IN THE MATTER OF

UNION PHARMACEUTICAL CO., INC.

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

Docket 7254. Complaint, Sept. 12, 1958—Decision, June 9, 1959

Order dismissing, following dissolution of respondent corporation, complaint charging false advertising of a laxative preparation designated "Saraka."

Mr. Harold A. Kennedy for the Commission.

Mr. Carson G. Frailey, of Washington, D.C., and *Mr. Richard J. Bennett,* of Bloomfield, N.J. for respondent.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter was issued September 12, 1958. On October 20, 1958, respondent filed a motion seeking dismissal of the complaint on the ground that respondent had discontinued entirely the manufacture and distribution of the preparation involved in the proceeding, as well as all other products, such discontinuance having taken place prior to the issuance of the complaint.

On December 22, 1958, a hearing was held for the limited purpose of receiving evidence in connection with the motion to dismiss. At the hearing a considerable volume of testimony and other evidence was received, and subsequent to the hearing counsel for respondent forwarded to the hearing examiner a certified copy of the certificate of dissolution of the respondent. This document has been incorporated in the record as a part of the evidence on the motion to dismiss.

Counsel supporting the complaint has now filed a further answer to the motion to dismiss in which he states that in view of all of the circumstances disclosed by the record, including the dissolution of the respondent, he does not oppose the granting of the motion provided the dismissal be without prejudice.

In the circumstances it is evident that no useful purpose would be served by continuing with the proceeding; that no public interest is now present.

ORDER

It is therefore ordered, That the complaint be, and it hereby is, dismissed, without prejudice to the right of the Commission to

take any further action in the matter in the future which may be warranted by the then existing circumstances.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 9th day of June 1959 become the decision of the Commission.

IN THE MATTER OF

A. E. TROUTMAN COMPANY ET AL.

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

Docket 7403. Complaint, Feb. 6, 1959—Decision, June 9, 1959

Consent order requiring furriers in Greensburg, Pa., to cease violating the Fur Products Labeling Act by failing to comply with the labeling, invoicing, and advertising requirements; and, in advertisements in local newspapers, failing to disclose the names of animals producing certain furs or that certain furs were artificially colored, and representing prices as reduced without maintaining adequate records as a basis therefor.

Mr. Garland S. Ferguson for the Commission.

Sullivan and Cromwell, of New York, N.Y., for respondent A. E. Troutman Company.

Respondents B. Poverman, Inc., and B. Poverman, for themselves.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on February 6, 1959, charging them with having violated the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

On April 13, 1959, respondent A. E. Troutman Company and its counsel entered into an agreement with counsel in support of the complaint for a consent order; and on April 14, 1959, respondents B. Poverman, Inc. and B. Poverman entered into a similar agreement.

Under the agreements, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist orders there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the documents include waivers by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreements further recite that they are for settlement purposes only and do not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

The hearing examiner finds that the content of the two agreements meets all of the requirements of §3.25(b) of the Rules of the Commission.

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

1. Respondent A. E. Troutman is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 200 South Main Street, Greensburg, Pa. Respondent B. Poverman, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 370 Seventh Avenue, New York, N.Y. Respondent B. Poverman is an officer of B. Poverman, Inc. He formulates, directs and controls the policies and practices of said corporation, and his address is the same as that of the corporate respondent, B. Poverman, 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. Therefore,

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

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

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

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

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

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

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

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

(7) The item number or mark assigned to a fur product;

B. Setting forth on labels affixed to fur products:

(1) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

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

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

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

D. Failing to set forth the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence;

2. Falsely or deceptively invoicing fur products by:

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

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

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

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

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

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

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

(7) The item number or mark assigned to a fur product;

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

A. Fails to disclose:

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

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

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

4. Making price claims and representations respecting prices and values of fur products unless respondents maintain full and adequate records disclosing the facts upon which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the initial decision of the hearing examiner wherein he accepted two agreements containing identical consent orders to cease and desist executed by the respondents and counsel in support of the complaint, service of which initial decision was completed on May 7, 1959; and

It appearing that the initial decision may be deficient in that it fails to incorporate the substance of certain pertinent provisions of the agreements of the parties:

It is ordered, That said initial decision be, and it hereby is, amended by inserting between the second and third paragraphs thereof the following paragraph:

Under the agreements, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist orders there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing, and the documents include waivers by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreements further recite that they are for settlement purposes only and do not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

It is further ordered, That the initial decision as so modified shall, on the 9th day of June 1959, become the decision of the Commission.

It is further ordered, That the respondents, A. E. Troutman Company and B. Poverman, Inc., corporations, and B. Poverman, individually and as an officer of B. Poverman, Inc., 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 contained in said initial decision.

IN THE MATTER OF

HUTCHINSON CHEMICAL CORPORATION ET AL.

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

Docket 7140. Complaint, May 7, 1958—Decision, June 11, 1959

Order requiring Chicago distributors of an automobile polish designated "Hutchinson's Waterproof Wax," to cease fictitiously pricing its product in television advertising.

A charge of representing falsely that the product imparted a finish that was both heat- and cold-resistant, was dismissed for lack of sustaining evidence.

Mr. William A. Somers for the Commission.

Nash & Donnelly, by *Mr. John A. Nash* and *Mr. Arthur H. Schwab*, of Chicago, Ill., for respondents.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The respondents are charged with having violated the Federal Trade Commission Act in two respects. The charges and essential pertinent facts as developed and shown by the record are as follows:

1. Respondent Hutchinson Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Respondent Herman S. Hutchinson is an individual and president of said corporate respondent. Together with his wife, who is also an officer of the corporation, he owns 88% of the corporate stock, and formulates, directs and controls the corporate policies, acts and practices. The office and principal place of business of the respondents is located at 918 West Armitage Avenue, Chicago 14, Ill.

2. Respondents are now and for several years past have been engaged in the sale and distribution of an automobile polish described as "Hutchinson's Waterproof Wax," which, when sold, is shipped from their place of business in the State of Illinois to purchasers located in various other States of the United States. Thus respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in said automobile polish in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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

4. In the course and conduct of their business, and for the purpose of inducing the sale of their product, respondents have engaged in advertising, which has been disseminated by television over more than fifteen stations throughout the United States, including stations in Chicago, Ill., Cincinnati, Ohio, and Milwaukee, Wis., which have power sufficient to carry their programs into areas in surrounding States. Respondents' programs consist of a picture of a flaming automobile, followed by a sales pitch relating to the quality of respondents' polish and the reduced price at which it may be purchased.

5. The "flaming-automobile" demonstration is performed in the following manner: Respondents' polish is applied as directed to the surface of a used car, or to a portion thereof. Then gasoline is squirted on the polished surface; this may be done as many as ten or fifteen times in rapid succession. The gasoline is then ignited, and cold water is poured on the flaming surface. After the flame has been quenched, the picture shows the polished surface to be unaffected by the flame or water—as shiny as before the demonstration. The audio part of the broadcast emphasizes the protection that the polish lends to the surface of the car, and then states that if the viewer will order "right now," he will receive a glare shield worth $1.50 for his automobile, and a $3.95 can of respondents' "Waterproof Wax," both for "only $2.00." The demonstration must be completed within 11½ or 12 seconds, in order to meet the television time limit, since the entire broadcast is less than three minutes long.

6. The complaint avers that through the aforesaid statements and pictorial representations, respondents represent and have represented, directly or by implication:

(1) That the burning car demonstration, in which a flammable liquid is poured on the finish of an automobile, to which Hutchinson's Waterproof Wax had been applied, ignited and cold water then thrown on the flame, proves or demonstrates that their product imparts a finish that is both heat and cold resistant;

(2) That respondents' regular retail price of a can of their product is $3.95.

The complaint charges that these representations are false, misleading and deceptive; that in truth and in fact:

(1) "The burning car pictorial representation does not prove or demonstrate that Hutchinson's Waterproof Wax imparts a finish to automobiles that is either heat or cold resistant;" and

(2) "The regular retail price of said product is substantially less than $3.95 a can."

7. The first issue, as stated in the complaint, is whether or not the burning-car demonstration proves that respondents' polish imparts a heat-and-cold-resistant finish to automobiles. Respondents maintain that the complaint does not state a cause of action in this respect, in that it does not charge an offense which comes within the purview of the Federal Trade Commission's jurisdiction. They further maintain that the evidence adduced does not support the charge made in the complaint, and that no order can be issued in respect thereto. These contentions were raised orally at the hearings, during and at the close of the case-in-chief in support of the complaint, and are again presented in respondents' written motion to dismiss the complaint herein. Counsel supporting the complaint has filed an answer opposing respondents' motion.

8. The Federal Trade Commission Act, under which this complaint is drawn, empowers the Commission, not to adjudicate upon advertisements to determine what they do or do not prove, but rather to determine the truth or falsity of the representations contained therein. Accordingly, should the issue as stated in the complaint be fully adjudicated, and the conclusion reached that respondents' burning-car demonstration does not, in fact, prove respondents' polish to be heat-and-cold resistant, such conclusion would still not constitute a valid cause for issuance of a cease-and-desist order under the Federal Trade Commission Act, which nowhere states that the dissemination of an advertisement which fails to prove something is a violation of that Act. If the issue of false and deceptive advertising of a product is to be adjudicated, that issue must first be raised by appropriate allegations in the complaint, and the truth or falsity of the advertisement in question must then be determined by substantial, probative and reliable evidence. No such allegation appears in the complaint herein, nor does the record contain any evidence relating thereto. The truth or falsity of respondents' claims as to the heat-and-cold-resistant quality of their polish is not here in question. Whether respondents' advertising fails to prove that their polish possesses such qualities is not a valid cause of action under the Federal Trade Commission Act. Furthermore, the substantial,

reliable, probative evidence of record does not establish that respondents have made the representation averred in the complaint, that the burning-car demonstration proves or demonstrates that respondents' product imparts a finish that is both heat and cold resistant. Therefore respondents' motion to dismiss should be granted insofar as it relates to the first charge of the complaint.

9. The second charge, that, contrary to respondents' representations, the regular retail price of respondents' product is substantially less than $3.95 a can, was fully litigated and has been convincingly established. Respondents have represented that the regular, usual price of their product is $3.95 per can. Advertisements of record covering the period since 1953 show that respondents' product has repeatedly been offered for sale at $2.00 per can—sometimes as low as $1.50. The individual respondent, president of the corporate respondent, testified that his recommendation to dealers has been that they sell the polish at $2.00 per can—"we want them to sell it for $2.00."

CONCLUSIONS

1. The respondents' price representations have been and are false, misleading and deceptive, and have had and now have the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations were and are true, and into the purchase of a substantial quantity of the respondents' product because of such erroneous and mistaken belief. As a result thereof, trade has been unfairly diverted to respondents from their competitors and injury has thereby been done to competition in commerce.

2. The aforesaid acts and practices of respondents, herein found to be false, misleading and deceptive, were and are all to the prejudice and injury of the public and of respondents' competitors 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.

3. The complaint herein should, in all other respects, be dismissed.

4. This proceeding is in the public interest. Accordingly,

It is ordered, That respondents Hutchinson Chemical Corporation, a corporation, and its officers, and Herman S. Hutchinson, individually and as an officer of said corporation, and respondents'

representatives, agents and employees, directly or through any corporate or other device, in connection with the sale and distribution of automobile polish or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by any means, that the regular or usual price of such product is any amount which is in excess of the price at which the respondents have usually and customarily sold such product in the recent and regular course of their business.

It is further ordered, That the complaint herein, with respect to all other allegations, be, and the same hereby is, dismissed.

OPINION OF THE COMMISSION

By ANDERSON, Commissioner:

The complaint in this matter charges respondents with violation of Section 5 of the Federal Trade Commission Act. Counsel supporting the complaint has appealed from the hearing examiner's ruling dismissing one of the allegations of the complaint and from the findings and conclusions on which this ruling was based.

The part of the complaint dismissed by the hearing examiner alleges, in substance, that certain television advertising used by respondents in connection with the sale of their product, "Hutchinson's Waterproof Wax," is deceptive in that it falsely represents that a demonstration in which a flammable liquid is ignited on the finish of a car and extinguished with water proves or demonstrates that their product imparts a finish that is both heat and cold resistant.

The hearing examiner has taken the position that the Federal Trade Commission Act does not empower the Commission to adjudicate upon advertisements to determine what they do or do not prove, but rather to determine the truth or falsity of the representations contained therein. He ruled in effect that since the dissemination of an advertisement which fails to prove something is not a violation of the Federal Trade Commission Act and since the complaint did not challenge respondents' claims as to the heat and cold resistant quality of their product, a valid cause of action had not been stated. The hearing examiner also made the finding that respondents had not represented that the burning car demonstration proves or demonstrates that their product imparts a finish that is both heat and cold resistant.

We do not agree with the hearing examiner's conclusion that the complaint does not state a cause of action under Section 5 of the Act. As pointed out by the hearing examiner, respondents are not charged with misrepresenting the heat and cold resistant quality of their product. They are charged, however, with using deceptive advertising which may lead the public to believe that it has witnessed a demonstration which proves that the product has this quality. The fact that this particular practice has not previously been held to be an unfair trade practice under Section 5 is wholly immaterial. The ultimate question to be determined is whether the representation, used by respondents is false and, if so, whether the natural and probable effect thereof would be to mislead prospective purchasers. The legislative history of the Act discloses that the language of Section 5 was deliberately couched in generalities so that the Commission and the courts may decide in each instance whether a particular practice is unfair.

The complaint alleges that respondents' advertising is deceptive because it leads the public to believe that a demonstration shown therein proves something when, in fact, it does not. The practice involved is somewhat analogous to the use of false representations that a product has been endorsed, approved, or tested by a certain association, laboratory or other organization. Such false statements have been held by the Commission in numerous cases to be illegal. In those cases, as in this, the quality of the product is not directly in issue. Also, in cases of the type referred to, purchasers may be induced to buy a product because they have been led to believe that it has been endorsed, approved or tested by some recognized organization. In this matter, purchasers may be induced to buy respondents' product because they have been led to believe that it has undergone a valid test or demonstration.

The use of such advertising therefore, if proven to be untrue, as alleged, would be an unfair trade practice within the meaning of Section 5 since it would have the tendency and capacity to mislead purchasers into believing that they are buying a product which has been demonstrated or proven to have a certain quality or characteristic. The law is well settled that the public is entitled to buy what it thinks it is buying, in this case, a product which has been subjected to a test which demonstrates that it imparts a finish which is both heat and cold resistant.

We believe the hearing examiner also erred in finding that the evidence does not establish that respondents have made the representation averred in the complaint. The television advertising used by respondents pictures an exterior section of an automobile on which a flammable liquid has been sprayed and set afire. Within approximately twelve seconds, water is poured on the car and the fire is extinguished. The picture then shows that the polished surface of the car has not been affected by the flames or the water. The audio part of the demonstration is as follows:

> . . . The only reason we burn the car is to show you that you positively cannot get down thru that siliconized finish. But here is the real test . . . One extreme to another . . . Hot to Cold—and no matter what you've used before on your car or how hard you've worked we'll give you more protection in a few minutes time than you could get with hours of hard work.

We think this advertising speaks for itself and that there can be no doubt that respondents have represented not only that the demonstration proves that their product imparts a heat and cold resistant finish but that it proves that the finish will withstand the deleterious effects of fire and extreme changes in temperature.

While we do not agree with the findings and conclusions on which the hearing examiner based the dismissal of the allegation, we are of the opinion that the allegation should be dismissed on other grounds. As stated above, the complaint alleges that respondents have falsely represented that the burning car demonstration proves or demonstrates that the finish imparted by their product is both heat and cold resistant. Although we believe that respondents have made the representation alleged in the complaint, we think that the record fails to establish that the demonstration in question does not prove or demonstrate that the product is resistant to both heat and cold.

The only evidence of record concerning the validity of the demonstration is the testimony of an expert called by counsel supporting the complaint. This witness testified that when gasoline is poured onto the body of a car or other surface and ignited, combustion will occur some distance from the surface and will cause only a slight rise in the temperature of the surface if the flames are extinguished within four or five seconds. He estimated that the temperature of the surface would not change more than fifty degrees within that period of time. He stated on cross-examination that if the burning process should last for seventeen seconds, the heat transferred to the surface would be consider-

ably more than fifty degrees but that he did not believe that the gasoline would burn for that length of time. It appears, however, that in the actual performance of the demonstration, more gasoline is sprayed onto the car after combustion has begun and the fire may burn for as long as thirty seconds. Because of time restrictions, the demonstration in the television advertising lasts from eleven and one-half to twelve seconds. Counsel supporting the complaint did not develop the expert's testimony to determine what effect the additional gasoline would have on the transfer of heat to the surface or how much heat would be transferred to the surface beyond the brief period of time mentioned by this witness.

As stated above, the expert's opinion as to the amount of heat transferred to a surface on which a flammable liquid has been ignited and extinguished is specifically limited to a period of approximately five seconds. Thus, we cannot determine from the evidence of record how much heat is transferred to the surface when the burning process continues for a longer period of time. We do not believe, therefore, that the evidence would support a finding that the demonstration fails to prove or demonstrate that respondents' product imparts a finish that is resistant to heat and cold, as alleged in the complaint. Since we are bound by wording of the complaint, we must hold that the allegation has not been sustained by the evidence.

To the extent indicated herein the appeal of counsel supporting the complaint is granted and is otherwise denied. The initial decision, in those respects in which it is contrary to the views expressed herein, is modified to conform with such views. An appropriate order will be entered.

Commissioner Kintner did not participate in the decision of this matter.

FINAL ORDER

This matter having been heard by the Commission upon the appeal of counsel supporting the complaint from the hearing examiner's initial decision; and

The Commission, for the reasons stated in the accompanying opinion, having granted in part and denied in part the aforementioned appeal, and having modified the initial decision to the extent it is contrary to the views expressed in the said opinion:

It is ordered, That the initial decision of the hearing examiner,

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

It is further ordered, That the respondents, Hutchinson Chemical Corporation and Herman S. Hutchinson, 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.

Commissioner Kintner not participating.

Decision

IN THE MATTER OF

FRIEDA BAKER DOING BUSINESS AS BONHEUR COMPANY ET AL.

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

Docket 7363. Complaint, Jan. 20, 1959—Decision, June 11, 1959

Order requiring Chicago distributors of domestically manufactured colognes and perfumes to cease representing falsely in advertising on labels and packaging of their products that fictitious prices were the usual retail prices, and, by use of French words and terms, that the products were compounded in France.

Mr. Harry E. Middleton, Jr., supporting the complaint.
No appearance for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission on January 20, 1959, issued and thereafter served its complaint in this proceeding charging the respondents hereinabove named with having engaged in unfair methods of competition, in violation of the Federal Trade Commission Act, by misrepresenting domestic perfumes sold and distributed by them to have been imported from France and by misrepresenting the usual and customary retail price thereof. Although duly served with said complaint respondents failed to file answer thereto within thirty (30) days, as required by Section 3.7 of the Commission's Rules of Practive for Adjudicative Proceedings and by the notice served with said complaint. Thereafter, counsel supporting the complaint moved that the place of hearing be changed from New York, N.Y., to Washington, D.C. Although duly served with said motion, respondents filed no opposition thereto. In view of the default of respondents in answering and the apparent lack of probability of any appearance by them at the hearing scheduled in the notice portion of the complaint, the undersigned issued his order dated March 17, 1959, changing the place of hearing to Washington, D.C., and fixing the date of hearing for March 25, 1959, a copy of which order was duly served upon respondents.

Thereafter, a hearing was held on March 25, 1959, in Washington, D.C. before the undersigned hearing examiner, theretofore duly designated to hear this proceeding. Upon the failure

of respondents to appear and show cause at said hearing, counsel supporting the complaint moved that the case be closed for the taking of testimony in view of respondents' failure to answer and appear and that, in accordance with Section 3.7(b) of the Rules of Practice, the hearing examiner find the facts to be as alleged in the complaint, and that counsel be granted leave to submit a proposed order. Said motion was granted by the undersigned and thereafter a copy of a proposed order was filed by counsel supporting the complaint.

This proceeding having now come on for final consideration on the complaint and the proposed order of counsel supporting the complaint, and it appearing that the order proposed covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding except in certain respects as to which said order is hereinafter modified, the undersigned finds that this proceeding is in the interest of the public and, in accordance with Section 3.7 of the Rules of Practice, makes the following findings as to the facts, conclusion and order:

FINDINGS OF FACT

PARAGRAPH 1. Respondent Frieda Baker is an individual doing business as Bonheur Company. Edward Baker is an individual and manager of the business conducted as Bonheur Company. The respondents cooperate in carrying on the acts and practices hereinafter set forth. Their place of business is located at 928 West Irving Park Road in the city of Chicago, State of Illinois.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of colognes and perfumes which are "cosmetics" as that term is defined in the Federal Trade Commission Act to various firms and individuals who resell said products to the public. Among the cosmetics offered for sale and sold by respondents is a perfume stated to be "by Darcel" and designated as "C'est si Bon" and other perfumes and colognes.

In the course and conduct of their business, respondents cause their products, when sold, to be shipped from the State of Illinois to the purchasers thereof located in other States and have maintained a course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of the aforesaid business, respondents have disseminated, and caused the dissemination of, advertisements concerning their aforesaid products by the United

States mails and various means in commerce, including but not limited to circulars and order blanks, for the purpose of inducing and which were likely to induce, directly or indirectly the purchase of said products; and respondents have disseminated and caused the dissemination of advertisements by various means, including but not limited to the means aforesaid, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In certain of their advertisements respondents:

(a) Set out certain amounts in connection with certain of their products, thereby representing, directly or by implication, that said amounts are the prices at which said products were usually and customarily sold at retail.

(b) Used the trade name "C'est si Bon" in connection with one of their Darcel perfumes, thereby representing that it was imported from France.

(c) Stated that "all essential oils in Darcel products are imported from France."

PAR. 5. The said advertisements were misleading in material respects and constituted "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

(a) The prices set out in the advertisements were, and are, fictitious and greatly in excess of the prices at which the products advertised were usually and customarily sold at retail.

(b) The perfume designated as "C'est si Bon" was not imported from France but was compounded in the United States.

(c) While Darcel perfumes and colognes may contain some essential oils imported from France, the major portion of oils were of domestic origin.

PAR. 6. In the course and conduct of their business and for the purpose of inducing the sale of their products in commerce, respondents have:

1. Used amounts or prices on labels and in the labeling and packaging of their products, thereby representing, directly or by implication, that such amounts were the usual and customary retail prices therefor.

2. Used French words and terms such as "Concentre Fabrique —Avec de France," "Concentre Fabrique—Avec Essences de France" and the name "C'est si Bon" on the label or in the

packaging of some of their products, thereby representing, directly or by implication, that said products were compounded in France.

PAR. 7. Said statements and representations set out in paragraph 6 were false, misleading and deceptive. In truth and in fact:

1. The amounts or prices set out on the labels or in the packaging were fictitious and greatly in excess of the prices at which said products were usually and customarily sold at retail.

2. Respondents' products were not compounded in France, but were compounded in the United States. While some imported ingredients may have been contained in the essence used in compounding some of the respondents' products, the major portion of ingredients was of domestic origin.

PAR. 8. There is a preference on the part of the buying public for cosmetics manufactured or compounded in foreign countries and imported into the United States. This is particularly true regarding said cosmetics which are manufactured or compounded in France.

PAR. 9. By the aforesaid practices respondents placed in the hands of retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of their products and the country of origin thereof.

PAR. 10. 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 perfumes and colognes.

PAR. 11. The dissemination by the respondents of the false advertisements, referred to in paragraph 4 hereof, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act; and the use of the false, misleading and deceptive statements, representations and practices set out in paragraph 6 hereof has had and now has the tendency and capacity 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 because of such erroneous and mistaken belief. As a consequence thereof, substantial trade, in commerce, has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been done to competition in commerce.

CONCLUSION

The acts and practices of the respondents, as hereinabove found, were and are, all to the prejudice and injury of respondents' competitors, and constituted, and now constitute, unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents Frieda Baker, individually and as sole proprietor trading as Bonheur Company, and Edward Baker, an individual, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes or any other cosmetic, as "cosmetic" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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

(a) Contains or lists prices or amounts when such prices or amounts are in excess of the prices at which the products are usually and customarily sold at retail;

(b) Uses the term "C'est si Bon" or any other French word, term or depiction in connection with any such product not imported from France, or represents in any other manner, directly or indirectly, that any such product compounded in the United States has been imported from France;

(c) Uses the words "all essential oils imported from France" or represents in any other manner that all essential oils or other ingredients are imported from France or from any other country when some or all of them are of domestic origin or are not so imported.

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

It is further ordered, That respondents Frieda Baker, individually and as sole proprietor trading as Bonheur Company, and Edward Baker, an individual, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, colognes or any other related product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Setting out prices or amounts on the labels or in the labeling or packaging of their products, or representing in any other manner that certain amounts are the regular and usual retail prices of their products, when such amounts are in excess of the prices at which such products are usually and customarily sold at retail;

2. Using the words or terms "Concentre Fabrique—Avec de France," "Concentre Fabrique—Avec Essences de France," "C'est si Bon" or any other French word, term or depiction on the label or in the labeling or packaging of any such products which are not compounded in France, or representing in any other manner, directly or indirectly, that any such products compounded in the United States, were compounded in France.

3. Placing in the hands of others any means or instrumentality by or through which they may mislead the public as to any of the matters set out in paragraphs 1 and 2 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 11th day of June 1959, become the decision of the Commission; and, accordingly:

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

Decision

IN THE MATTER OF

SEYMOUR GALTER ET AL. DOING BUSINESS AS H & S ASSOCIATES

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

Docket 7364. Complaint, Jan. 20, 1959—Decision, June 11, 1959

Order requiring Chicago distributors of perfumes and colognes to cease representing falsely on labels and packaging of their products that fictitious excessive prices were the usual retail prices, and, by use of French words, that the products were compounded in France.

Mr. Harry E. Middleton, Jr., supporting the complaint.
No appearance for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission on January 20, 1959, issued and thereafter served its complaint in this proceeding charging the respondents hereinabove named with having engaged in unfair methods of competition, in violation of the Federal Trade Commission Act, by misrepresenting domestic perfumes sold and distributed by them to have been imported from France and by misrepresenting the usual and customary retail price thereof. Although duly served with said complaint respondents failed to file answer thereto within thirty (30) days, as required by Section 3.7 of the Commission's Rules of Practice for Adjudicative Proceedings and by the notice served with said complaint. Thereafter, counsel supporting the complaint moved that the place of hearing be changed from Chicago, Ill., to Washington, D.C. Although duly served with said motion, respondents filed no opposition thereto. In view of the default of respondents in answering and the apparent lack of probability of any appearance by them at the hearing scheduled in the notice portion of the complaint, the undersigned issued his order dated March 17, 1959, changing the place of hearing to Washington, D.C., and fixing the date of hearing for March 25, 1959, a copy of which order was duly served upon respondents.

Thereafter, a hearing was held on March 25, 1959, in Washington, D.C. before the undersigned hearing examiner, theretofore duly designated to hear this proceeding. Upon the failure

of respondents to appear and show cause at said hearing, counsel supporting the complaint moved that the case be closed for the taking of testimony in view of respondents' failure to answer and appear and that, in accordance with Section 3.7(b) of the Rules of Practice, the hearing examiner find the facts to be as alleged in the complaint, and that counsel be granted leave to submit a proposed order. Said motion was granted by the undersigned and thereafter a copy of a proposed order was filed by counsel supporting the complaint.

This proceeding having now come on for final consideration on the complaint and the proposed order of counsel supporting the complaint, and it appearing that the order proposed covers all of the allegations of the complaint and provides for an appropriate disposition of this proceeding except in certain respects as to which said order is hereinafter modified, the undersigned finds that this proceeding is in the interest of the public and, in accordance with Section 3.7 of the Rules of Practice, makes the following findings as to the facts, conclusion and order:

FINDINGS OF FACT

PARAGRAPH 1. Respondents Seymour Galter, Mitchell Handelman and Max D. Handelman, are copartners doing business as H & S Associates. Their place of business is located at 928 West Irving Park Road in the city of Chicago, State of Illinois. The business of respondents was formerly carried on as Chicago H & S Associates, Ltd., a corporation.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of perfumes and colognes which are "cosmetics" as that term is defined in the Federal Trade Commission Act, to various firms and individuals who resell to the public. Among the cosmetics offered for sale and sold by respondents is a perfume sold under the name of "C'est si Bon" and other perfumes and colognes.

In the course and conduct of their business, respondents cause their products when sold, to be shipped from the State of Illinois to the purchasers thereof located in other States and maintain and have maintained a course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. In the course and conduct of their business and for the purpose of inducing the sale of their products in commerce respondents have:

(1) Used amounts or prices on labels and in the labeling and packaging of their products thereby representing, directly or by implication, that such amounts and prices were the usual and customary retail prices therefor;

(2) Used such French words as "Concentre Fabrique—Avec de France," "Concentre Fabrique—Avec Essences de France" and the name "C'est si Bon" on the label or in the packaging of some of their products, thereby representing, directly or by implication that said products were compounded in France.

PAR. 4. The statements and representations were false, misleading and deceptive. In truth and in fact:

(1) The amounts or prices set out on the labels and in the labeling and packaging were fictitious and greatly in excess of the prices at which said products were usually and customarily sold at retail;

(2) Respondents' products were not compounded in France, but were compounded in the United States. While some imported ingredients may have been contained in the essence used in compounding some of respondents' products, the major portion of ingredients was of domestic origin.

PAR. 5. There is a preference on the part of the buying public for cosmetics manufactured and compounded in foreign countries and imported into the United States. This is particularly true regarding cosmetics which are manufactured and compounded in France.

PAR. 6. By the aforesaid practices respondents place in the hands of retailers means and instrumentalities by and through which they may mislead the public as to the usual and regular retail price of their products and the country of origin thereof.

PAR. 7. 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 in the sale of perfumes and colognes.

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. As a consequence thereof, substantial trade in commerce has been,

and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been done, and is being done, to competition in commerce.

CONCLUSION

The acts and practices of the respondents, as hereinabove found, were and are, all to the prejudice and injury of respondents' competitors, and constituted, and now constitute, unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That respondents Seymour Galter, Mitchell S. Handelman and Max D. Handelman, individually and as copartners doing business as H & S Associates, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of perfumes, toilet waters, colognes or any other related products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Setting out prices or amounts on the labels or in the labeling or packaging of their products, or representing in any other manner that certain amounts are the regular and usual retail prices of their products, when such amounts are in excess of the prices at which such products are usually and customarily sold at retail;

2. Using the words or terms "Concentre Fabrique—Avec de France," "Concentre Fabrique—Avec Essences de France," "C'est si Bon" or any other French word, term or depiction on the label or in the labeling or packaging of any such products which are not compounded in France, or representing in any other manner, directly or indirectly, that any such products compounded in the United States, were compounded in France.

3. Placing in the hands of others any means or instrumentality by or through which they may mislead the public as to any of the matters set out in paragraphs 1 and 2 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

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

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

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

IN THE MATTER OF

GREENWICH BOOK PUBLISHERS, INC., ET AL.

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

Docket 7223. Complaint, Aug. 5, 1958—Decision, June 12, 1959

Consent order requiring two affiliated New York City publishers to cease representing falsely that they operated a publishing plan under which they shared expenses with authors, their misrepresentations including such matters as so-called "royalties," the nature, size and operation of the business, and the effectiveness of the publicity and promotional aid purportedly rendered author-customers.

Mr. Charles S. Cox for the Commission.
Mr. J. David Delman, of New York, N.Y., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

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

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

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

1. Respondents Greenwich Book Publishers, Inc., and The American Press are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 489 Fifth Avenue, New York 17, N.Y.

Respondents Carl Buehler, Edwin Ezorsky, and Lyla Ezorsky are individuals and are president, vice president, and secretary-treasurer, respectively, of each of said corporate respondents. The individual respondents formulate, direct, and control the acts and practices of the corporate respondents. Their office and principal place of business is at the same address as the corporate respondents.

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 Greenwich Book Publishers, Inc., a corporation, The American Press, a corporation, and their officers, and Carl Buehler, Edwin Ezorsky, and Lyla Ezorsky, individually and as officers of said corporate respondents, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the solicitation of contracts for the printing, promotion, sale, and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act and in connection with the printing, promotion, sale, and distribution of books in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly that:

1. They operate a cooperative publishing plan in which they share with the author in the expense of editing, printing, binding, promotion, and sale of the book, or that they are partners with the author;

2. They publish on a partial subsidy basis;

3. Under their plan of publication an author will recover his or her entire investment in the publication of his or her book, except in rare instances;

4. They bind all the copies listed in the contract of the first edition of an author's book;

5. Their organization has numerous employees, or that they have an art or sales department; or that they have any other department, unless such is the fact;

6. They accept and have accepted for publication only those manuscripts with merit or sales appeal possibilities; or that they "risk" their own money in publishing authors' manuscripts;

7. They have a board of editors or that the reports of their readers are "Editorial reports"; that their reports are impartial or a full and frank disclosure of the merit and sales potential of the submitted manuscript;

8. They have publicity and promotion departments, or that their promotion and sales reach any significant number of book trade outlets in North America;

9. They reinforce their sales promotion of authors' books with national direct mail drives;

10. They have dealings with retail stores, libraries, universities, wholesalers, or department stores except to a limited extent, or that retail stores, libraries, universities, wholesalers, and department stores buy any great number of the books published through respondents;

11. Authors' books published through them have been selected for sale to or through book clubs for the membership thereof or that they sell or have sold reprint rights to their authors' books to pocket book reprint companies;

12. They sell or have sold subsidiary rights to their authors' books to foreign publishers, television producers, motion picture studios, digest or serialized periodicals;

13. They pay their authors a royalty of 40% or any other percentage or sum until after the author recoups and is reimbursed for his or her investment;

14. They arrange for reviews of their authors' books published through them in key periodicals; or any other periodicals, unless such is the fact;

15. They offer an author an exclusive book service or one which is different from that of other subsidy publishers;

16. They have never sold at reduced prices, or otherwise disposed of, any of their authors' poetry, christian or fiction books for lack of continued sales;

17. They are accredited with large book wholesalers, jobbers, or retail outlets to any significant extent.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 12th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

MAX GRODNICK TEXTILE CORP., ET AL.

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

Docket 7418. Complaint, Feb. 20, 1959—Decision, June 12, 1959

Consent order requiring distributors in New York City to cease violating the Wool Products Labeling Act by removing, prior to sale, tags attached to wool products when delivered to them, and by failing in other respects to comply with the labeling requirements.

S. F. House, Esq. for the Commission.
Joseph L. Klein, Esq., of New York, N.Y., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on February 20, 1959, issued its complaint herein, charging the above-named respondents with having violated the provisions of both the Federal Trade Commission Act and the Wool Products Labeling Act, together with the Rules and Regulations promulgated thereunder, and the respondents were duly served with process.

On April 20, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondents and the attorneys for both parties, under date of March 25, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

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

1. Respondents Max Grodnick Textile Corp., Henry Gewirtz Textile Corp., Fleet Fabrics, Inc., and Makel Textile, Inc., are corporations existing and doing business under and by virtue of the laws of the State of New York. The Henry Gewirtz Textile Corp. has its office and principal place of business located at 241 W. 37th Street, New York City, N.Y. The remaining corporations aforementioned have their office and principal place of

business located at 225 W. 37th Street, New York City, N.Y. Individual respondents Joseph Klein and Frances Klein are president and secretary-treasurer, respectively, of all of the aforementioned corporations, and individual respondents Max Grodnick, Seymour Gewirtz, and Stanley Kane are managers, respectively, of the corporate respondents, Max Grodnick Textile Corp., Henry Gewirtz Textile Corp., and Fleet Fabrics, Inc. Their address is the same as the respective corporate respondents. Said individual respondents cooperate in formulating, directing and controlling the acts, policies and practices of said corporations.

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

3. This agreement disposes of all of this proceeding as to all parties. It is agreed that the complaint should be dismissed as to Max Klotz for the reasons set out in an affidavit attached to this agreement and made a part thereof.

4. Respondents waive:

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

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

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

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

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

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

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

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist,"

the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes a part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of each of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Wool Products Labeling Act and the Rules and Regulations promulgated by the Commission under the latter Act, against each of the respondents both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

It is ordered, That respondents Max Grodnick Textile Corp., a corporation; Henry Gewirtz Textile Corp., a corporation; Fleet Fabrics, Inc., a corporation; and Makel Textiles, Inc., a corporation, and their officers, and Joseph Klein, and Frances Klein, individually and as officers of said corporations, and Max Grodnick, Stanley Kane, and Seymour Gewirtz, individually, and respondents' representatives, agents, and employees, directly or through any corporate device, in connection with the introduction, or the offering for sale, sale, transportation or distribution, in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act, of piece goods or other "wool products" as "wool products" are defined in the Wool Products Labeling Act, do forthwith cease and desist from:

A. Misbranding such products by:

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

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

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of the total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where the percent-

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

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

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

B. Causing or participating in the removal or mutilation of any stamp, tag, label or other means of identification affixed to any wool product pursuant to the provisions of the Wool Products Labeling Act of 1939, with intent to violate the provisions of said Act.

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

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 12th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

TEMPLE COMPANY, INC., ET AL.

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

Docket 7296. Complaint, Nov. 6, 1958—Decision, June 13, 1959

Consent order requiring mail order merchandisers in Philadelphia, Pa., to cease using fictitious prices in connection with certain of their products by such practices as offering mink furs at prices purportedly reduced from excessive amounts represented in catalogs and periodicals to be the usual retail prices, and by claiming falsely that a supplier was a manufacturer and wholesaler from whom their customers could buy furs at wholesale prices.

Mr. Alvin D. Edelson for the Commission.

Mr. Harry H. Wachtel, of New York, N.Y., for Samuel Cohen, Lewis Kitei, and Robert X. Pincus.

Jacoby & Maxmin, by *Mr. Henry W. Maxmin,* of Philadelphia, Pa., for Irwin Fisher.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated November 6, 1958, the above respondents are charged with violating the provisions of the Federal Trade Commission Act.

On March 19, 1959, respondents Samuel Cohen, Lewis Kitei, Robert X. Pincus, and Irwin Fisher and their attorneys entered into separate agreements with counsel in support of the complaint for a consent order.

The hearing examiner finds that the content of the separate agreements meets all of the requirements of Section 3.25(b) of the Rules of the Commission, and contains a statement that the signing of said agreements is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

In the agreement it is recommended that the complaint be dismissed as to Temple Company, Inc., a corporation, for the reason said corporation was dissolved on July 31, 1958. Attached to and forming a part of said agreement is an affidavit executed by Joseph M. Midler. Affiant among other things states that he is secretary of L. & C. Mayers/Temple, Inc., and was secretary of Temple Company, Inc. at the time of its dissolution, that on July 31, 1958, Temple Company, Inc. was merged into L. & C. Mayers/

Temple, Inc. and by virtue of the provisions of the Articles of Merger filed with the Department of State of the Commonwealth of Pennsylvania on July 31, 1958, a copy of said articles being attached and made a part of the affidavit, the Temple Company, Inc. ceased to exist.

The hearing examiner being of the opinion that the separate agreements and the proposed orders provide an appropriate basis for the disposition of this proceeding as to all of the parties, the agreements are hereby accepted and it is ordered that the agreements shall not become a part of the official record of the proceeding unless and until they become a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued.

1. Respondents Samuel Cohen, Lewis Kitei, Robert X. Pincus, and Irwin Fisher, are individuals and former officers of the corporate respondent Temple Company, Inc. Their business address is 804 Sansom Street, Philadelphia, Pa.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents Samuel Cohen, Lewis Kitei, Robert X. Pincus, and Irwin Fisher, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Samuel Cohen, Lewis Kitei, Robert X. Pincus, and Irwin Fisher, individuals, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of fur coats, or any other merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner that certain amounts are the regular and usual retail prices of fur coats, or other merchandise, when such amounts are in excess of the prices at which said merchandise is regularly and usually sold at retail, or representing that certain amounts are the regular or usual retail prices of fur coats, or other merchandise, when such amounts are in excess of the established retail market prices of said fur coats, or other merchandise.

2. Representing in any manner that any of respondents' mail order suppliers are wholesalers, or manufacturers, when such is not the fact.

It is further ordered, That the complaint herein insofar as it relates to respondent Temple Company, Inc., a corporation, be and the same hereby is dismissed.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on the 13th day of June 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Samuel Cohen, Lewis Kitei, Robert X. Pincus, and Irwin Fisher, individually and as former officers of respondent Temple Company, Inc., shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Decision

IN THE MATTER OF

ADOLF REIZFELD, ET AL.
TRADING AS MR. ADOLF

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

Docket 7416. Complaint, Feb. 19, 1959—Decision, June 13, 1959

Consent order requiring furriers in New Haven, Conn., to cease violating the Fur Products Labeling Act by failing to comply with the labeling and invoicing requirements.

Mr. Frederick McManus for the Commission.
Respondents, for themselves.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on February 19, 1959, charging respondents with misbranding and falsely and deceptively invoicing certain of their fur products, in violation of the Federal Trade Commission Act and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

Thereafter, on April 15, 1959, respondents and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director and an assistant director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondents Adolf Reizfeld and Esther Reizfeld as individuals and copartners trading as Mr. Adolf, with their office and principal place of business at 817 Chapel Street, New Haven, Conn. The given name of the second respondent is shown in the complaint and in the text of the agreement as "Esther," but appears in that respondent's signature on the agreement as "Estar." No question has been raised as to the identity of this respondent, and, accordingly, she will hereinafter be referred to as Estar Reizfeld.

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

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact

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

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

It is ordered, That Adolf Reizfeld and Estar Reizfeld, individually and as copartners trading as Mr. Adolf, or under any other name, 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, offering for sale, transportation or distribution in commerce, of fur products, or in connection with the sale, manufacture for sale, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

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

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

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

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

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

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

2. Falsely or deceptively invoicing fur products by:

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

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

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

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

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

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

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

(7) The item number or mark assigned to a fur product;

B. Setting forth on invoices pertaining to fur products the name or names of any animal or animals in addition to the name or names provided for in §5(b)(1) of the Fur Products Labeling Act;

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

D. Failing to set forth the information required under §5(b)(1) of the Fur Products Labeling Act and the Rules and Regula-

tions thereunder with respect to "new fur" or "used fur" added to fur products that have been repaired, restyled or remodeled.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 13th day of June 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Adolf Reizfeld and Estar Reizfeld (cited in the complaint as Esther Reizfeld), individually and as copartners trading as Mr. Adolf, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Decision

IN THE MATTER OF

EDWIN E. ROTHCHILD TRADING AS FULTON TOOL COMPANY

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

Docket 7437. Complaint, Mar. 12, 1959—Decision, June 13, 1959

Consent order requiring an individual in Brooklyn, N.Y., to cease selling to distributors and dealers for resale to the public without disclosure of their secondhand nature, used files which he purchased and reconditioned so that they appeared to be new.

Mr. Brockman Horne for the Commission.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated March 12, 1959, the respondent is charged with violating the provisions of the Federal Trade Commission Act.

On April 9, 1959, the respondent entered into an agreement with counsel in support of the complaint for a consent order.

The hearing examiner finds that the content of the agreement meets all the requirements of Section 3.25(b) of the Rules of the Commission, and contains a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint.

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

1. Respondent is an individual trading as Fulton Tool Company. His office and principal place of business is located at 426–432 Wythe Avenue, Brooklyn 11, N.Y.

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 Edwin E. Rothchild, an individual, trading as Fulton Tool Company, or under any other name, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution of reconditioned second hand or used files, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing such files without clearly and conspicuously marking them with the words "reconditioned" or "rebuilt" or some other word or words of similar import, in such a manner that such markings cannot be readily obliterated.

2. Representing in any manner that such files are new.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 13th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

CUTTER CRAVAT, INC., ET AL.

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

Docket 7252. Complaint, Sept. 11, 1958—Decision, June 16, 1959

Consent order requiring a Chicago manufacturer to cease preticketing its men's neckties with fictitious and excessive prices, thereby enabling retailers to mislead the public as to the quality and regular retail price.

Mr. William A. Somers for the Commission.

Fischel, Kahn, Heart & Weinberg, of Chicago, Ill., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated September 11, 1958, respondents are charged with violating the provisions of the Federal Trade Commission Act.

On April 8, 1959, respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

The hearing examiner finds that the content of the agreement meets all of the requirements of Section 3.25(b) of the Rules of the Commission, and contains a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

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

1. The respondent Cutter Cravat, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois. Respondent J. Arthur Hirsch is an individual and officer of said corporate respondent. Said corporate and individual respondent have their office and principal place of business located at 319 West Van Buren Street, Chicago, Ill.

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 Cutter Cravat, Inc., a corporation, and its officers, and J. Arthur Hirsch, individually and as officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of men's neckties or other articles of merchandise, do forthwith cease and desist from:

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

2. Supplying to or putting in the hands of retailers or others the means whereby they may misrepresent the regular and usual retail price of respondents' merchandise.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of June 1959, become the decision of the Commission; and, accordingly:

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

Decision

IN THE MATTER OF

TOBIAS HABER TRADING AS INTERNATIONAL FURRIERS

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

Docket 7397. Complaint, Feb. 6, 1959—Decision, June 16, 1959

Consent order requiring manufacturing furriers in Niagara Falls, N.Y., to cease violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements; and by advertising in newspapers which failed to disclose the names of animals producing certain furs, the country of origin of imported furs, or the fact that some products were artificially colored; which contained the name of a fictitious animal, and used the word "blended" improperly; which deceptively represented "written guarantee with each fur"; and which represented prices as reduced or below cost without maintaining adequate records as a basis therefor.

Mr. Frederick McManus, for the Commission.

McNulty, Gellman & Kellick, by *Mr. Jack A. Gellman,* of Niagara Falls, N.Y., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with misbranding and falsely and deceptively invoicing and advertising certain of his fur products, falsely and deceptively representing a "written guarantee with each fur," and failing to maintain full and adequate records disclosing the facts upon which comparative price claims were based, in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

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

The agreement states that respondent Tobias Haber is an individual trading as International Furriers, with his office and principal place of business located at 815 Cleveland Avenue, Niagara Falls, N.Y.

The agreement provides, among other things, that respondent

admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that the complaint may be used in construing the terms of the order agreed upon, which may be altered, modified or set aside in the manner provided for other orders; that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint; and that the order set forth in the agreement and hereinafter included in this decision shall have the same force and effect as if entered after a full hearing.

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

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

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

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

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

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

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

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

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

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

(7) The item number or mark assigned to a fur product;

B. Setting forth on labels affixed to fur products:

(1) Information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form;

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

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

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

C. Failing to set forth the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the required sequence;

D. Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under §4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section;

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

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

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

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

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

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

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

(7) The item number or mark assigned to a fur product;

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

A. Fails to disclose:

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

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

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

B. Contains a fictitious or nonexistent animal name;

C. Sets forth the term "blended" as part of the information required under §5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs;

D. Represents, directly or by implication, that any such fur products are guaranteed, unless the nature and extent of such guaranty and the manner in which the guarantor will perform thereunder are clearly and conspiciously set forth;

4. Making claims and representations respecting prices or

values of fur products, unless respondent maintains full and adequate records disclosing the facts upon which such claims and representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

EASTERN CANNERS, INC., ET AL.

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

Docket 7423. Complaint, Feb. 26, 1959—Decision, June 16, 1959

Consent order requiring a distributor of canned fruits and vegetables and other grocery items in Glenside, Pa., to cease violating Sec. 2(c) of the Clayton Act by receiving and accepting from suppliers on purchases for its own account for resale, allowances or discounts in lieu of brokerage ranging from 1½% to 4% of the net purchase price.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described have been and are now violating the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Eastern Canners, Inc., hereinafter sometimes referred to as corporate respondent, 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 25 South Easton Road, Glenside, Pa., with mailing address as P. O. Box 161, Jenkintown, Pa.

Respondent corporation is now and for the past several years has been engaged primarily in the business of buying and selling canned fruits, canned vegetables and many other grocery items, all of which are hereinafter referred to as food products. Respondent has a substantial distribution of such food products, with a sales volume substantially in excess of $2,000,000 annually.

PAR. 2. Respondent Dill Wattis, Jr., is an individual and is president and treasurer of the corporate respondent named herein, with his principal office and place of business the same as that of the corporate respondent. Respondent Dill Wattis, Jr., owns a majority of the outstanding capital stock of the corporate respondent and as president and majority stockholder, as described above, exercises authority and control over the corporate respondent and its business activities, including its purchase, sales and distribution policies.

PAR. 3. In the course and conduct of their business for the past several years, respondents, both corporate and individual, have purchased and are now purchasing food products in commerce, as "commerce" is defined in the aforesaid Clayton Act from sellers located in several States of the United States other than the state in which respondents are located, and have resold said food products to customers likewise located in States other than the State in which respondents are located. Said respondents transport, or cause such food products, when purchased or resold, to be transported from the places of business of their respective suppliers, or sellers, to their own place of business, or to the places of business of respondents' customers located in various other States of the United States. There has been at all times mentioned herein a continuous course of trade in commerce in said food products across State lines between respondents and their suppliers and also between respondents and their said buyers of said food products.

PAR. 4. In the course and conduct of their business in commerce as aforesaid, respondents have made and are now making substantial purchases for their own account from various packers or sellers on which purchases respondents, both corporate and individual, have received and accepted, and are now receiving and accepting, directly or indirectly, something of value as commissions, brokerage fees or other compensation, or allowances or discounts in lieu thereof, from said sellers. These brokerage fees, commissions, discounts or allowances received by respondents on their own purchases for resale range from 1½% to 4% of the net purchase price of the merchandise, depending on the particular product or the seller involved.

PAR. 5. The foregoing acts and practices of respondents, both corporate and individual, as hereinabove alleged and described, violate the provisions of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C., Title 15, Sec. 13).

Mr. Cecil G. Miles for the Commission.

Ballard, Spahr, Andrews & Ingersoll, by *Mr. Frederick L. Ballard, Jr.,* of Philadelphia, Pa., for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 26, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of subsection (c) of Section 2 of

the Clayton Act, as amended. An April 29, 1959, the respondents and their attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

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

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

1. Respondent Eastern Canners, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 25 South Easton Road, in the city of Glenside, State of Pennsylvania, with mailing address as P. O. Box 161, Jenkintown, Pa.

Respondent Dill Wattis, Jr., is an individual and is an officer of respondent corporation with his office and principal place of business located at 25 South Easton Road, in the city of Glenside, State of Pennsylvania, with mailing address as P. O. Box 161, Jenkintown, Pa.

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

named. The complaint states a cause of action against said respondents under the Clayton Act, as amended.

ORDER

It is ordered, That Eastern Canners, Inc., a corporation, and its officers, and Dill Wattis, Jr., individually and as an officer of respondent corporation, and respondents' agents, representatives, or employees, directly or through any corporate or other device, in connection with the purchase and resale of food products or other commodities in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Receiving or accepting, directly or indirectly, from any seller, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, upon or in connection with any purchase of food products or other commodities for their own account, or while acting for or on behalf of any buyer as an intermediary or agent, or subject to the direct or indirect control of such buyer.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

MAX LESSER TRADING AS CAMP NOVELTY CO.

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

Docket 7410. Complaint, Feb. 16, 1959—Decision, June 17, 1959

Order dismissing, following death of respondent and liquidation of business, complaint charging a New York City manufacturer with stamping as "genuine leather," wallets made of split leather and other material, and with selling the wallets to jobbers and retailers preticketed with fictitious prices.

Mr. Michael J. Vitale for the Commission.
No appearance on behalf of respondent.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 16, 1959, the Federal Trade Commission issued its complaint against the above-named respondent. On April 14, 1959, counsel supporting the complaint filed a motion to dismiss the complaint because of the death of the respondent and the liquidation of his business in 1958. Accordingly,

It is ordered, That the complaint herein be, and the same hereby is, dismissed.

DECISION OF THE COMMISSION

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 17th day of June 1959, become the decision of the Commission.

IN THE MATTER OF

ALTON CANNING COMPANY, INC., ET AL.

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

Docket 7265. Complaint, Sept. 30, 1958—Decision, June 20, 1959

Consent order requiring an Alton, N.Y., canner of fruits and vegetables to cease discriminating in price in violation of Sec. 2(a) of the Clayton Act by such practices as selling its products to some purchasers at prices from 2% to 14% higher than those at which it sold to favored buyers, including a purchaser for resale to large grocery chains.

COMPLAINT

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

PARAGRAPH 1. Respondent Alton Canning Company, Inc. (hereinafter sometimes referred to as Alton Canning Company), is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located at 315 Alexander Street, Rochester, N.Y. Individual respondents Edward E. Burns and Morton Adams are now, and were during all times hereinafter stated, officers and directors of said corporate respondent. These individual respondents are and have been controlling and directing the operations of corporate respondent during the period from 1955 to the present.

PAR. 2. Respondent Alton Canning Company, Inc., is now, and for many years past has been, engaged in the business of packing, selling and distributing canned fruits and vegetables, particularly applesauce, cherries, green beans, wax beans, beets, frozen cherries and some tomato juice. It maintains one canning plant at Alton, N.Y., with an auxiliary plant at Sodus, N.Y., for freezing fruits. Respondent distributes and sells its canned fruits and vegetables primarily under the private labels or brands of its purchasers, although it also distributes and sells such canned fruits and vegetables under its own labels or brands.

Said respondent is a substantial factor in the distribution and sale of canned fruits and vegetables, selling such commodities to numerous buyers located in the various sections of the United States. Its net sales in 1956 amounted to approximately $2,963,000.00.

PAR. 4. Respondent Alton Canning Company, Inc., sells and distributes its canned fruits and vegetables primarily through two separate and distinct methods, namely: (1) by selling, through brokers, some of such canned fruits and vegetables to buyers, principally wholesale grocers and retail chain grocers; (2) by selling some of such canned fruits and vegetables to C. F. Burns & Son Co., Inc., who in turn resells such products exclusively to the Great Atlantic & Pacific Tea Company, Safeway Stores, Inc., and The Kroger Company.

PAR. 5. Respondent Alton Canning Company, Inc., has sold and distributed, and now sells and distributes, its canned fruits and vegetables to buyers located in the several States of the United States, including the District of Columbia. Respondent, in the sale of such canned fruits and vegetables, has at all times relevant herein been and now is engaged in commerce, as "commerce" is defined in the amended Clayton Act.

PAR. 6. In the course and conduct of its business in commerce, respondent Alton Canning Company, Inc., is now, and during the period mentioned herein has been, directly or indirectly, in active and substantial competition with other corporations, partnerships, firms and individuals engaged in the canning, sale and distribution in commerce of canned fruits and vegetables.

Many of respondent's purchasers are likewise directly or indirectly in competition with each other.

PAR. 7. In the course and conduct of its business in commerce, respondent Alton Canning Company, Inc., has been, and is now, discriminating in price between purchasers of commodities of like grade and quality. Respondent has been, and is now, selling such commodities to some purchasers at higher prices than the prices at which such commodities of like grade and quality are sold by said respondent to other purchasers.

Alton Canning Company has sold, and now sells, its commodities to some purchasers at prices approximately 2% to approximately 14% higher than the prices at which it has sold and now sells commodities of like grade and quality to some of its favored purchasers.

Alton Canning Company's said favored purchasers are now competing and have been competing from 1955 to the present time, directly or indirectly, with respondent's nonfavored purchasers. Furthermore, during this period, many of the customers of respondent's nonfavored purchasers are competing and have been competing with either the favored purchasers, or with customers of the favored purchasers.

PAR. 8. Specific examples of discriminations in price of certain commodities of like grade and quality sold by respondents to their competing favored and nonfavored buyers are as follows, to wit:

1. Fancy Sliced Beets—24/303		
4– 4–57	C. F. Burns & Son Co., Inc.	$ .88 per dozen
4–10–57	Mid-Eastern Cooperatives, Inc.	1.00 per dozen
2. Fancy Cut Green Beans 4 Sieve—24/303		
9–26–57	C. F. Burns & Son Co., Inc.	$1.23 per dozen
9–28–57	Reeves Parvin & Co.	1.45 per dozen
3. Fancy Sliced Beets—24/303		
10–16–56	American Stores Co.	$1.15 per dozen
10– 3–56	Leedom & Worrall Co.	1.25 per dozen

PAR. 9. C. F. Burns & Son Co., Inc., has resold the products so purchased from respondents to the Great Atlantic & Pacific Tea Company and Safeway Stores, Inc., at prices lower than the prices paid respondents by wholesalers whose customers compete with the Great Atlantic & Pacific Tea Company and Safeway Stores in the resale of such products to the consuming public. For example, certain of the cans of Fancy Sliced Beets referred to above were resold by C. F. Burns & Son Co., Inc., to A & P and Safeway at $.90 per dozen.

Respondent Edward E. Burns is the president and treasurer and respondent Morton Adams is the vice president of C. F. Burns & Son Co., Inc. This company and respondent Alton Canning Company, Inc., have common officers and directors. All of the stockholders of C. F. Burns & Son Co., Inc., are stockholders of respondent Alton Canning Company, Inc. These common stockholders own 960 of the 1,000 outstanding shares of common stock in respondent Alton Canning Company, Inc.

PAR. 10. The effect of respondents' discriminations in price, as above alleged, may be substantially to lessen, injure, destroy or prevent competition between: (1) favored and nonfavored purchasers; (2) customers of the favored and nonfavored purchasers;

(3) favored purchasers and customers of the nonfavored purchasers.

PAR. 11. The acts and practices of respondents, as above alleged, constitute violations of the provisions of subsection (a) of Section 2 of the Clayton Act (U.S.C., Title 15, Sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936.

Mr. Jerome Garfinkel for the Commission.

Mr. Joseph J. Smith, Jr., of Washington, D.C., and *Harris, Beach, Keating, Wilcox, Dale and Linowitz*, by *Mr. Harlan F. Calkins*, of Rochester, N.Y., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on September 30, 1958, charging respondents with discriminations in price in the sale and distribution of their canned fruits and vegetables, in violation of §2(a) of the Clayton Act (U.S.C., Title 15, §13), as amended by the Robinson-Patman Act, approved June 19, 1936.

Thereafter, on April 14, 1959, respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order to Cease and Desist, which was approved by the director of the Commission's Bureau of Litigation, and thereafter submitted to the hearing examiner for consideration.

The agreement identifies respondent Alton Canning Company, Inc., as a New York corporation, with its office and principal place of business located in the city of Alton, State of New York, and respondent Edward E. Burns as an individual and president of the said corporate respondent, with his office and principal place of business located in the same city.

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

Respondents waive any further procedure before the hearing examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint

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

All parties further agree that the complaint should be dismissed as to Morton Adams, named in the complaint individually and as an officer of respondent corporation, in view of the fact that he made no policy decisions concerning the operations of said respondent corporation.

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

It is ordered, That respondents Alton Canning Company, Inc., a corporation, and Edward E. Burns, individually and as an officer of corporate respondent, directly or through any corporate or other device, in connection with the sale of their canned fruits and vegetables in commerce, as "commerce" is defined in the aforesaid Clayton Act, do forthwith cease and desist from:

Discriminating in the price of such products of like grade and quality:

1. By selling to any purchaser at net prices higher than the net prices charged to any other purchaser who in fact competes with the purchaser paying the higher price in the resale and distribution of respondents' products;

2. By selling to any purchaser at net prices higher than the net prices charged to any other purchaser whose customers in fact compete with the customers of the purchaser paying the higher price in the resale and distribution of respondents' products;

3. By selling to any purchaser at net prices lower than the net prices charged to any other purchaser whose customers in fact compete with the purchaser paying the lower price in the resale and distribution of respondents' products.

It is further ordered, That the complaint be dismissed as to Morton Adams.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 20th day of June 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Alton Canning Company, Inc., a corporation, and Edward E. Burns, individually and as an officer of said Alton Canning Company, Inc., shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

MIDWEST INDUSTRIAL SUPPLY, INC., ET AL.

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

Docket 7413. Complaint, Feb. 16, 1959—Decision, June 20, 1959

Consent order requiring a St. Paul, Minn., concern to cease selling vending and radio tube testing machines through false employment offers in newspaper advertising, exaggerated earnings claims, misrepresentations of exclusive territories and established sales routes, assistance to customers, etc.

Mr. Garland S. Ferguson for the Commission.
Mr. Carl F. Dever, of Minneapolis, Minn., for respondents.

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

On February 16, 1959, the Federal Trade Commission issued its complaint against the above-named respondents charging them with violating the provisions of the Federal Trade Commission Act in connection with the sale of vending and other machines, including machines for vending cigarettes and coffee and for testing radio tubes. On April 15, 1959, the respondents and their attorney and counsel supporting the complaint entered into an agreement containing a consent order to cease and desist in accordance with Section 3.25(a) of the Rules of Practice and Procedure of the Commission.

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

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

1. Corporate respondent Midwest Industrial Supply, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at Room 306, Liberty Bank Building, 180 North Snelling Street, St. Paul, Minn.

Individual respondents James Knudsen, Helen Knudsen, and Gorden Bjurback are officers of said corporation. They formulate, direct and control the policies and practices of the corporate respondent. The address of all individual respondents is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents Midwest Industrial Supply, Inc., a corporation, and its officers, and James Knudsen, Helen Knudsen and Gordon Bjurback, 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 vending machines, tube testing machines or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication that:

1. Employment is offered by respondents when in fact the real purpose of respondents' advertisements is to obtain purchasers for respondents' products.

2. The earnings or profits derived from the operation of respondents' machines are any amounts in excess of those which

have been, in fact, customarily earned by operators, of respondents' machines.

3. The amount invested in respondents' products is secured.

4. Purchasers are given exclusive territory within which their machines may be placed for operation.

5. It is necessary for a person to have a car or a satisfactory background in order to qualify for respondents' offer.

6. Surveys are made by respondents or their agents in any locality or for any purpose.

7. Sales routes have previously been established for purchasers or that respondents or their sales representatives have obtained satisfactory locations, or will obtain satisfactory locations for the machines after purchase or will relocate said machines.

8. The machines being sold by respondents are of a certain structural design or of a certain capacity, unless such is the fact.

9. Respondents will repurchase or resell the machines purchased from them.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on the 20th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

THE MAY DEPARTMENT STORES COMPANY

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

Docket 7306. Complaint, Nov. 18, 1958—Decision, June 23, 1959

Consent order requiring a corporation operating some 30 department stores throughout the United States, including stores in the Los Angeles metropolitan area, to cease violating the Fur Products Labeling Act by failing to comply with the labeling, invoicing, and advertising requirements; and, specifically, by advertising in Los Angeles and other newspapers which failed to disclose the names of animals producing the fur in certain products or the fact that some products contained artificially colored or cheap or waste fur and named animals other than those producing some furs; which represented prices as reduced from so-called regular prices which were in fact fictitious, illustrated higher priced products than those available at the advertised selling prices, and named the United States falsely as the country of origin of imported furs; and by failing to keep adequate records as a basis for said pricing claims.

Mr. John T. Walker and *Mr. Eugene Kaplan* for the Commission.

Mr. J. Phillip Nevins for *Lawler, Felix and Hall,* of Los Angeles, Calif., for respondent.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on November 18, 1958, issued its complaint herein, charging the above-named respondent with having violated the provisions of both the Federal Trade Commission Act and the Fur Products Labeling Act, together with the Rules and Regulations promulgated thereunder, and the respondent was duly served with process.

On May 7, 1959, there was submitted to the undersigned hearing examiner of the Commission for his consideration and approval an "Agreement Containing Consent Order to Cease and Desist," which had been entered into by and between respondent and the attorneys for both parties, under date of April 24, 1959, subject to the approval of the Bureau of Litigation of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in

accord with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent, the May Department Stores Company, 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 Sixth and Olive Streets, St. Louis, Mo.

The said respondent operates some thirty (30) department stores under different trade names and at various cities throughout the United States, including the May Co. in Los Angeles, Calif., which, in turn, operates branch stores in the Los Angeles metropolitan area, more specifically located at Crenshaw Boulevard, Wilshire Boulevard, Lakewood Boulevard, and San Fernando Valley.

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

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

4. Respondent waives:

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

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

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

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

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

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

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondent. When so entered it shall have the same force and effect as if entered after a full hearing. It may be altered, modi-

fied, or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order to Cease and Desist," the latter is hereby approved, accepted and ordered filed, the same not to become a part of the record herein, however, unless and until it becomes a part of the decision of the Commission. The hearing examiner finds from the complaint and the said "Agreement Containing Consent Order to Cease and Desist" that the Commission has jurisdiction of the subject matter of this proceeding and of the respondent herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated by the Commission under the latter Act, against the respondent both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the following order as proposed in said agreement is appropriate for the just disposition of all of the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

ORDER

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

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing:

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

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

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

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

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

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

B. Setting forth on labels affixed to fur products:

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

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

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

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

2. Falsely or deceptively invoicing fur products by:

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

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

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

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

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

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

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

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

B. Falsely or deceptively invoicing or otherwise identifying fur products as to the name or names of the animal or animals that produced the fur from which such product was manufactured.

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

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

A. Fails to disclose:

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

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

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

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

B. Sets forth the name or names of any animal or animals other than the name or names specified in §5(a)(1) of the Fur Products Labeling Act.

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

D. Fails to set forth the term "Dyed Mouton processed Lamb" in the manner required by law.

E. Sets forth the term "blended" as part of the information required under §5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs.

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

G. Represents directly or by implication that any such fur

product is of a higher grade, quality, or price than is the fact, by means of illustrations or depictions of higher priced products than those actually available for sale at the advertised selling price.

4. Falsely or deceptively advertising or otherwise identifying any such product as to the name of the country of origin of the fur contained in the fur product.

5. Making price claims and representations of the types referred to in paragraph 3F above unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims or representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 23d day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

ALEX MACRIS, ET AL.
TRADING AS MACRIS & KAPTAN

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

Docket 7061. Complaint, Feb. 7, 1958—Decision, June 24, 1959

Order requiring a furrier in New York City to cease violating the Fur Products Labeling Act by setting forth on labels the names of animals other than those producing certain furs and by failing in other respects to comply with the labeling and invoicing requirements.

Mr. Thomas A. Ziebarth supporting the complaint.

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

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

The complaint charges the respondents with misbranding and falsely and deceptively invoicing of fur products in violation of the Fur Products Labeling Act and the Rules and Regulations thereunder, and constitute unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

After service of the complaint, the respondents filed an answer denying all the charges set forth in the complaint. Thereafter, the parties hereto entered into a stipulation as to the facts which was accepted and ordered filed in the formal record of these proceedings.

The stipulation provides that the record shall consist solely of the complaint, the facts agreed upon in the stipulation and the exhibits made a part thereof.

The attorneys for the parties hereto filed proposed findings of fact, conclusions of law, and order, together with reasons therefor. Each proposed finding and conclusion not hereinafter specifically found or concluded, is hereby rejected. Upon the basis of the record the hearing examiner makes the following findings of fact, conclusions of law and order.

FINDINGS OF FACT

1. Alex Macris and James Kaptan are individuals and copartners trading as Macric & Kaptan with their office and prin-

cipal place of business located at 130 West 30th Street, New York, N.Y.

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

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

4. Certain of said fur products were misbranded in that on labels attached thereto respondents set forth the name of an animal other than the name of the animal that produced the fur contained in the fur product in violation of Section 4(3) of the Fur Products Labeling Act.

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

(a) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder was mingled with nonrequired information, in violation of Rule 29(a) of the aforesaid Rules and Regulations.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder was set forth in handwriting, in violation of Rule 29(b) of the aforesaid Rules and Regulations.

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

7. Certain of said fur products were falsely and deceptively invoiced, in violation of the Fur Products Labeling Act in that

they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations thereunder was set forth in abbreviated form in violation of Rule 4 of the aforesaid Rules and Regulations.

(b) An item number was not set forth on each invoice pertaining to a fur product in violation of Rule 40 of the aforesaid Rules and Regulations.

8. 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.

CONCLUSIONS

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

ORDER

It is ordered, That respondents Alex Macris and James Kaptan, individually and as copartners trading as Macris & Kaptan, or under any other name, 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 in the transportation and distribution in commerce, of fur products, or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

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

2. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or

names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations.

3. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form or in handwriting.

(b) Nonrequired information mingled with required information.

B. Falsely or deceptively invoicing fur products by:

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

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

3. Setting forth on any invoice required information in abbreviated form.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Service of the hearing examiner's initial decision in this proceeding having been completed on May 22, 1959, and no notice of intention to appeal therefrom having been filed; and

The Commission having considered the matter and having concluded that the initial decision should be modified in certain respects and thereafter adopted as the decision of the Commission:

It is ordered, That said initial decision be, and it hereby is, modified as follows:

1. By substituting the words "fur products" for the word "furs" in the second line of the first paragraph.

2. By substituting the following for paragraphs "A" and "B" of the order contained therein:

A. Misbranding fur products by:

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

2. Setting forth on labels attached to fur products the name or names of any animal or animals other than the name or names of the animal or animals producing the fur or furs contained in

the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations.

3. Setting forth on labels attached to fur products:

(a) Required information in abbreviated form or in handwriting.

(b) Nonrequired information mingled with required information.

B. Falsely or deceptively invoicing fur products by:

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

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

3. Setting forth on any invoice required information in abbreviated form.

It is further ordered, That the initial decision, as so modified, shall, on the 24th day of June 1959, become the decision of the Commission.

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

Decision

IN THE MATTER OF

WILLIAM SAFRAN, DOING BUSINESS AS CONTINENTAL WOOL CO.

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

Docket 7439. Complaint, Mar. 12, 1959—Decision, June 24, 1959

Consent order requiring a Brooklyn, N.Y., manufacturer to cease violating the Wool Products Labeling Act by labeling and invoicing as "wool" and "all wool," woolen stocks which contained a substantial quantity of other fibers and fibers previously woven or felted; and by failing in other respects to comply with the requirements of the Act.

Mr. Frederick McManus for the Commission.
Mr. Joseph T. McDonnell, of Washington, D.C., for respondent.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondent with misbranding certain of his wool products, in violation of §4(a)(1) and §4(a)(2) of the Wool Products Labeling Act of 1939, and with the use of false, misleading and deceptive statements on sales invoices, shipping tags and other shipping memoranda concerning his woolen stocks, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act.

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

The agreement states that respondent William Safran is an individual doing business under the firm name Continental Wool Co., with his place of business located at 320 Driggs Avenue, Brooklyn, N.Y.

The agreement provides, among other things, that respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of

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

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

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That the respondent William Safran, an individual, doing business as Continental Wool Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen stocks or other wool products, as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to securely affix or place on each such product a

stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

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

(b) The maximum percentage of the total weight of such wool products of any nonfibrous loading, filling or adulterating matter;

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

It is further ordered, That the respondent, William Safran, doing business as Continental Wool Co., or under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of woolen stocks or other products, in commerce, do forthwith cease and desist from, directly or indirectly:

Misrepresenting the constituent fibers of which products are composed, or the percentages thereof, in invoices, shipping memoranda or in any other manner.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 24th day of June 1959, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

KALAN UNIFORM CO., INC., ET AL.

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

Docket 7284. Complaint, Oct. 17, 1958—Decision, June 26, 1959

Consent order requiring Chicago sellers of uniforms to military personnel to cease representing falsely that their military uniforms had been approved by the United States Government, by such practices as attaching labels so similar to the certificate label authorized by the U.S. Army's Uniform Quality Control Office that soldiers were led to believe that the garments were approved by that agency.

Mr. William A. Somers for the Commission.

Mr. Henry W. Kenoe and *Mr. Raphael Fine,* of Chicago, Ill., for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

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

The hearing examiner having considered the agreement and

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

1. Respondent Kalan Uniform Co., Inc., is a corporation, existing and doing business under the laws of the State of Illinois. Respondents Macey B. Gordon, John William Benson and Philip Fishbein are individuals and officers of said corporate respondent. Said corporate and individual respondents have their office and principal place of business located at 31 South Franklin Street, Chicago, Ill.

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 Kalan Uniform Co., Inc., a corporation, and its officers, and respondents Macey B. Gordon, John William Benson, and Philip Fishbein, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of uniform items in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using any label which simulates or closely resembles the label provided by Army Regulation AR 700–8400–3, promulgated by the Department of the Army on January 15, 1957, on any Controlled Uniform Item which has not been approved by the Uniform Quality Control Office, or representing, directly or indirectly, by marking or labeling or in any other manner, that any Controlled Uniform Item has been approved by said Uniform Quality Control Office or by any other agency of the United States Government, when such item has not been so approved.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of June 1959, become the decision of the Commission; and, accordingly:

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

Decision

IN THE MATTER OF

GEORGE HORWITZ, ET AL TRADING AS NORTH BERGEN QUILTING COMPANY

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

Docket 7446. Complaint, Mar. 17, 1959—Decision, June 26, 1959

Consent order requiring manufacturers in North Bergen, N.J., to cease violating the Wool Products Labeling Act by falsely labeling, and by failing to label, interlinings as to their fiber content.

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

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

The complaint charges respondents with misbranding certain of their wool products, in violation of §4(a)(1) and §4(a)(2) of the Wool Products Labeling Act of 1939 and of the Rules and Regulations promulgated thereunder, and with the use in invoices of false and misleading statements as to the wool content of said products, in violation of the Federal Trade Commission Act.

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

The agreement states that respondents George Horwitz and Milton Horwitz are individuals and copartners trading as North Bergen Quilting Company, with their office and principal place of business located at 6035 Hudson Boulevard, in the City of North Bergen, State of New Jersey.

The agreement provides, among other things, that respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement; that the agreement shall not become a part of the official record unless and until it becomes

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

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

The order agreed upon fully disposes of all the issues raised in the complaint, and adequately prohibits the acts and practices charged therein as being in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and of the Federal Trade Commission Act. Accordingly, the hearing examiner finds this proceeding to be in the public interest, and accepts the agreement containing consent order to cease and desist as part of the record upon which this decision is based. Therefore,

It is ordered, That the respondents George Horwitz and Milton Horwitz, individually and as copartners trading as North Bergen Quilting Company, or trading under any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 of woolen interlining material or other woolen products, as such products are defined in and subject to the said Wool Products Labeling Act, do forthwith cease and desist from misbranding such products by:

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

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

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

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

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

It is further ordered, That the respondents George Horwitz and Milton Horwitz, individually and as copartners trading as North Bergen Quilting Company, or trading under any other name or names, and respondents' agents, representatives and employees, directly or through any corporate or other device in connection with the sale or distribution of woolen fabrics or any other woolen products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the constituent fibers of which their products are composed or the percentages or amounts thereof in sales invoices, shipping memoranda or in any other manner.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 26th day of June 1959, become the decision of the Commission; and, accordingly:

It is ordered, That respondents George Horwitz and Milton Horwitz, individually and as copartners trading as North Bergen Quilting Company, shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

GEORGE SCHWARTZ, ET AL. TRADING AS STEPHEN-GEORGE WHOLESALE FURS

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

Docket 7336. Complaint, Dec. 16, 1958—Decision, June 27, 1959

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

S. F. House, Esq. for the Commission.
Respondents, *pro se.*

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 16, 1958, charging them with having violated the Fur Products Labeling Act, the rules and regulations issued thereunder, and the Federal Trade Commission Act, by misbranding and falsely invoicing their fur products. Respondents entered into an agreement, dated May 7, 1959, containing a consent order to cease and desist, disposing of all the issues in this proceeding without further hearings, which agreement has been duly approved by the director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with §3.25 of the Rules of Practice of the Commission.

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

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

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

1. Respondents George Schwartz and Stephen Lisle are copartners trading as Stephen-George Wholesale Furs, with their office and principal place of business located at 22 North Fourth Street, Minneapolis, Minn.

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

ORDER

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

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing:

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

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

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

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

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

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

2. Setting forth on labels affixed to fur products:

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

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

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

B. Falsely or deceptively invoicing fur products by:

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

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

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

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

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

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

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

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

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 27th day of June 1959, become the decision of the Commission; and, accordingly:

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