russo, individually and as officers of said corporation hereinafter referred to as respondents have violated the provisions of the said Acts and the Rules and Regulations promulgated under the Wool Products Labeling Act of 1939 and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Clarise International Company, Inc., trading as Skirts International Corp. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York.

Donald W. Jacobson and Maurice Russo said individual respondents formulate, direct and control the acts, policies and practices of said corporation including the acts and practices hereinafter referred to.

Respondents are importers and wholesalers of wool products with their office and principal place of business located at 141 West 36th Street, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939, respondents have introduced into commerce, sold, transported and distributed, delivered for shipment and offered for sale in commerce as "commerce" is defined in said Act, wool products as "wool product" is defined therein.

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

to the character and amount of constituent fibers contained therein.

Among such misbranded wool products, but not limited thereto, were certain wool products stamped, tagged or labeled as containing 93% Reprocessed Wool, 7% Nylon, whereas in truth and in fact said wool products contained substantially different amounts of fibers than represented and also contained fibers other than those indicated on said labels.

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

Among such misbranded wool products, but not limited thereto, were certain wool products stamped, tagged or labeled as being made in the U.S.A., whereas, in truth and in fact, said wool products were manufactured and imported from Italy.

PAR. 5. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled or otherwise identified with respect to the manufacturer of said wool products.

Among such misbranded wool products but not limited thereto, were certain wool products stamped, tagged, or labeled as being made by Skirts International, whereas, in truth and in fact, respondents do not own, operate or control the factories where the wool products sold by them are manufactured.

PAR. 6. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder in that they were falsely and deceptively stamped, tagged, labeled, or otherwise identified with respect to the quality of the wool from which said wool products were manufactured.

Among such misbranded wool products, but not limited thereto, were certain wool products stamped, tagged, or labeled as being made of Italy's Finest Wools, whereas; in truth and in fact, said wool products were not manufactured from Italy's Finest wools.

PAR. 7. Certain of said wool products were further misbranded by respondents in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and in the manner and

form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were wool products with labels on or affixed thereto which failed to disclose:

1. The percentage of the total fiber weight of the wool product, exclusive of ornamentation, not exceeding five per centum of said total fiber weight of
  - a. Woolen fibers.
  - b. Each fiber other than wool if said percentage by weight of such fiber are five per centum or more.
  - c. The aggregate of all other fibers.
2. The name of the manufacturer of the wool product or the name of one or more persons subject to Section 3 with respect to such wool product.

PAR. 8. The acts and practices of the respondents as set forth above were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

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

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Wool Products Labeling Act of 1939 and the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Clarise International Company, Inc. trading as Skirts International Corp. 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 141 West 36th Street, in the city of New York, State of New York.

Respondents Donald W. Jacobson and Maurice Russo are officers of said corporation and their address is the same as that of said corporation.

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

## ORDER

*It is ordered.* That respondents Clarise International Company, Inc., a corporation, and its officers, trading as Skirts International Corp., or under any other trade name, and Donald W. Jacobson and Maurice Russo, 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, distribution or delivery for shipment in commerce of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939 do forthwith cease and desist from misbranding such products by:

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

2. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the country in which such wool products are manufactured.

3. Falsely and deceptively stamping, tagging, labeling or otherwise identifying such products as to the identity of the manufacturer of said products.

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

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

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

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IN THE MATTER OF

## FRIESTAN PRODUCTS, INC., ET AL.

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

*Docket 8592. Complaint, Aug. 26, 1963—Decision, Mar. 27, 1964*

Order requiring Philadelphia sellers of home improvement materials to the public to cease representing in newspaper and other advertising and by statements of their salesmen, that they were offering storm-screen windows at bargain prices when the purported offers were not bona fide but were made to obtain leads to prospects who were then pressured to purchase different and more expensive storm-screen windows.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Friestan Products, Inc., a corporation, trading as Friestan Products, and Friestan Distributors, and Morris Friedman and Edwin Hass, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Friestan Products, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Pennsylvania, with its principal office and place of business located at 52 North Front Street in the city of Philadelphia, State of Pennsylvania. Said corporate respondent also trades under the names of Friestan Distributors and Friestan Products in connection with said business.

Respondents Morris Friedman and Edwin Hass are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of home improvement materials, including storm-screen windows to the public.

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

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents and their salesmen and representatives, have made certain statements and representations with respect thereto in advertisements inserted in newspapers, and by other media, of which the following are typical:

A.

6 COUNT 'EM 6  
 (picture of six storm-screen windows)  
 Self Storing Triple Track  
 2 glass, 1 screen  
 ALUMINUM  
 combination screen-storm  
 WINDOWS

all 6		*Alcoa aluminum
low	\$41.50	*Custom made
as		*Draft free
		*No installation charge

\* \* \* \* \*

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B.

6 Triple Track  
storm windows  
installed

(picture of six screen-storm windows)

## ALUMINUM

\*Genuine Alcoa

\*Triple Track

\*Top and bottom ventilation

\*E-Z slide type

\*Opens in any position

ALL 6 FOR AS

LOW AS

\$39.95

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set out herein, and through oral statements made by their salesmen and representatives, respondents have represented, directly or by implication, that they were making a bona fide offer to sell 6 aluminum, triple track storm-screen windows at a price of \$39.95 or \$41.50, said price to include cost of installation.

PAR. 6. In truth and in fact, the offers to sell 6 aluminum triple track storm-screen windows for \$39.95 or \$41.50, including installation, were not genuine or bona fide offers but were made for the purpose of obtaining leads as to persons interested in purchasing storm-screen windows. After obtaining such leads, respondents or their salesmen and representatives called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places, respondents and their salesmen and representatives would disparage the advertised storm-screen windows and would then attempt to sell and did sell different and more expensive storm-screen windows.

Therefore, the advertisements, statements and representations referred to in Paragraphs Four and Five were and are false, misleading and deceptive.

PAR. 7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of home improvement materials, including storm-screen windows, of the same general kind and nature as that sold by the respondents.

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

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## Initial Decision

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

*Mr. Steven John Fellman, and Mr. David J. Eden* supporting the complaint.

*Mr. Robert S. Hass*, of Philadelphia, Pa., for respondents.

INITIAL DECISION BY ELDON P. SCHRUP, HEARING EXAMINER

## STATEMENT OF PROCEEDINGS

The Federal Trade Commission on August 26, 1963, issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act. The complaint, consisting of nine paragraphs, alleges the respondents to have used various false, misleading and deceptive statements, representations and practices in connection with the interstate sale of home improvement materials, including storm-screen windows, and to have thereby misled the public into the purchase of substantial quantities of the said products, to the prejudice and injury of both the public and respondents' competitors. Included in the notice attached to the complaint was the form of order to cease and desist stated to be that which the Commission had reason to believe should issue if the facts were found to be as alleged in the complaint.

Respondents filed answer admitting and denying the various allegations of the complaint on October 2, 1963. By agreement of respective counsel, the hearing scheduled in the complaint for October 30, 1963, was cancelled and a prehearing conference was set to be held in Washington, D.C. on November 19, 1963. Following the prehearing conference, a hearing for the purpose of taking testimony and other evidence in support of the allegations of the complaint and in opposition thereto was set to commence in Philadelphia, Pennsylvania on January 14, 1964.

Pursuant to respondents' motion filed December 30, 1963, the hearing set for Philadelphia, Pennsylvania was cancelled, and, by agreement between respective counsel, reset for January 14, 1964, in Washington, D.C. Respondents did not appear at said latter hearing but submitted instead, by letter motion directed to the Hearing Examiner, an enclosed amended answer. Said amended answer admits paragraphs one through nine of the complaint and does not, as



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is provided for in Section 3.5(2) of the Commission's Rules of Practice, reserve the right to submit proposed findings and conclusions and the right to submit proposed findings and conclusions and the right to appeal the Initial Decision to the Commission under Section 3.22 of the said Rules.

There being no opposition made by complaint counsel to said motion and amended answer, respondents' amended answer to the complaint was accepted and directed to be duly filed. The hearing was then closed on the record and the following Findings of Fact, Conclusions and appropriate Order are accordingly herewith now made and issued, as provided for under Section 3.5(2) of the Commission's Rules of Practice.

## FINDINGS OF FACT

1. Respondent Friestan Products, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 52 North Front Street in the city of Philadelphia, State of Pennsylvania. Said corporate respondent also trades under the names of Friestan Distributors and Friestan Products in connection with said business.

Respondents Morris Friedman and Edwin Hass are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.<sup>1</sup>

2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of home improvement materials, including storm-screen windows to the public.<sup>2</sup>

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

4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents and their

<sup>1</sup> Admitted, respondents' amended answer.

<sup>2</sup> Admitted, respondents' amended answer.

<sup>3</sup> Admitted, respondents' amended answer.

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Initial Decision

salesmen and representatives, have made certain statements and representations with respect thereto in advertisements inserted in newspapers, and by other media, of which the following are typical:

A.

6 COUNT 'EM 6  
(picture of six storm-screen windows)

Self Storing Triple Track

2 glass, 1 screen

ALUMINUM

combination screen-storm

WINDOWS

\* Alcoa aluminum

\* Custom made

\* Draft free

\* No installation charge

all 6  
low  
as

\$41.50

B.

6 Triple Track

storm windows

installed

(picture of six screen-storm windows)

ALUMINUM

\*Genuine Alcoa

\*Triple Track

\*Top and bottom ventilation

\*E-Z slide type

\*Opens in any position<sup>4</sup>

ALL 6 FOR AS

LOW AS

\$39.95

5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set out herein, and through oral statements made by their salesmen and representatives, respondents have represented, directly or by implication, that they were making a bona fide offer to sell 6 aluminum, triple track storm-screen windows at a price of \$39.95 or \$41.50, said price to include cost of installation.<sup>5</sup>

6. In truth and in fact, the offers to sell 6 aluminum triple track storm-screen windows for \$39.95 or \$41.50, including installation, were not genuine or bona fide offers but were made for the purpose of obtaining leads as to persons interested in purchasing storm-screen windows. After obtaining such leads, respondents or their salesmen and representatives called upon such persons at their homes or waited upon them at respondents' place of business. At such times and places, respondents and their salesmen and representatives would disparage the advertised storm-screen windows and would then attempt to sell and did sell different and more expensive storm-screen windows.

<sup>4</sup> Admitted, respondents' amended answer.

<sup>5</sup> Admitted, respondents' amended answer.

Therefore, the advertisements, statements and representations referred to in findings 4 and 5 were and are false, misleading and deceptive.<sup>6</sup>

7. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of home improvement materials, including storm-screen windows, of the same general kind and nature as that sold by the respondents.<sup>7</sup>

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

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

#### CONCLUSIONS

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

2. The complaint herein states a cause of action, and this proceeding is in the public interest.

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

#### ORDER<sup>10</sup>

*It is ordered*, That respondent Friestan Products, Inc., a corporation, trading as Friestan Products, and Friestan Distributors, or under any other name or names, and its officers, and Morris Friedman and Edwin Hass, individually and as officers of said corpora-

<sup>6</sup> Admitted, respondents' amended answer.

<sup>7</sup> Admitted, respondents' amended answer.

<sup>8</sup> Admitted, respondents' amended answer.

<sup>9</sup> Admitted, respondents' amended answer.

<sup>10</sup> The form of order contained in notice attached to the instant complaint.

tion, 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 storm-screen windows, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of merchandise or services.
2. Discouraging the purchase of, or disparaging, any merchandise or services which are advertised or offered for sale.
3. Representing, directly or indirectly, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell said merchandise or services.

DECISION OF THE COMMISSION AND ORDER TO FILE  
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, effective August 1, 1963, the initial decision of the hearing examiner shall on the 27th day of March 1964, 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.

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IN THE MATTER OF

EARL H. ANDERSON DOING BUSINESS AS  
THE FREE SCHOOL

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

*Docket C-730. Complaint, Mar. 27, 1964—Decision, Mar. 27, 1964*

Consent order requiring a Kokomo, Ind., seller of civil service correspondence courses to cease representing falsely, by use of his trade name and in promotional material and newspaper and magazine advertising, that his courses were free of charge; that purchasers did not have to pay for them until they had a civil service position; that his courses were different from others and were tailored to individual needs; and that his school was the largest of its kind in the United States; and to cease representing

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falsely through his salesmen that the enrollment fee merely covered the cost of handling and postage; that questions in the course were identical to those in civil service examinations; and that the school enrolled only two or three students in a particular area.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Earl H. Anderson, an individual, doing business as The Free School, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Earl H. Anderson is an individual trading and doing business as The Free School, with his office and principal place of business located at 308-10 Armstrong, Landen Building, Kokomo, Indiana.

Respondent is now, and for more than one year last past has been, engaged in the advertising, offering for sale, sale and distribution of home study courses of instruction and civil service courses of instruction to prospective students located in various States of the United States.

PAR. 2. In the course and conduct of his business, respondent now causes, and for some time last past has caused, the said courses of instruction to be mailed from his place of business in the State of Indiana to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said courses of instruction in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of his business, and for the purpose of inducing the sale of said courses of instruction, respondent has made numerous statements and representations, in promotional material distributed through the United States mails and in advertisements inserted in newspapers and magazines of general circulation, respecting the price and quality of said courses of instruction.

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

The Free School

## CIVIL SERVICE

Prepare for Civil Service Examination and pay for your course after securing position. Small nominal fee required of student.

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The principles of The Free School are different from other correspondence schools. All of The Free School's lessons are mimeo-typed so as to meet that particular students needs. You are a personal student not a mere unit in the class.

Don't  
Dare  
Try

THE FREE SCHOOL

You Can		Course
Prepare	When	After
For	You're	Securing
Civil	Ready	Job
Service	To	Write, The
Examination	Prepare	Free School
And Pay		Dept. 960
For		Kokomo, Ind.

Established 1935

The Free School

The largest school of its kind

PAR. 4. Through the use of the name "The Free School", alone and in connection with the use of the aforesaid statements and representations, and others of similar import and meaning not specifically set out herein, respondent has represented, directly or by implication, that:

1. The courses of instruction offered by said school are free of charge.
2. Purchasers of respondent's courses of instruction do not have to pay for them until they secure a Civil Service position.
3. The principles of The Free School are different from those of other correspondence schools.
4. Respondent's courses of instruction are tailored to meet the individual student's needs by giving individual instruction to students preparing to take civil service examinations.
5. The Free School is the largest civil service school of its kind in the United States.

PAR. 5. In truth and in fact:

1. The courses of instruction offered by The Free School are not free as a substantial enrollment or entry fee, \$45 cash or \$50 on time, is required to cover said courses.
2. Purchasers of respondent's courses of instruction do pay for said courses before obtaining a civil service position as prospective students must pay the enrollment or entry fee before any lessons are

sent to them, and they are charged an additional fee if and when a job is secured.

3. The principles of The Free School are no different from those of many other similar correspondence schools.

4. Respondent's courses of instruction are not tailored to meet the individual student's needs or give individual instructions to students as the courses are of a general nature and the lessons are mimeographed sheets which are not made up for individual students.

5. The Free School is not the largest civil service school of its kind in the United States; its recent enrollment consisted of only 35 students.

Therefore, the statements and representations referred to in Paragraph Four were and are false, misleading and deceptive.

PAR. 6. Respondent's salesmen, for the purpose of selling respondent's courses of instruction and to induce the purchase of said courses, also have represented and continue to represent that:

1. The enrollment or entry fee merely covers the cost of handling and postage for the lessons sent.

2. Questions contained in respondent's courses of instruction are identical to those which appear in civil service examinations for which the particular student is preparing.

3. The Free School is selective and enrolls only two or three students in a particular area.

PAR. 7. In truth and in fact:

1. The enrollment or entry fee does not merely cover the cost of handling and postage but also includes the tuition fee which must be paid by all students before any lessons are sent to them.

2. Questions contained in respondent's courses of instruction are not identical to those appearing in civil service examinations taken by purchasers of said courses.

3. The Free School is not selective as there are no prerequisites for enrollment, and the school will enroll more than two or three students in a particular area.

Therefore, the representations set forth in Paragraph Six above, and others similar thereto, were and are false, misleading and deceptive.

PAR. 8. In the course and conduct of his business, and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals likewise engaged in the sale of correspondence courses for civil service examinations.

PAR. 9. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and

now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's courses of instruction by reason of said erroneous mistaken belief.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Earl H. Anderson is an individual trading and doing business as The Free School, with his office and principal place of business located at 308-10 Armstrong, Landen Building, Kokomo, Indiana.

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 Earl H. Anderson, individually and trading as The Free School, or under any other name, directly or



through any corporate or other device, in connection with the offering for sale, sale or distribution of correspondence courses of instruction or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Free" as a part of respondent's business or trade name.
2. Representing, directly or by implication, that:
  - (a) His courses of instruction are given free of charge or without cost, or that the enrollment price charged is limited to the cost of postage or handling; or misrepresenting in any other manner the purpose or the amount of the initial fee charged purchasers of his course of instruction.
  - (b) Purchasers of respondent's courses of instruction do not have to pay for them until they have secured a civil service position.
  - (c) The principles of The Free School are different from those of other correspondence schools, or that its courses of instruction are tailored to meet the individual needs of students preparing for civil service examinations.
  - (d) Respondent's school is the largest school of its kind or the largest school for civil service instructions in the United States; or misrepresenting in any other manner the size of respondent's enterprise.
  - (e) The questions included in said courses are identical with those which will appear in the Civil Service examination for which the course is alleged to prepare the purchasers.

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

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IN THE MATTER OF

GERIATRIC RESEARCH, INC., ET AL.

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

*Docket C-731. Complaint, Mar. 27, 1964—Decision, Mar. 27, 1964*

Consent order requiring Chicago distributors of a drug preparation and their advertising agency to cease representing falsely in newspaper advertising, by radio and television and otherwise, that their "Over-Fifty Capsulets"

**Complaint**

were a new discovery, and were of benefit in the prevention of colds, influenza, and other infections; to cease representing that they were of benefit in the treatment and relief of tiredness, nervousness, depression and other similar symptoms unless it was made clear that effectiveness of the preparation was limited to cases of vitamin deficiency, that the named symptoms generally had other causes, and that in persons over 50 there was no special need for any such preparation; and to cease representing falsely, through use of such words as "Geriatric", "Research", or "Laboratories" as part of their trade name, that they were engaged in research or operated a laboratory or were engaged in selling preparations to benefit persons of advanced years.

**COMPLAINT**

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Geriatric Research, Inc., a corporation, and Fred M. Friedlob, individually and as an officer of said corporation, and Olian & Bronner, Inc., a corporation, and Maurice H. Bronner, individually, and as an officer of both corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Geriatric Research, Inc., which has heretofore sometimes traded as Geriatric Pharmaceuticals, Inc., Geriatric Products, Inc., Geriatric Research Laboratories, and as Geriatric Research Laboratories, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 179 N. Michigan Avenue in the city of Chicago, State of Illinois.

Respondent Fred M. Friedlob is an officer of Geriatric Research, Inc. He participates in the formulation, direction and control of the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of said corporate respondent.

Olian & Bronner, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 334 Pure Oil Building in the city of Chicago, State of Illinois.

Respondent Maurice H. Bronner is an officer of both the above corporate respondents. He participates in the formulation, direction and control of the acts and practices of both said corporate respondents, including the acts and practices hereinafter set forth. His ad-

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dress is 334 Pure Oil Building in the city of Chicago, State of Illinois.

PAR. 2. Respondents Geriatric Research, Inc., Fred M. Friedlob, and Maurice H. Bronner are now, and have been for some time last past, engaged in the sale and distribution of a preparation containing ingredients which come within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

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

Designation: Over-Fifty Capsulets.

Formula:

Vitamin A	15,000 I.U.
Vitamin B-1 (Thiamin HCL)	15 mg.
Vitamin B-2 (Riboflavin)	5 mg.
Vitamin B-6 (Pyridoxine HCL)	0.5 mg.
Vitamin B-12 (N.F.)	5 mcg.
Vitamin C (Ascorbic Acid)	100 mg.
Vitamin D	1,000 I.U.
Vitamin E (d-alpha tocopheryl acetate)	10 I.U.
Niacinamide	50 mg.
Calcium pantothenate	5 mg.
Inositol	10 mg.
l-Lysine Monohydrochloride	25 mg.
Choline bitartrate	10 mg.
dl-Methionine	10 mg.
Rutin	25 mg.
Biotin	25 mcg.
Betain (hcl)	10 mg.
Iron (ferrous sulfate)	20 mg.
Calcium	58.2 mg.
(NOTE: Calcium Phosphorus and Phosphorus are obtained from 250 mg. dicalcium phosphate)	
Sodium (Sodium Chloride)	45.0 mg.
Sodium (Sodium Chloride)	1 mg.
Iodine (Potassium iodide)	0.10 mg.
Sulphur (Sulfates)	15 mg.
Potassium (Potassium sulfate)	5 mg.
Aluminum Hydroxide	30 mg.
Magnesium (Magnesium sulfate)	2 mg.
Copper (Cupric Oxide)	0.50 mg.
Manganese (Manganese sulfate)	0.50 mg.

Directions: One capsulet a day, during or after breakfast, not before.

PAR. 3. Respondents Geriatric Research Inc., Fred M. Friedlob, and Maurice H. Bronner cause the said preparation, when sold, to be transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. Said respondents maintain, and at all times mentioned herein have maintained, a course of trade

in said preparation in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

Respondent Olian & Bronner, Inc., is now and for some time last past has been the advertising agency of Geriatric Research, Inc. Respondents Olian & Bronner, Inc., and Maurice H. Bronner now prepare and place and have prepared and placed, for publication, advertising and promotional material, including the advertising and promotional material referred to herein, to promote the sale of said preparation. In the conduct of their business and at all times mentioned herein, said respondents have been in substantial competition, in commerce, as "commerce" is defined in the Federal Trade Commission Act, with other corporations, firms and individuals in the advertising business.

PAR. 4. In the course and conduct of their said businesses, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparation by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in newspapers and other advertising media, and by means of radio broadcasts transmitted by radio stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and have disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media for the purpose of inducing and which were likely to induce directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements disseminated as hereinabove set forth are the following:

OVER-FIFTY CAPSULETS

\* \* \* \* \*

Let me prove to you \* \* \* that you can:

- relieve that tired, worn-out feeling
- feel younger, peppier, more energetic
- build resistance against flu, colds and other infections.
- ease those worries that wear you out
- enjoy the fun of life like you used to
- be healthier—happier!

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Medical research has proved that folks over fifty need different kinds of vitamins and minerals—in different amounts—than younger people. To meet these specific needs, Geriatric Research Laboratories have scientifically formulated safe, high-potency Over-Fifty Capsulets.

Supplies ALL the 28 Vitamins, Minerals, Amino Acids, etc. you need for health.

- 15 times the adult minimum requirements of Vitamin B-1.
- More than 3 times of Vitamin A and Vitamin C.
- 2½ times the Vitamin B-2 and Vitamin D.
- 2 times of iron.

All this plus \* \* \*

(Over-Fifty Capsulets formula listed here) Your body needs these nutritional supplements for health and energy! (newspaper)

\* \* \* \* \*

I want to help you, if you suffer from problems so common to so many of us after we become fifty. Problems like loss of vigor and vitality. Always "too tired". Worried and nervous. Irritable with our families \* \* \*. For relief from symptoms like these, hundreds of thousands of men and women have tried pep-boosting Over-Fifty Capsulets. (newspaper)

\* \* \* \* \*

So the famous Geriatric Research Laboratories of Chicago have formulated a *new* kind of vitamins *especially* to meet the specific needs of folks over 50. They're called Over-Fifty Capsulets—and they give not one—not five—not a dozen vitamins—but 28 proved ingredients—vitamins, minerals and other nutritional supplements that folks over fifty *need* for health and happiness \* \* \*. Try them and discover, in just a few short days—they'll help end that tired feeling at night \* \* \* relieve you of worry and tension during the day \* \* \* make you feel *younger*, more *energetic* and *happier* than you have for years! (radio)

\* \* \* \* \*

Friends, it's so foolish and now so unnecessary to allow yourself to feel tired, run-down, dragged out \* \* \* to feel tired when awake and restless when its time to sleep. Your own doctor will probably tell you that you may need a dietary supplement. He'll probably also advise that *ordinary* vitamins are no guarantee against energy-robbing nutritional deficiencies. That's why you should try this high potency of 28 vitamins and minerals specifically formulated for folks in their later years. (radio)

\* \* \* \* \*

Q. What are the symptoms of diet deficiency in folks over fifty?

A. A diet deficiency can be one of the causes of symptoms like these:

- feeling "old before your time"
- a lack of energy
- nervousness
- less vitality than normal for your age
- a tired, "run down" feeling
- listlessness and depression
- irritability \* \* \*

Q. What can you do right now?

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A. You can start to take the PROPER COMBINATION of vitamins and minerals. These supplementary aids can gradually help you overcome a diet deficiency \* \* \*.

Q. What formula can do all this?

A. OVER-FIFTY CAPSULETS. It is not "just another vitamin." This high potency formula of essential vitamins, minerals and other food elements was scientifically formulated specially for folks over fifty. (pamphlet)

\* \* \* \* \*

It's hard to recognize these deficiencies too. Usual symptoms appear as tiredness, irritability, nervous strain, you just don't feel as good as you should. I hope none of you folks are suffering from any of these symptoms. If *you* are, or if *you* want to make sure that you feel your best at all times, take advantage of this offer right now \* \* \*. The Geriatric Research Company, who makes this offer possible, knows that once you feel the remarkable difference after taking Over-Fifty Capsulets, you will want to continue taking them regularly every month. (circular)

\* \* \* \* \*

As an OVER-FIFTY Plan member, here's what you get:

1. *SPECIAL FORMULA* for folks in their senior years.
2. *HIGH POTENCY*—28 Nutritional Aids. Provides more energy, perk-up alertness.
3. *LABORATORY-FRESH*—mailed directly to you. (circular)

\* \* \* \* \*

## GERIATRIC PRODUCTS, INC.

Finest Pharmaceuticals for Folks Over Fifty

\* \* \* \* \*

GERIATRIC RESEARCH, INC. HEALTH. VITALITY.

\* \* \* \* \*

GERIATRIC PHARMACEUTICALS, INC.

\* \* \* \* \*

GERIATRIC RESEARCH LABORATORIES

\* \* \* \* \*

GERIATRIC RESEARCH LABORATORIES, INC.

\* \* \* \* \*

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

1. Over-Fifty Capsulets are a new medical and scientific discovery and achievement;
2. Over-Fifty capsulets will be of benefit in the prevention of influenza, colds and other infections;
3. The use of Over-Fifty Capsulets and each ingredient therein will be of benefit in the treatment and relief of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep and energy, loss of vigor and vitality, and lack of alertness.

PAR. 7. In truth and in fact:

1. Over-Fifty Capsulets are not a new medical or scientific discovery or achievement;
2. Over-Fifty Capsulets will not be of benefit in the prevention of influenza, colds or other infections;
3. Over-Fifty Capsulets will not be of benefit in the treatment or relief of the symptoms of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness, except in a small minority of persons whose tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness is due to a deficiency of Vitamin B-1 (Thiamin), Vitamin B-2 (Riboflavin), Vitamin C (Ascorbic Acid), or Niacinamide. All the remaining ingredients in this preparation are of no benefit in the treatment or relief of said symptoms.

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

PAR. 8. Through the use of the statements in the aforesaid advertisements, and others similar thereto not specifically set out herein, respondents have represented and are now representing, directly and by implication, to persons of both sexes and all ages who experience tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep and energy, loss of vigor and vitality, or lack of alertness, that there is a reasonable probability that they have symptoms which will respond to treatment by the use of the aforementioned preparation. In the light of such statements and representations, said advertisements are misleading in a material respect, and therefore constitute false advertisements, as that term is defined in the Federal Trade Commission Act, because they fail to reveal the material facts that in the great majority of persons, or of any age, sex, or other group or class thereof, who experience the symptoms of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness, such symptoms are not caused by a deficiency of one or more of the nutrients provided by Over-Fifty Capsulets, and that in such persons the said preparation will be of no benefit.

PAR. 9. Through the use of the corporate name Geriatric Research, Inc., and the trade names Geriatric Pharmaceuticals, Inc., Geriatric Products, Inc., Geriatric Research, Inc., Geriatric Research Labora-

tories and Geriatric Research Laboratories, Inc., and the brand name "Over-Fifty Capsulets," separately and in conjunction with the statements and representations set forth and referred to in Paragraph Five above, respondents have also represented, and are now representing, directly and by implication, that Geriatric Research, Inc. is engaged in research in that field of medicine which is concerned with old age and its diseases, that said corporation operates a laboratory in connection with its business, that said corporation is engaged in the business of formulating and selling preparations to prevent, treat and cure diseases peculiar to persons of advanced years and the symptoms thereof, and that persons past fifty years of age have a special need for Over-Fifty Capsulets.

In truth and in fact, said corporation is not engaged in research in that field of medicine which is concerned with old age or its diseases, nor does it engage in any other kind of research, nor does it operate a laboratory in connection with its business, nor is it engaged in the business of formulating or selling preparations to prevent, treat or cure diseases peculiar to persons of advanced years or the symptoms thereof, nor is there a special need for Over-Fifty Capsulets in adults, or in any age, sex, or other group or class of adults. Therefore the advertisements set forth and referred to in Paragraph Five above were and are misleading in material respects and constituted, and now constitute, false advertisements as that term is defined in the Federal Trade Commission Act.

PAR. 10. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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



mission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Geriatric Research, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 179 N. Michigan Avenue, in the city of Chicago, State of Illinois.

Respondent Fred M. Friedlob is an officer of said corporation and his address is the same as that of said corporation.

Respondent Olian & Bronner, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 334 Pure Oil Building, in the City of Chicago, State of Illinois.

Respondent Maurice H. Bronner is an officer of both of the said corporations and his address is the same as that of Olian & Bronner, Inc.

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 Geriatric Research, Inc., a corporation trading as Geriatric Pharmaceuticals, Inc., Geriatric Products, Inc., Geriatric Research Laboratories, or as Geriatric Research Laboratories, Inc., or under any other trade name or names, and its officers, and Fred M. Friedlob, individually and as an officer of said corporation, and Olian & Bronner, Inc., a corporation, and its officers, and Maurice H. Bronner, individually and as an officer of both corporations, 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 "Over-Fifty Capsulets" or any other preparation of substantially similar composition, or possessing substantially similar properties, under whatever name or names sold, do forthwith cease and desist from:

1. Disseminating, or causing the dissemination of any advertisement, directly or indirectly, by means of the United States

mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents directly or by implication:

(a) That said preparation is a new medical or scientific discovery or achievement;

(b) That the use of said preparation will be of benefit in the prevention of influenza, colds or other infections;

(c) That the use of said preparation, will be of benefit in the treatment or relief of the symptoms of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep or energy, loss of vigor or vitality, or lack of alertness, unless such advertisement expressly limits the effectiveness of the preparation to those persons whose symptoms are due to a deficiency of Vitamin B-1 (Thiamin), Vitamin B-2 (Riboflavin), Vitamin C (Ascorbic Acid), or Niacinamide, and further, unless such advertising clearly and conspicuously reveals the facts that in the great majority of persons, or of any age, sex, or other group or class thereof, who experience such symptoms, these symptoms are caused by conditions other than those which may respond to treatment by the use of the preparation, and that in such persons the preparation will not be of benefit;

(d) That the ingredients in said preparation other than Vitamin B-1 (Thiamin), Vitamin B-2 (Riboflavin), Vitamin C (Ascorbic Acid), or Niacinamide will be of benefit in the treatment or relief of tiredness, nervousness, restlessness, listlessness, worry, irritability, tension, depression, lack of pep of energy, loss of vigor or vitality, or lack of alertness.

2. Disseminating, or causing to be disseminated, directly or indirectly, by means of the United States mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement in which the words "Over-Fifty" or any other words of similar import, are used as a part of any name under which respondents do business or as a part of the name of any such preparation, unless respondents clearly and conspicuously state, in immediate conjunction with such words, that in persons over 50 years of age, there is no special need for any such preparation.

3. Disseminating, or causing to be disseminated, directly or indirectly, by means of the United States mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement in which the words

"Geriatric", "Research", or "Laboratories", singly or in combination, or any other words of similar import, are used as a part of any name under which respondents Geriatric Research, Inc., Fred M. Friedlob or Maurice H. Bronner, do business, or which represents in any manner, directly or indirectly, that said respondents are engaged in research in that field of medicine which is concerned with old age or its diseases, or in research of any kind, or that said respondents operate a laboratory in connection with their business, or that said respondents are engaged in the business of formulating or selling preparations to prevent, treat or cure diseases peculiar to persons of advanced years or the symptoms thereof.

4. Disseminating, or causing to be disseminated, directly or indirectly, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such preparation, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph 1, 2 or 3 hereof or which fails to comply with any of the affirmative requirements of Paragraphs 1 and 2 hereof.

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

INTERLOCUTORY, VACATING, AND  
MISCELLANEOUS ORDERS

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THE J. B. WILLIAMS COMPANY, INC., ET AL.

*Docket 8547. Order, Jan. 3, 1964*

Order denying complaint counsel's request to challenge hearing examiner's interpretation of his order in regard to rebuttal witnesses.

ORDER DENYING REQUEST FOR LEAVE TO FILE INTERLOCUTORY APPEAL

Complaint counsel in the above-captioned matter filed on December 9, 1963, an application, pursuant to Section 3.20 of the Commission's Rules of Practice and Procedure, for leave to appeal from a ruling by the hearing examiner. Respondents filed a brief in opposition on December 16. The ruling in question is a statement of the examiner made on December 3, 1963, interpreting his order of November 14, 1963. The order established the procedure to be followed in complaint counsel's presentation of his case in rebuttal. The order requires complaint counsel to state the following with respect to each rebuttal witness he intends to call:

"1. The precise statement or statements in the respondents' case which the testimony of the proposed rebuttal witness will refute.

"2. The identity of the witness or witnesses called by respondents whose testimony will be refuted or rebutted by the proposed rebuttal witnesses offered by counsel supporting the complaint; and

"3. The identity of any document that a proposed rebuttal witness will rebut."

Under the Commission's Rules of Practice and Procedure, control of the course and procedure of evidentiary hearings is in the sound discretion of the hearing examiner (see Sections 3.8 and 3.15). The examiner's order of November 14, 1963, establishing the procedure of the rebuttal hearings is not, on its face, so manifestly unjust as to warrant review by the Commission on interlocutory appeal, in view of the provision in Section 3.20 of the Rules that permission to file an interlocutory appeal "will not be granted except in extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest". Nor does the examiner's explanatory statement of December 3, 1963, the im-

mediate occasion of complaint counsel's present application, warrant entertaining an appeal at this time. Accordingly,

*It is ordered,* That the application for leave to file an interlocutory appeal be, and it hereby is, denied.

### LONE STAR CEMENT CORPORATION

*Docket 8585. Order, Feb. 7, 1964*

Order denying respondent's petition to file interlocutory appeal relating to the question of "line of commerce" being in interstate commerce.

#### ORDER DENYING PETITION TO FILE INTERLOCUTORY APPEAL

On January 22, 1964, respondent in the above-captioned matter filed a request, pursuant to Section 3.20 of the Commission's Procedures and Rules of Practice, for permission to file an interlocutory appeal from the hearing examiner's denial of respondent's motion to dismiss certain paragraphs of the complaint, concerning the "ready-mixed concrete line of commerce" in the "Seattle area". Respondent states that its motion "raised a clear-cut question of law, namely, whether a relevant 'line of commerce' under Section 7 must be a line of interstate commerce." This question of law, however, was resolved by the Commission in *Foremost Dairies, Inc.*, F.T.C. Docket 6495 (decided April 30, 1962) [60 F.T.C. 944, 1078]:

respondent argues that under Section 7, the adverse competitive impact must be felt in a line of interstate commerce in which the acquired company is engaged.

\* \* \* \* \*  
 Section 7 does require that both the acquired and acquiring corporations be engaged in commerce \* \* \*. Having met this requirement, adverse competitive effects resulting from the activities of such interstate companies, whether such effects be local or interstate, are within the scope of Section 7. (pp. 36-37)

In view of this express ruling on the question of law presented in respondent's motion to the examiner, no useful purpose would be served by permitting an interlocutory appeal from the examiner's denial of that motion. Furthermore, respondent's appeal may be premature in view of complaint counsel's assertion (brief in opposition to respondent's request to appeal, p. 3) that the question of whether the manufacture or sale of ready-mixed concrete in the Seattle area involves interstate commerce remains to be litigated.

Permission to file an interlocutory appeal "will not be granted except in extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest." The Commission has analogized this test to that which governs appeals from interlocutory orders of federal district courts

under 28 U.S.C. § 1292(b), *i.e.*, that the order appealed from “involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation.” *Topps Chewing Gum, Inc.*, F.T.C. Docket 8463 (Order of November 15, 1963) [63 F.T.C. 2223]. In the circumstances, allowance of an interlocutory appeal at this juncture of the case would serve to delay, rather than to expedite, the disposition of this proceeding. Accordingly,

*It is ordered*, That respondent's request for permission to file an interlocutory appeal be, and it hereby is, denied.

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### NATIONAL DAIRY PRODUCTS CORPORATION

*Docket 8548. Order, Feb. 14, 1964*

Order remanding proceeding to hearing examiner for reconsideration of respondent's motion to quash subpoenas.

#### ORDER REMANDING TO HEARING EXAMINER FOR RECONSIDERATION

The Commission has before it the appeal of Old Virginia Packing Co., Inc., Theresa Friedman & Sons, Inc., M. Polaner & Son, Inc., and Polaner Sales Corp. of New Jersey, filed on January 15, 1964, pursuant to Section 3.17(f) of the Commission's Procedures and Rules of Practice, from orders of the hearing examiner denying their motions to quash or modify subpoenas *duces tecum* issued to them at the instance of respondent in the above-captioned proceeding, and respondent's answer in opposition to said appeal, filed on January 30, 1964.

Two contentions are advanced in the appeal: first, that the subpoenas are improper because the documents they require to be produced are irrelevant to the issues in the proceeding as framed in the complaint; second, that even if such documents are relevant, they should only be produced under the conditions specified in *Grand Union Co.*, F.T.C. Docket 8458 (Order of February 11, 1963) [62 F.T.C. 1491] (see also *Columbia Broadcasting System.*, F.T.C. Docket 8512 (Order of February 26, 1963) [62 F.T.C. 1518]; *Furr's, Inc.*, F.T.C. Docket 8581 (Order of November 18, 1963 [63 F.T.C. 2225]), governing the production of documents in circumstances where there is a substantial danger of disclosure of unnecessary or improper information concerning the operations and affairs of competitors.

The subpoenas require appellants to produce documents disclosing their total sales, prices and promotional practices in certain markets, and identity and volume of business done with each appellant's ten largest customers in those markets—all for a period of time running

from two years before, to almost two years after, respondent's allegedly unlawful acts. Without passing on the question of whether such information is relevant to the preparation of respondent's defense, we conclude that the subpoenas are not so manifestly improper in scope as to warrant entertaining an appeal from the examiner's refusal to quash them. Section 3.17(f) provides that such an appeal "will be entertained by the Commission only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision and that a determination of its correctness before conclusion of the hearing will better serve the interests of justice." The present appeal, insofar as it seeks the quashing of the subpoenas, does not meet this test.

However, a more difficult question is presented by the second contention urged in the appeal, namely that the *Grand Union* procedure should be applied with respect to these subpoenas. Neither respondent nor complaint counsel objected to applying such a procedure to these subpoenas. From the examiner's orders, it appears that the examiner believed that, notwithstanding the agreement among the parties involved, he was foreclosed from applying the *Grand Union* procedure by the strong policy against *in camera* treatment expressed in *H. P. Hood & Sons, Inc.*, 58 F.T.C. 1184 (1961). This reflects a misconception of *Hood*. That decision is predicated on the importance of having a public rather than secret record in adjudicative proceedings. However, the subpoenas involved in this matter seek the *production* of documents, which is a preliminary step to introducing some or all of them into *evidence*. The strong policy in favor of placing all evidence in the public record is not inconsistent with conditioning the production of documents upon adherence to the *Grand Union* procedure.

In this connection, we emphasize that the *Grand Union* procedure does not provide—as appellants appear mistakenly to believe—for the *in camera* treatment of any *evidence* that may be obtained as a result of the production of documents under the conditions and safeguards required by the procedure. Indeed, as the Commission pointed out in *Furr's, Inc.*, *supra*, application of the *Grand Union* procedure is ordinarily not appropriate where the documents sought are intended to be used in evidence.

In view of the possible confusion, on the part of the parties and the examiner, concerning the interrelationship of the *Hood* and *Grand Union* principles, we think this matter should be returned to the examiner for reconsideration, in light of this order, of his orders denying appellants' motions. In so disposing of the appeal, we intimate no view on whether appellants should in fact be afforded the *Grand Union* procedure. As pointed out in *Furr's, Inc.*, *supra*, determination of

the applicability of that procedure, like other questions relating to the proper, fair and expeditious conduct of adjudicative hearings, is a matter within the sound discretion of the hearing examiner. Accordingly,

*It is ordered*, That this matter be remanded to the hearing examiner for reconsideration, in light of this order, of appellants' motions to quash or modify subpoenas.

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CLINTON WATCH COMPANY ET AL.

*Docket 7434. Order and Statement, Feb. 17, 1964*

Order denying request of respondents to suspend earlier order until their competitors are also prohibited from using fictitious pricing.

ORDER ON PETITION TO REOPEN PROCEEDING

Respondents, on January 2, 1964, filed with the Commission a petition, pursuant to Section 3.28(b)(2) of the Commission's Procedures and Rules of Practice, to reopen proceedings in the above-captioned matter for the purpose of suspending the cease and desist order of July 19, 1960 [57 F.T.C. 222], until final orders become effective in certain cases now pending before the Commission. The order against respondents involves fictitious pricing, and respondents contend that they have been placed at a severe competitive disadvantage by virtue of the fact that their competitors have not yet been placed under Commission order, even though, respondents allege, their competitors are engaged in the same fictitious-pricing conduct forbidden by the order outstanding against respondents.

The Commission does not believe that the public interest warrants a suspension of the existing order pending completion of the Commission's proceedings against respondents' competitors. However, the Commission has directed that all outstanding cease and desist orders involving deceptive pricing shall be interpreted, and thus *pro tanto* modified, so as to impose on respondents subject to such orders no greater or different obligations than are stated in the Commission's newly-revised Guides Against Deceptive Pricing, issued on January 8, 1964. Compliance with such orders, as thus modified, should not impose on respondents any onerous or unreasonable burden. The Guides give adequate recognition to the legitimate interests of the businessman and are not punitive or inflexible. The fact that respondents are formally obliged to comply with the order should not interfere with the effective marketing of their products or place respondents at an unfair competitive disadvantage vis-à-vis their competitors who,



though not under formal order, are equally bound by the substantive requirements of the Federal Trade Commission Act, as defined and particularized—in relation to fictitious pricing—by the recently revised Guides. Accordingly,

*It is ordered,* That respondents' request to suspend the order of July 19, 1960 [57 F.T.C. 222], be, and it hereby is denied.

Commissioner MacIntyre not concurring.

#### STATEMENT BY COMMISSIONER MACINTYRE

I am compelled to issue a separate statement setting forth my views on the Commission's action in modifying the cease and desist order issued against the Clinton Watch Company in this proceeding. The significant provision amending the order reads as follows:

\* \* \* the Commission has directed that all outstanding cease and desist orders involving deceptive pricing shall be interpreted, and thus *pro tanto* modified, so as to impose on respondents subject to such orders no greater or different obligations than are stated in the Commission's newly-revised Guides Against Deceptive Pricing, issued on January 8, 1964. \* \* \*

I do not concur with this action for the following reasons. Respect for the businessmen who come before it, as well as for the appellate courts, requires that Commission orders be drafted with sufficient precision so that they can be understood. The wholesale "*pro tanto*" incorporation of the provisions in the new Guides, adopted in this instance, affords the Clinton Watch Company no guidance for the regulation of its future conduct with respect to its pricing practices. The Guides, of course, cover a multitude of deceptive pricing practices which may or may not be applicable to the Clinton Watch Company and it is doubtful that the "*pro tanto*" qualification will enlighten either the Commission's staff or respondent as to precisely those terms of the Guides applicable to the Clinton Watch Company. This difficulty is, of course, compounded by the fact that the Guides themselves still require considerable adjudicative definition before either the courts, the Commission, or the business community will be fully advised of their legal significance. In violation of the Supreme Court's injunction in *Federal Trade Commission v. Morton Salt Company*, 334 U.S. 37 (1948), the Commission here is shifting to the courts the burden of determining the factual question of what constitutes unfair conduct. I am surprised that this Commission, which recently has made so many pronouncements of the necessity for clear and definitive orders, is in this area embarking on a course which can lead only to administrative and judicial confusion by issuing orders, the terms of which are so imprecise and indefinite that they are likely to be misunderstood.

## DUOTONE COMPANY, INC., ET AL

*Docket C-87. Order, Feb. 17, 1964*

Order denying respondents' request to modify consent order in regard to disclosure of foreign origin of phonograph needles.

## ORDER RULING ON MOTION TO AMEND CONSENT ORDER

This matter is before the Commission on respondents' motion, filed June 10, 1963, to amend paragraphs one, two, and three of the consent order issued February 28, 1962 [60 F.T.C. 453], and briefs and oral argument in support thereof and in opposition thereto. Respondents' motion is concerned solely with that aspect of the consent order directed to the disclosure of the foreign origin of their imported phonograph needles. Respondents request that the order be amended to narrow its application to imported, completely finished phonograph needles so as to preclude application of the order's provisions to those of their phonograph needles consisting wholly or in part of foreign components but assembled in the United States. Respondents also urge that as a practical matter they cannot comply with paragraph three of the order directed to disclosure of the country of foreign origin of their phonograph needles on display or point of sale material as presently construed. They urge that since certain of their needles may originate in any one of several countries, they cannot, with accuracy, specify the country of foreign origin of a particular needle on their display material, such as wall charts or catalogs. In this connection, they apparently request an instruction from the Commission holding the legend on display or point of sale material that "Needles Of Foreign Origin Will Be So Designated On The Individual Packages" in compliance with paragraph three of the order.

The Commission, in reviewing this matter, has determined that there is no need for modifying the order but that its scope and Duotone's obligations thereunder should be clarified for the benefit of respondents, as well as the Commission's staff. The provisions of the order and the allegations of the complaint, it is plain, do not encompass phonograph needles consisting wholly or in part of foreign components which are assembled domestically. The terms of the order, therefore, do not extend to phonograph needles in that category.

In connection with paragraph three of the order, the Commission has determined that in the light of respondents' practical business problems the public interest will be adequately protected in this instance by a legend on wall charts, catalogs, or other display or point of sale material stating "Needles Of Foreign Origin Are So Desig-

nated On The Individual Packages" as long as the country of origin is accurately and clearly disclosed on the individual packages of respondents' needles. Accordingly,

*It is ordered,* That respondents' request for modification of the order be, and it hereby is, denied.

*It is further ordered,* That the provisions contained in paragraphs one, two, and three of the order to cease and desist are not to be construed as encompassing phonograph needles assembled domestically but consisting wholly or in part of foreign components.

*It is further ordered,* That a statement on respondents' display or point of sale material that "Needles Of Foreign Origin Are So Designated On The Individual Packages" shall be construed as in compliance with the provisions of paragraph three of the order, provided that the country of origin of needles imported by respondents is accurately and clearly described on the individual packages.

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WILLIAM H. RORER, INC.

*Docket 8599. Order, Mar. 5, 1964*

Order denying respondent's motion relative to the production of staff memorandum to the Commission.

ORDER DENYING MOTION AND DISMISSING REQUEST FOR PERMISSION TO  
FILE INTERLOCUTORY APPEAL

Part 2 of the Commission's Procedures and Rules of Practice (effective August 1, 1963) establishes a consent order procedure whereby cases can be settled in advance of issuance of the Commission's complaint. Pursuant to this procedure, the Commission served the respondent with notice of its determination to issue a complaint, along with a copy of the proposed complaint and form of order. Consent negotiations ensued but were unsuccessful, and the Commission subsequently issued its formal complaint. The matter is now in the hearing stage.

On January 3, 1964, respondent made a motion to the hearing examiner requesting that a memorandum which had been submitted to the Commission by the Commission's staff in the course of the consent negotiations be turned over to respondent. The examiner denied the motion on the ground that "the motion is not one in the present proceeding before him" within the meaning of Section 3.6(a) of the Commission's Procedures and Rules of Practice. However, the examiner indicated that in his opinion respondent was not entitled to production of the memorandum. On February 6, 1964, respondent filed with the Commission a request pursuant to Section 3.20 of the Commission's Procedures and Rules of Practice for permission to file an

interlocutory appeal from the examiner's ruling, and on February 12 complaint counsel filed a statement in opposition thereto.

(1) The examiner erred in his ruling that respondent's motion was not one made in the proceeding before him. Rule 3.6(a) provides that "During the time a proceeding is before a hearing examiner, all motions therein . . . shall be addressed to the hearing examiner, and if within his authority shall be ruled upon by him. Any motion upon which the hearing examiner has no authority to rule shall be certified by him to the Commission with his recommendation." Since respondent's motion was made during the pendency of the proceeding before the examiner, it was incumbent upon the latter either to rule upon it or certify it to the Commission with his recommendation. He did neither.

(2) Considering respondent's motion as properly before the Commission, as respondent asks us to consider it, we agree with the examiner that it should be denied. Nothing in the Administrative Procedure Act or in the basic principles of fair procedure precludes the Commission from creating and following a procedure for settling disputes without recourse to adjudication. Consent negotiations are not a stage in an adjudication but a means of establishing whether adjudication can be avoided altogether. Like investigations, consent negotiations are distinct from the adjudicative process and hence are not governed by the standards which control adjudicative procedure.

(3) Our conclusion that respondent's motion, which is the basis of its request for leave to file an interlocutory appeal, must be denied moots respondent's request. Accordingly,

*It is ordered*, (1) That respondent's motion to compel service of staff memorandum be, and it hereby is, denied; and (2) that respondent's request for leave to file interlocutory appeal be, and it hereby is, dismissed.

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FRITO-LAY, INC.

*Docket 8606. Order, Mar. 13, 1964*

Order returning to hearing examiner his request to hold hearings in eight different cities.

ORDER RULING UPON CERTIFICATE OF NECESSITY

By certificate of necessity filed on February 27, 1964, the hearing examiner in the above-captioned proceeding requests the Commission to permit hearings in this matter to be held in eight cities with "reasonable intervals" between hearings in these locations and between complaint counsel's case and respondent's case.

Section 3.16(d) of the Commission's Procedures and Rules of Practice provides:

Hearings shall proceed with all reasonable expedition. Unless the Commission otherwise orders upon a certificate of necessity therefor by the hearing examiner, all hearings shall be held at one place and shall continue without suspension until concluded. (This does not bar overnight, week end, or holiday recesses, or other brief intervals of the sort normally involved in judicial proceedings.)

This Rule expresses the determination of the Commission that the public interest in having fair, orderly and expeditious adjudicative proceedings is normally best served by a requirement of continuous hearings to be held in one place. This is not an inflexible principle, and exceptions will be allowed upon a showing that the public interest would in a particular case be better served by deviating from the prescribed procedure. Such deviation will not be allowed by the Commission merely upon request therefor without supporting reasons, even if the parties to the proceeding are willing to conduct it without regard to the requirements of Section 3.16(d).

In the present case, the examiner makes his request to hold hearings in more than one city and non-continuously on the basis of complaint counsel's motion filed February 10, 1964, and respondent's reply thereto filed February 24. An examination of these motions, however, discloses that neither contains any supporting reasons, except in the most general and purely conclusory terms, for the requested departures from the Section 3.16(d) procedure. Nor does the examiner's certificate of necessity furnish any concrete reasons why the Commission should waive the requirements of the Rule. Moreover, the Commission is given no indication as to the length of the "reasonable intervals" requested in the certificate.

For the foregoing reasons, the Commission lacks any basis in the papers before it for making an informed determination as to whether the public interest justifies the requests made in the certificate of necessity. Accordingly,

*It is ordered,* That this matter be, and it hereby is, returned to the hearing examiner for reconsideration in light of this order.

Commissioner MacIntyre not concurring.

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### CHESEBROUGH-POND'S, INC.

*Docket 8491. Order, Mar. 13, 1964*

Order denying respondent's petition to rescind Commission's order permitting filing of consolidated briefs.

#### ORDER DENYING PETITION TO RESCIND COMMISSION ORDER PERMITTING FILING OF CONSOLIDATED BRIEFS

On February 20, 1964, complaint counsel in the above-captioned and 13 related proceedings filed a motion requesting permission to file

consolidated briefs therein, on the ground that the complaints in all of these proceedings involved payments, allegedly in violation of the Clayton Act, as amended, to the identical parties. This motion was granted by the Commission by order of February 26, 1964. On February 28, the present respondent filed a statement in opposition to complaint counsel's motion; on March 4, respondents in Dockets 8507 and 8508 filed a joint statement in opposition; and on March 5, respondent in Docket 8492 filed a statement in opposition. On March 6, the present respondent filed a petition to rescind the Commission's order of February 26, contending that the Commission acted improperly in granting complaint counsel's motion *ex parte*.

The Commission has considered the arguments of respondents in opposition to complaint counsel's motion without according any weight to the Commission's prior action of February 26. The basic contention made in these statements is that the factual and legal issues differ considerably from case to case in this series of proceedings, and that therefore the filing of consolidated briefs by complaint counsel is likely to confuse the issues to the prejudice of individual respondents. This contention is without merit. Respondents are not obliged to file consolidated briefs. Each respondent has ample opportunity to detail, in its brief, the factors which may differentiate its case from that of the other respondents in this series of cases. Respondents thus are not prejudiced by complaint counsel's filing consolidated briefs.

For these reasons, the Commission, believing that its order of February 26 was correct, adheres to that order. Accordingly,

*It is ordered*, That respondent's petition to rescind the Commission's order of February 26, 1964, be, and it hereby is, denied.

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Assuming or using misleading trade or corporate name.	
Coercing and intimidating.	
Combining or conspiring to.	

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Cutting off competitors' supplies.	
Dealing on exclusive and tying basis.	
Discriminating in prices.	
Disparaging competitors or their products.	
Furnishing false guaranties.	
Furnishing means and instrumentalities of misrepresentation and deception.	
Importing, selling, or transporting flammable wear.	
Invoicing products falsely.	
Maintaining resale prices.	
Misbranding or mislabeling.	
Misrepresenting business status, advantages or connections.	
Misrepresenting directly or orally by self or representatives.	
Misrepresenting prices.	
Neglecting, unfairly or deceptively, to make material disclosure.	
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