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 courses of study or instruction, do forthwith cease and desist from:

1. Representing directly or by implication:

(a) That employment is being offered when in fact the purpose is to obtain purchasers of such courses of study or instruction.

(b) That persons who complete their airline training course are thereby qualified for employment by major commercial airlines or any airline; or that persons completing any of their other courses of study or instruction are thereby qualified for employment in any job to which the course relates when all the qualifications for such job as established by the prospective employer or others, cannot be acquired through respondents' course.

2. Using the word "Registrar" or "Field Registrar" as descriptive of or in referring to any of respondents' salesmen.

It is further ordered, That the second and the fourth to seventh charges, inclusive, of the complaint as amended (subparagraphs 1, 3, 4, 5 and 6 of Paragraph Seven and Paragraph Eight) be, and they hereby are, dismissed.

It is further ordered, That the complaint be, and it hereby is, dismissed as to respondent Alice L. Sawyer in her individual capacity but not in her capacity as an officer of respondent corporations.

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

In The Matter Of

GEORGE McKIBBIN & SON ET AL.

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

Docket 7245. Complaint, Aug. 28, 1958—Decision, Feb. 14, 1961

Order requiring Brooklyn, N.Y., printers of a one-volume reference work entitled "Webster's Encyclopedic Dictionary of the English Language", a loose-leaf edition of "Webster's Unified Dictionary and Encyclopedia"—itself based on two older works, whose publishers licensed respondents to print and sell it in supermarkets only in the U. S. and Canada, where it was sold a section at a time over a 10-week period—to cease representing falsely—in advertising circulars, window banners, store displays, and on

the title pages of the books—that their said reference book sold regularly for $25 and was a new publication, and that all the information contained therein was complete and up to date.

Mr. Charles W. O'Connell, supporting the complaint.
Booth, Lipton & Lipton of New York, N. Y., for respondents.

INITIAL DECISION BY EDWARD CREEL, HEARING EXAMINER

The complaint herein was issued on August 28, 1958 and charges that respondents have used false and misleading representations and have failed to disclose material facts in connection with the marketing of an encyclopedic dictionary. After the filing of respondents' answer, evidence was received in support of, and in opposition to, the allegations of the complaint. Proposed findings of fact and conclusion were submitted by counsel supporting the complaint but were not submitted by counsel for respondents.

After considering the entire record, it is concluded that the proposed findings of fact and conclusion are sustained by the evidence and they are hereby adopted and are included in the following findings as to the facts and conclusion, and the following order is issued.

FINDINGS AS TO THE FACTS

1. George McKibbin & Son is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and place of business located at 67 - 34th Street, Brooklyn, New York.

Individual respondents Samuel Schulman and Harold S. Cohen are president and secretary, respectively, and Leslie Schwartz and Martin Sperling are vice presidents of said corporation. Their address is the same as that of the corporate respondent.

2. Respondents are now, and for some time last past have been, engaged in printing and selling a one volume reference work entitled "Webster's Encyclopedic Dictionary of the English Language." Said book is a loose-leaf edition of "Webster's Unified Dictionary and Encyclopedia" published and sold by H. S. Stuttman Co., which firm has licensed respondents to print said loose-leaf edition and to sell it in supermarkets only in the United States and Canada. Pursuant to said agreement respondents sell their said encyclopedic dictionary in pre-punched sections, offering a new section each week for a period of ten weeks. A post binder and thumb index and a so-called guide to self-education are additional units which complete the book. The several units are assembled by the purchaser.

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

3. At all times mentioned herein, respondents have been in direct and substantial competition, in commerce, with corporations, firms and individuals engaged in the sale and distribution of dictionaries and encyclopedias.

4. In the course and conduct of their business, and for the purpose of inducing the purchase of their encyclopedic dictionary, respondents have made certain representations and statements with respect to such books in advertising circulars, window banners, store displays and on the title page of said book. Typical of such statements are the following:

Nationally Advertised
$25.00
De Luxe Edition
And never before has this big $25.00 volume been available at such a tiny price!
Here in this beautiful, mammoth reference work is the information and knowledge you need on any work or subject . . .
A concise and comprehensive reference work, completely new and up to date.

By means of such statements respondents have been and are representing, directly or by implication that their "Webster's Encyclopedic Dictionary of the English Language" regularly sells at retail for $25.00; that it is a new publication and that all of the information contained therein is complete and up to date.

5. The foregoing representations were false, misleading and deceptive. In truth and in fact the usual and regular retail price of said reference book was not $25.00 but substantially less than that amount. Said reference book is not a new publication since it is a loose-leaf edition of "Webster's Unified Dictionary and Encyclopedia" which in turn draws its basic material from two older works, namely, "Webster's New American Dictionary" and "The New American Encyclopedia", and all of the information contained therein was not complete and up to date.

6. Respondents fail to adequately disclose that their said "Webster's Encyclopedic Dictionary of the English Language" is also published as "Webster's Unified Dictionary and Encyclopedia" and that it contains material from "Webster's New American Dictionary"

and from "The New American Encyclopedia", thereby representing directly or by implication that the said "Webster's Encyclopedic Dictionary of the English Language" is an original publication containing original or new information or material when in truth and in fact said publication is a reprint of another publication of a different name and certain of the information or material contained therein has been taken or reprinted from other publications. A disclosure of this information on the copyright page of the book is not sufficient to afford adequate notice to prospective buyers.

7. The use by respondents of the foregoing false, deceptive and misleading statements and representations and their failure to disclose the aforesaid material facts has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasers and prospective purchasers of said reference book into the erroneous and mistaken belief that such statements and representations are true, and into the purchase of substantial numbers of respondents' reference book by reason of such erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce is and has been unfairly diverted to respondents from their competitors and substantial injury is and has thereby been done to competition in commerce.

CONCLUSION

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

ORDER

It is ordered, That respondent George McKibbin & Son, a corporation, and its officers, and respondents Samuel Schulman, Harold S. Cohen, Leslie Schwartz and Martin Sperling, 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 in commerce, as "commerce" is defined in the Federal Trade Commsision Act, of Webster's Encyclopedic Dictionary of the English Language or any other book or publication, whether sold under the same or any other title, do forthwith cease and desist from:

1. Representing, directly or by implication, that Webster's Encyclopedic Dictionary of the English Language is a new publication, provided that this shall not be construed to forbid respondents from

representing that the manner of presentation of the information in such book is new;

2. Representing, directly or by implication, that any book or publication is new when it is based specifically upon a previously published work or when in form or content it is recognizably based upon a previously published work;

3. Representing, directly or by implication, that the information in Webster's Encyclopedic Dictionary of the English Language is complete or up to date;

4. Representing, directly or by implication, that the information in any encyclopedia or dictionary is up to date unless such information is reasonably current at the time the representation is made;

5. Representing, directly or by implication, that a certain amount is the customary or usual retail price of Webster's Encyclopedic Dictionary of the English Language or is the customary or usual price of any other book or publication, when said amount is in excess of the price at which such book or other books or publications is customarily or usually sold at retail;

6. Offering for sale, selling or distributing books or other publications consisting wholly, or substantially, of reprints of previously published books or other publications, unless the fact that they are reprints or contain reprinted material and the names of the previously published books or other publications are clearly disclosed in all advertising and on the title page in immediate conjunction with the title or in another position on the title page which would readily attract the attention of a prospective purchaser or on the front cover.

OPINION OF THE COMMISSION

By ANDERSON, *Commissioner:*

The respondents have appealed from the initial decision filed by the substitute hearing examiner, in which he found that they had engaged in misrepresentations and deceptively failed to reveal material facts in connection with their distribution in commerce of an encyclopedic dictionary.

The book, entitled "Webster's Encyclopedic Dictionary of the English Language" is sold by respondents to supermarkets for resale to patrons of such stores. It is a single volume, loose-leaf work consisting of ten sections or units. The sales program calls for a new section to be offered each week to patrons of the stores. The sections are assembled by the buyer in a binder which is supplied and total cost for the book varies from $8.00 up to $9.00. Promotional matter or mats are furnished by the respondents to the stores for assisting

sales of the book. Its distribution by respondents is under license from H. S. Stuttman Company which publishes and sells Webster's Unified Dictionary and Encyclopedia. The latter is marketed in case-bound form and has retailed in its most expensive binding for $25.00. When preparing their encyclopedic dictionary, respondents used films or plates for the Stuttman publication and also incorporated additional material.

The advertising furnished by respondents for promotions of the book by the supermarkets has included the statements, among others, "Nationally advertised $25.00 DeLuxe Edition" and "never before has this big $25.00 volume been available at such a tiny price!" In excepting to the initial decision's conclusions that the advertising has represented and implied that respondents' book has been regularly sold for $25.00, respondents concede that their own book, that is, Webster's Encyclopedic Dictionary of the English Language, has never retailed for that amount. They argue, however, that their advertising serves only to convey impressions and beliefs that the same or a substantially similar book has retailed at $25.00 and that such representations are justified inasmuch as Webster's Unified Dictionary and Encyclopedia has been regularly sold in one type of binding at that price by respondents' licensor. This contention, however, ignores the fact that the challenged advertising statements relate to and are closely keyed to illustrations of respondents' book and omit mention of any other publication.

In addition, companion statements in the advertising variously describe the advertised lower price as "Only A Fraction Of Regular Cost!" and as "A Fraction of the Nationally Advertised Price." We think that the advertising for the book reasonably represents and implies a prior retail price of $25.00 by respondents for their book in regular course of business, and the appeal's exceptions to this aspect of the initial decision are denied accordingly.

In the answer which they filed in this proceeding, respondents admit, among other things, that some of their advertising has included a statement as to their reference work being "completely new." The substitute hearing examiner found that respondents have represented thereby that their book is a new publication and that such representation is false. His conclusions respecting such falsity are based on undisputed evidence that the book is a loose-leaf edition of the Stuttman book which in turn drew its basic material from two older works, namely, Webster's New American Dictionary and The New American Encyclopedia.

Respondents' publication differs from conventional encyclopedias and dictionaries in that it consecutively lists or unifies dictionary

definitions and encyclopedic material into one loose-leaf volume. Respondents in effect argue that because of an encyclopedic dictionary reports prior known facts and established word meanings, the public knows that their work was not composed of new material and that the representation of newness accordingly should be understood by purchasers as merely descriptive of its novel or unified form of presenting the information. This contention by respondents erroneously assumes, however, that a reference publication cannot be regarded as an original or new work unless dealing exclusively with knowledge never before published in any form. Furthermore, words are to be understood in their ordinary sense in the absence of clear showing that they have acquired meanings different from their popular ones. Cf. *International Parts Corp.* v *F.T.C.*, 133 F. 2d 883 [3 S. & D. 535] (7th Cir. 1943).

That use of the terms "new" or "completely new" to designate a reference publication composed in substantial part of material reprinted from another being contemporaneously marketed under another title has the capacity and tendency to deceive is therefore obvious, and requires no further comment. On the other hand, the order contained in the initial decision appropriately recognizes the respondents' right to make truthful and nondeceptive statements in the future respecting newness in the manner of presenting constituent information. The contentions advanced by the respondents in the Point II section of their appeal brief are accordingly rejected.

Respondents further object to the conclusions in the initial decision that they have falsely represented that all information contained in the book is complete and up-to-date. One of the advertising mats used states that the book is "Complete! Up-to-the-minute!***", and other advertising material offers users "*** the information and knowledge you need on any word or subject." Respondents' contentions that no promises of completeness have inhered in their advertising are accordingly rejected.

The evidence presented by counsel supporting the complaint relevant to the above issues included testimony by four witnesses who were reference librarians or otherwise well qualified as experts in the science of library service. Based on their samplings of the material in respondents' book, three of those witnesses discussed various subjects or items which they regarded as inadequately developed or treated, expressed views that other specified material was out of date or erroneous and also named instances of omissions. Whereas the book has a 1957 copyright and introductory material identifies it as complete in scope and up-to-date in statistics and population figures, it appears from their testimony that the census data used in many instances were those for the year 1940. Also, the terminal dates

for certain of the political and economic histories on foreign countries go back to the late 1940's and early 1950's.

That the foregoing witnesses followed appropriate and realistic procedures when making their evaluations of respondents' book is evident from the record. The testimony of the fourth expert witness was kindred in vein to that of the other three reference librarians. It appears, however, that her opinions were based on an examination of Webster's Unified Dictionary and Encyclopedia, the related work published by respondents' licensor. This book also was received in evidence. Respondents' argument that we must completely disregard this witness' evaluations is unpersuasive, however, inasmuch as it appears that certain of the deficiencies on which she commented were common to both publications. The exceptions argued by respondents under Point III of the appeal brief are, therefore, denied.

The copyright page of respondents' publication includes statements to the effect that the book is also published as Webster's Unified Dictionary and Encyclopedia and contains new entries plus material reprinted from the two other books named. The hearing officer found that such notice, because disclosed only on the copyright page, has not sufficed to inform prospective purchasers of the facts in that respect. The order contained in the initial decision accordingly requires that respondents in the offering for sale of publications which are reprints or which consist in substantial part of reprinted material, disclose such facts in their advertising and also on either the title page or front cover of their books. Respondents argue that the public understands that reference books "must, perforce, be predicated upon prior works" and that it follows that prospective purchasers are alert to seek out information as to whether the constituent material is reprinted information. Although we agree that the material in other reference works may be regarded as authentic information by many members of such publishing fraternity and for that reason suitable for inclusion as reprint material in their works, it is also obvious that the use of authoritative commentaries by contemporary scholars or scientists which have never been previously submitted for encyclopedic publication likewise is conventional procedure, and one in harmony with the public's concept of expanding human knowledge.

It does not follow, therefore, that the purchasing public understands that reference publications are composed in substantial part of material reproduced or reprinted from other reference works. Instead, the offering for sale of a reference work constitutes an implicit representation that the material or information contained therein is original and new as distinguished from that reprinted or reproduced from other reference publications. In the absence of

clear and conspicuous disclosure of the fact that such work consists in substantial part of reprinted material, the offering of such a book clearly has the capacity and tendency to mislead prospective purchasers.

Nor is there any substantial record support for respondents' contentions that placing of the statement respecting reprinted material on the copyright page constitutes adequate disclosure or better serves in that respect than inclusion on the title page as proposed by the order. While it is true that persons habitually using or working with books may recognize the copyright page as a source of information respecting any reprint lineage, the record fully supports conclusions that other members of the public are not so versed. We think that the aforementioned provision of the order to cease and desist, including its requirements for like disclosure of reprinted material in the book's advertising, is appropriate and has sound basis in law and public policy.

The respondents' appeal is denied and the initial decision is adopted as the decision of the Commission.

FINAL ORDER

This matter having been heard by the Commission upon the appeal filed by the respondents from the initial decision of the substitute hearing examiner; and the Commission having rendered its decision denying said appeal and adopting the initial decision as the decision of the Commission:

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

IN THE MATTER OF

WOLOCH FURS, INC., ET AL.

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

Docket 7982. Complaint, June 24, 1960—Decision, Feb. 16, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by listing fictitious prices on consignment invoices which were intended to aid in the sale of fur products, and by failing to maintain adequate records as a basis for their pricing and savings claims.

COMPLAINT

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

PARAGRAPH 1. Respondent Woloch Furs, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 145 West 30th Street, New York, New York.

Respondent Raymond Woloch is president and secretary of the said corporate respondent, and respondent Nathan Woloch is vice president and treasurer of the said corporate respondent and as such control, formulate and direct the acts, practices and policies of the said corporate respondent. Individual respondents have an office and principal place of business at the same address as that of the corporate respondent.

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

PAR. 3. Certain of said fur products were falsely and deceptively invoiced in that the respondents set out on invoices certain prices of fur products which were in fact fictitious, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 4. Certain of said fur products were fasely and deceptively advertised in that the respondents on consignment invoices made representations and gave notices concerning said fur products, which representations and notices were not in accordance with the

provisions of Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder; and which representations and notices were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

By means of said representations and notices contained in the consignment invoices to customers, and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised their fur products in that respondents thereby made representations as to the prices of fur products which prices were in fact fictitious, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 5. Respondents in making pricing and savings claims and representations, failed to maintain full and adequate records disclosing the facts upon which such claims and representations were purportedly based, in violation of Rule 44(e) of the Rules and Regulations under the Fur Products Labeling Act.

PAR. 6. The aforesaid acts and practices by respondents, as herein alleged, were and 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 within the intent and meaning of the Federal Trade Commission Act.

Mr. Charles S. Cox for the Commission.
Mr. Charles Goldberg, of New York, N.Y., for respondents

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

The complaint in this matter charges the respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling Act in connection with the introduction, manufacture for introduction, sale, advertising, offering for sale, or transportation in commerce of fur products, or in connection with the sale, manufacture for sale, advertising, offering for sale, or transportation of fur products which have been made in whole or in part of fur which has been shipped or received in commerce.

An agreement has now been entered into by respondents, their attorney and counsel supporting the complaint which provides, among other things, that respondents admit all the jurisdictional facts alleged 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 the agreement; that the making 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 this proceeding without further notice to the respondents and when entered shall have the same force and effect as if entered after a full hearing, respondents specifically waiving all the rights they may have to challenge or contest the validity of the order; that the order may be altered, modified or set aside in the manner provided for other orders; that the complaint may be used in construing the terms of the order; 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

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 Woloch Furs, 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 145 West 30th Street, in the City of New York, State of New York.

Individual respondents Raymond Woloch and Nathan Woloch are officers of said corporation and their address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That Woloch Furs, Inc., a corporation, and its officers, and Raymond Woloch and Nathan Woloch, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, 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. Falsely or deceptively invoicing fur products by representing, directly or by implication, on invoices that the former, regular or usual price of any fur product is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such products in the recent regular course of business.

B. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which represents, directly or by implication, that the former, regular or usual price of any fur products is any amount which is in excess of the price at which respondents have formerly, usually or customarily sold such product in the recent regular course of business.

C. Misrepresents in any manner the savings available to purchasers or respondents' fur products.

D. Making pricing claims or representations respecting prices or values of fur products unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 16th Day of February, 1961, become the decision of the Commission; and, accordingly:

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

In The Matter Of

AMERICAN STANDARD TELEVISION TUBE CORP. ET AL.

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

Docket 8107. Complaint, Aug. 29, 1960—Decision, Feb. 16, 1961

Consent order requiring a manufacturer of rebuilt television picture tubes containing used parts and its exclusive sales agent, to cease representing falsely that certain of their television tubes were new in their entirety, by such statements on labels and otherwise as "This is a NEW DuMont

Licensed PICTURE TUBE", and to disclose on the tubes, cartons, invoices, etc., that the tubes were rebuilt.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that American Standard Television Tube Corp., a corporation and A. S. T. Sales Corp., a corporation and Jack Cherches and Alan H. Shindel, individually and as officers of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent American Standard Television Tube Corp., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 94-50 158th Street, Jamaica, New York.

Respondent A. S. T. Sales Corp., is a corporation organized existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 94-50 158th Street, Jamaica, New York. Said corporation is the exclusive sales agent for American Standard Television Tube Corp. and both corporations cooperate and act together in carrying out the acts and practices hereinafter set forth.

Respondent Jack Cherches and Alan H. Shindel are officers and directors of both corporate respondents. They formulate, control and direct the policies, acts and practices of the corporate respondents. Their address is the same as that of the corporate respondents.

PAR. 2. Responents are now, and for some time last past have been, engaged in the manufacture, offering for sale, sale and distribution of rebuilt television picture tubes containing used parts to distributors for resale to the public.

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

products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their products, respondents made certain statements concerning their products on labels and by other media. Among and typical of such statements is the following:

This is a
NEW
DuMont Licensed
PICTURE
TUBE
This is Another
NEW
STANDARD
TELEVISION PICTURE TUBE

PAR. 5. Through the use of the aforesaid statement respondents represented that certain of their television picture tubes were new in their entirety.

PAR. 6. Said statement and representation was false, misleading and deceptive. In truth and in fact, the television picture tubes represented as being "new" are not new in their entirety.

PAR. 7. The television picture tubes sold by respondents are rebuilt containing used parts. Respondents do not disclose on the tubes, or on the cartons in which they are packed, or on invoices, or in any other manner that said television picture tubes are rebuilt and contain used parts.

When television picture tubes are rebuilt containing used parts, in the absence of a disclosure to the contrary, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 8. By failing to disclose the facts as set forth in Paragraph Seven, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

PAR. 9. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of television picture tubes.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements and representations and the failure of respondents to disclose on their television picture tubes, on the cartons in which they are packed, on invoices, or in any other manner, that they are rebuilt, containing used parts, have had, and now have, the capacity and tendency to mislead members of the

purchasing public into the erroneous and mistaken belief that said picture tubes are new in their entirety and into the purchase of substantial quantities of respondents' said tubes 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, and is being, done to competition in commerce.

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

Mr. Michael J. Vitale for the Commission.
Respondents, *pro se.*

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated August 29, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On November 18, 1960, the respondents entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

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

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

1. Respondent American Standard Television Tube Corp., and A. S. T. Sales Corp., are corporations 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 94-50 - 158th Street, Jamaica, New York.

Respondent Jack Cherches and Alan H. Shindel are officers of said corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents. Their address is the same 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 American Standard Television Tube Corp., a corporation, A. S. T. Sales Corp., a corporation, and their officers, and Jack Cherches and Alan H. Shindel, individually and as officers of said corporations, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of television picture tubes containing used parts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication that such television picture tubes are new;

2. Failing to clearly disclose on the tubes, on the carton in which they are packed, on invoices and in advertising, that said tubes are rebuilt and contain used parts;

3. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

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 February, 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

JOHN J. TIERNEY TRADING AS ARTISAN GALLERIES

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

Docket 8172. Complaint, Nov. 14, 1960—Decision, Feb. 16, 1961

Consent order requiring Dallas, Tex., furriers to cease violating the Fur Products Labeling Act by advertising which failed to disclose the names of animals producing certain furs or falsely identified the animals, and by failing to invoice furs with all required information.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that John J. Tierney, an individual trading as Artisan Galleries, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. John J. Tierney is an individual trading as Artisan Galleries, with his office and principal place of business located at 2100 North Haskell Avenue, Dallas, Texas.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, respondent has been engaged in the introduction into commerce, and in the sale, advertising and offering for sale in commerce, and in the transportation and distribution, in commerce, of fur as the term "fur" and "commerce" are defined in the Fur Products Labeling Act.

PAR. 3. Certain of said furs were falsely and deceptively invoiced by the respondent 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.

PAR. 4. Certain of said furs were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain advertisements concerning said furs which were not in accordance with the provisions of Section 5 of the said Act and the Rules and Regulations promulgated thereunder and which

advertisements were intended to aid, promote and assist, directly or indirectly, in the sale, and offering for sale, of said furs.

PAR. 5. Among and included in the advertisements as aforesaid but not limited thereto, were advertisements of respondent which appeared in magazines, cards and catalogs which were distributed in commerce.

By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondent falsely and deceptively advertised furs in that said advertisements:

A. Failed to disclose the name or names of the animal or animals that produced the fur as set forth in the Fur Products Name Guide in violation of Section 5(a)(1) of the Fur Products Labeling Act.

B. Falsely or deceptively identified said furs with respect to the name or names of the animal or animals that produced the fur in violation of Section 5(a)(5) of the Fur Products Labeling Act.

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

Mr. Michael P. Hughes, for the Commission.
Mr. Richard S. Chambers, of Dallas, Tex., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on November 14, 1960, charging Respondent with falsely and deceptively invoicing and advertising certain of his furs, in violation of the Federal Trade Commission Act, and of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

Thereafter, on December 22, 1960, Respondent, his counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Acting Director, Associate Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter, on December 29, 1960, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent John J. Tierney as an individual trading as Artisan Galleries, with his office and principal place of business located at 2100 North Haskell Avenue, Dallas, Texas.

Respondent admits all the jurisdictional facts alleged in the complaint, and agrees that the record may be taken as if findings of

jurisdictional facts had been duly made in accordance with such allegations.

Respondent waives any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights he 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 Respondent that he has violated the law as alleged in the complaint.

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

It is ordered, That John J. Tierney, an individual trading as Artisan Galleries or under any other trade name, and Respondent's representatives, agents and employees, directly or through any corporate or other device in connection with the introduction into commerce or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce of any fur as "fur" and "commerce" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. Falsely or deceptively invoicing fur by:

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

2. Falsely or deceptively advertising furs 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 furs, and which:

A. Fails to disclose the name or names of the animal or animals producing the furs as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations promulgated under the Fur Products Labeling Act;

B. Falsely or deceptively identifies any such fur as to the name or names of the animal or animals that produced the fur.

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 February, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondent John J. Tierney, an individual trading as Artisan Galleries, 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

ABC JALOUSIE CO. OF WASH., INC., ET AL.

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

Docket 7819. Complaint, Mar. 11, 1960—Decision, Feb. 17, 1961

Consent order requiring three affiliated concerns—two in Washington, D.C., and one in Baltimore—and their common officers, to cease using bait advertisements and fictitious pricing and savings claims to sell their jalousies, storm windows and doors, and carpeting; and to cease representing falsely that the pile of carpeting they offered for sale was composed of nylon.

Complaint

Pursuant to the provision of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that ABC Jalousie Co. of Wash., Inc., Coronet Carpet Co., Inc., and Air Tite Aluminum Products Corporation, corporations, and William Spirt, John Spirt, and Loretta Zawicki, individually and as officers of said corporations, and Harry Weiss, individually, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in

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

PARAGRAPH 1. Respondent ABC Jalousie Co. of Wash., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of busines located in the State of Maryland adjacent to the District of Columbia but receiving mail at 1917 - 47th Avenue, Northeast, in the city of Washington, D. C.

Respondent Coronet Carpet Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located in the State of Maryland adjacent to the District of Columbia but receiving mail at 1917 - 47th Avenue, Northeast, in the City of Washington, D. C.

Respondent Air Tite Aluminum Products Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 2109 Frederick Avenue in the City of Baltimore, State of Maryland.

Respondents William Spirt, John Spirt, and Loretta Zawicki are officers of each of said corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their addresses are as follows: William Spirt, 4119 Boarman Avenue, Baltimore, Maryland, John Spirt, 2000 Erie Street, Hyattsville, Maryland, and Loretta Zawicki, 114 Cherrydale Road, Baltimore 28, Maryland.

Respondent Harry Weiss was, until October, 1958, an officer of respondent Coronet Carpet Co., Inc. While an officer he formulated, directed, and controlled the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth. Hereinafter when the present tense is used, in so far as respondent Harry Weiss is concerned, it is meant to relate to the period when said respondent was such an officer. His address is 1519 New York Avenue, Northeast, Washington, D. C.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of various items of merchandise suitable for use in or as a part of persons' homes, including jalousies, storm windows and doors, and carpeting, to the public, as hereinafter set forth.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business in the State of Maryland to purchasers thereof located in the District

of Columbia and in various States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent ABC Jalousie Co. of Wash., Inc., for the purpose of inducing the purchase of its products, has engaged in the practice of inserting in its advertising, in connection with its jalousies, statements serving as representations that a purchaser acting promptly will save a certain percentage of the prices usually charged by respondents, typical of which, but not all inclusive, are the following statements:

Act now. Save 40%

* * *

40% off. Act now . . .
limited time opportunity.

Subsequently, said respondent's representatives, when calling upon persons who have responded to such advertisements, first quote prices which are represented to be those which respondent regularly charges. The advertised saving is then deducted from such prices to arrive at the final quoted prices.

PAR. 5. Through the use of the words "save", "off" and similar words, said respondent represented that the amounts subsequently quoted by its representatives are the prices at which said respondent usually and customarily sold the advertised merchandise in its recent regular course of business and, through the use of said amounts and the lesser amounts, that the difference between said amounts and lesser amounts represent savings from the prices at which the said merchandise had been sold by respondent in the recent regular course of its business.

PAR. 6. The aforesaid statements and representations were and are false, misleading and deceptive. In truth and in fact, the amounts first quoted to prospective purchasers are in excess of the prices at which said respondent's products had been sold by respondent in the recent regular course of its business and the differences between said amounts and the lesser amounts did not represent savings from the prices at which said products had been sold by said respondent in the recent regular course of its business.

PAR. 7. Respondent Coronet Carpet Co., Inc., and Air Tite Aluminum Products Corporation, for the purpose of inducing the purchase of their merchandise, engage in the practice of initially offering, by means of advertisements inserted in newspapers, certain merchandise described and depicted as having various characteristics relating to, among other things, grade, quality, size, and usability

and offered at apparently low prices. However, when prospects who have responded to such advertisements are called upon, the representatives of said respondents discourage the purchase of said initially offered merchandise by various methods including, but not confined to, refusing to show, demonstrate, or sell said merchandise, disparaging by acts or words said merchandise, failing to have said merchandise available in sizes suitable for average use, or showing or demonstrating merchandise not having the advertised characteristics or which is defective, unsuitable, unusable, or impractical for the purpose represented or implied in said initial offer. In truth and in fact said respondents' representatives have no intention or desire to sell the initially offered merchandise or to sell any merchandise at the advertised prices. As a result of the foregoing practices, respondents seldom if ever sell the initially offered merchandise or any merchandise at the advertised prices but instead succeed in selling prospects higher-priced merchandise. Respondents thus use the aforesaid initial offers as baits to lure prospects into buying higher-priced merchandise.

PAR. 8. Respondent Coronet Carpet Co., Inc., by its representatives, for the purpose of inducing the purchase of its carpeting, represent to prospects called upon that the pile or wearing surface of the carpeting offered for sale is composed entirely or in substantial part of nylon. In truth and in fact, such pile or wearing surface contains no nylon.

PAR. 9. 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 merchandise of the same general kind and nature as that sold by respondents.

PAR. 10. 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, and is being, done to competition in commerce.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute,

unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Brockman Horne for the Commission.

Silbert & Gomborov, by Mr. Harry Silbert, of Baltimore, Md., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on March 11, 1960, charging all Respondents except Harry Weiss with violation of the Federal Trade Commission Act in advertising their merchandise, including jalousies, storm windows and doors, and carpeting, by the use of false, misleading and deceptive statements and representations as to savings possible to purchasers of their jalousies, and the fiber content of their carpeting, and by offering certain merchandise as baits to lure prospects into buying higher-priced merchandise. The complaint charges Respondent Harry Weiss with the same violations of said Act as Respondent Coronet Carpet Co., Inc., of which he was an officer until October, 1958.

Thereafter, on October 25, 1960, Respondent Harry Weiss, his counsel and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Acting Associate Director, and Assistant Director of the Commission's Bureau of Litigation, and, on November 14, 1960, submitted to the Hearing Examiner for consideration.

This agreement identifies Respondent Harry Weiss as an individual whose residence address is 3911 Seven Mile Lane, Baltimore, Maryland. His former address was 1519 New York Avenue, N. E., Washington, D. C.

On November 8, 1960, all the other Respondents herein, their counsel, and counsel supporting the complaint entered into a similar Agreement Containing Consent Order To Cease And Desist, which was approved by the Director, Acting Associate Director and Assistant Director of the Commission's Bureau of Litigation, and, on November 14, 1960, submitted to the Hearing Examiner for consideration.

This agreement identifies Respondent ABC Jalousie Co. of Wash., Inc. as a District of Columbia corporation, with its principal office and place of business located in Maryland adjacent to the District of Columbia, but receiving mail at 1917–47th Avenue, N.E., Washington, D.C.; Respondent Coronet Carpet Co., Inc., as a Maryland corporation, with its principal office and place of business located

in Maryland adjacent to the District of Columbia, but receiving mail at 1917 - 47th Avenue, N.E., Washington, D.C.; Respondent Air Tite Aluminum Products Corporation as a Maryland corporation, with its principal office and place of business located at 2109 Frederick Avenue, Baltimore, Maryland; Respondents William Spirt and John Spirt as officers of each of said corporate respondents, who formulate, direct and control the acts and practices of the coroporate respondents, their residence addresses being, respectively, 4119 Boarman Avenue, Baltimore, Maryland, and 2000 Erie Street, Hyattsville, Maryland; and Respondent Loretta Zawicki as an officer of each of said corporate respondents, her residence address being 114 Cherrydale Road, Baltimore 28, Maryland.

An affidavit is attached to this agreement, on the basis of which all parties signatory to this agreement agree that the complaint herein should be dismissed as to Respondent Loretta Zawicki in her individual capacity, since, as attested by the affidavit, she had no part in the policy-making of said corporations but merely performed the normal duties of stenographer and secretary.

In both agreements, 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 agreements. 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 agreements; that the order to cease and desist, as contained in the agreements, 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 agreements are for settlement purposes only and do not constitute an admission by Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint and the provisions of the agreements 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 agreements, the Hearing Examiner accepts the

Agreements Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondent Harry Weiss, individually, 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 carpeting, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale any merchandise when such offer is not a bona fide offer to sell the merchandise so offered.

It is further ordered. That Respondent Harry Weiss, individually, 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 carpeting or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwise cease and desist from misrepresenting in any manner the character or amount of the constituent fibers contained in merchandise.

It is further ordered. That Respondents ABC Jalousie Co. of Wash., Inc., a corporation, and its officers, and William Spirt and John Spirt, individually and as officers of said corporation, and Loretta Zawicki, as an officer of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale or distribution of jalousies, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That any amount is Respondents' usual and customary price of merchandise when it is in excess of the price at which said merchandise has been sold by Respondents in the recent regular course of business;

(b) That any saving is offered in the purchase of merchandise from Respondents' price unless the price at which it is offered constitutes a reduction from the price at which said merchandise has been sold by Respondents in the recent regular course of business;

2. Using the words "save" and "off" in connection with prices that do not represent a reduction from the prices at which the merchandise offered has been sold by Respondents in the recent regular course of business;

3. Misrepresenting in any manner the amount of savings available to purchasers of Respondents' merchandise, or the amount by which

the price of said merchandise is reduced from the price at which it is usually and customarily sold by Respondents in the recent regular course of business.

It is further ordered, That Respondents Coronet Carpet Co., Inc., a corporation, and its officers, Air Tite Aluminum Products Corporation, a corporation, and its officers, and William Spirt and John Spirt, individually and as officers of said corporations, and Loretta Zawicki, as an officer of said corporations, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of storm windows, storm doors or carpeting, or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale any merchandise when such offer is not a bona fide offer to sell the merchandise so offered.

It is further ordered, That Respondents Coronet Carpet Co., Inc., a corporation, and its officers, and William Spirt and John Spirt, individually and as officers of said corporation, and Loretta Zawicki, as an officer of said corporation, and Respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of carpeting or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner the character or amount of the constitutent fibers contained in merchandise.

It is further ordered, That the complaint be dismissed as to Loretta Zawicki in her capacity as an individual.

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 17th day of February, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondents ABC Jalousie Co. of Wash., Inc., a corporation; Coronet Carpet Co., Inc., a corporation; Air Tite Aluminum Products Corporation, a corporation; William Spirt and John Spirt, individually and as officers of said corporations; Loretta Zawicki, as an officer of the above corporations; and Harry Weiss, individually, 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

HI-GLO ELECTRONICS CORPORATION ET AL.

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

Docket 7960. Complaint, June 17, 1960—Decision, Mar. 1, 1961

Consent order requiring a manufacturer and its corporate sales agent in Goodrich, Mich., to cease representing falsely on labels and otherwise that their rebuilt television picture tubes which contained used parts were new in their entirety, and to clearly disclose that such tubes were rebuilt.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Hi-Glo Electronics Corporation, a corporation, and Sylvan Electronics Corporation, a corporation, and Leonard M. Rozner, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Hi-Glo Electronics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 8267 South State, Goodrich, Michigan.

Respondent Sylvan Electronics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 8267 South State, Goodrich, Michigan. Said corporation is the exclusive sales agent for Hi-Glo Electronics Corporation and both corporations cooperate and act together in carrying out the acts and practices hereinafter set forth.

Respondent Leonard M. Rozner is an officer and major stockholder of both corporate respondents. He formulates, controls and directs the policies, acts and practices of the corporate respondents. His address is the same as that of the corporate respondents.

PAR. 2. Respondents are now, and for some time last past have been engaged in the manufacture, offering for sale, sale and distribu-

tion of rebuilt television picture tubes containing used parts to distributors for resale to the public.

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

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their products, respondents made certain statements concerning their products on labels and by other media. Among and typical of such statements is the following:

This is a NEW
GLENDALE
PICTURE TUBE

PAR. 5. Through the use of the aforesaid statement respondents represented that certain of their television picture tubes were new in their entirety.

PAR. 6. Said statements and representations were false, misleading and deceptive. In truth and in fact, the television picture tubes represented as being "new" are not new in their entirety.

PAR. 7. The television picture tubes sold by respondents are rebuilt containing used parts. Respondents do not disclose on the tubes, or on the cartons in which they are packed, or on invoices, or in any other manner that said television picture tubes are rebuilt and contain used parts.

When television picture tubes are rebuilt containing used parts, in the absence of a disclosure to the contrary, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 8. By failing to disclose the facts as set forth in Paragraph Seven, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

PAR. 9. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of television picture tubes.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statements and representations and the failure

of respondents to disclose on their television picture tubes, on the cartons in which they are packed, on invoices, or in any other manner, that they are rebuilt, containing used parts, have had, and now have, 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' said tubes 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, and is being, done to competition in commerce.

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

Mr. Michael J. Vitale supporting the complaint.
Mr. Douglas H. P. Hall, of Flint, Mich., for respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 17, 1960. The complaint charged respondents with making false representations that rebuilt or partially rebuilt picture television tubes were new. Said representations were charged to be unfair and deceptive acts and practices and unfair methods of competition within the intent and meaning, and in violation, of the Federal Trade Commission Act.

On December 15, 1960, Counsel submitted to the undersigned Hearing Examiner an agreement dated December 5, 1960, among respondents, counsel representing them and counsel supporting the complaint, providing for the entry without further notice of a consent order. The agreement was duly approved by the Director, the Assistant Director and the Associate Director of the Bureau of Litigation.

The Hearing Examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. And admission by all the respondent parties thereto of jurisdictional facts;

B. Provisions that:

(1) The complaint may be used in construing the terms of the order:

(2) The order shall have the same force and effect as if entered after a full hearing;

(3) 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;

(4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

(5) The order may be altered, modified, or set aside in the manner provided by statute for other orders;

C. Waivers of:

(1) The requirement that the decision must contain a statement of finding of fact and conclusion of law;

(2) Further procedural steps before the Hearing Examiner and the Commission.

In addition the agreement contains the following permissive provisions: A waiver by the respondents of any right to challenge or contest the validity of the order entered in accordance with the agreement, and a statement that the signing of said agreement is for settlement purposes only and does not constitute and admission by respondents that they have violated the law as alleged in the complaint.

Having considered said agreement, including the proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding; the Hearing Examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

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

1. Respondents Hi-Glo Electronics Corporation and Sylvan Electronics Corporation are each corporations organized, existing and doing business under and by virtue of the laws of the State of Michigan. Both have their office and principal place of business at 8267 South State, Goodrich, Michigan.

2. Respondent Leonard M. Rozner is an officer of said corporate respondents. He formulates, directs and controls the acts and practices of both corporate respondents. His address is the same as that of the corporate respondents.

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

ORDER

It is ordered, That respondents, Hi-Glo Electronics Corporation, a corporation, Sylvan Electronics Corporation, a corporation, and their officers, and Leonard M. Rozner, individually and as an officer of said corporations, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of rebuilt television picture tubes containing used parts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that said television picture tubes are new.

2. Failing to clearly disclose on the tubes, on the cartons in which they are packed, on invoices and in advertising, that said tubes are rebuilt containing used parts.

3. Placing any means or instrumentalities in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the intial decision of the hearing examiner shall on the 1st day of March, 1961, 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

NATIONAL TELEVISION TUBE, INC., ET AL.

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

Docket 8124. Complaint, Sept. 26, 1960—Decision, Mar. 1, 1961

Consent order requiring a Saddle Brook, N. J., manufacturer to cease representing falsely on labels and otherwise that its rebuilt television picture tubes which contained used parts were new in their entirety, and to clearly disclose that such tubes were rebuilt.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that National Television Tube, Inc., a corporation, and John Sansone, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent National Television Tube, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at Route 46 and 6th Street, Saddle Brook, New Jersey.

Respondent John Sansone is an individual and officer of said corporation. He formulates, controls and directs the policies, acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, offering for sale, sale and distribution of rebuilt television picture tubes containing used parts to distributors who sell to others for resale to the public.

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

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their products, respondents made certain statements concerning their products on labels and by other media. Among and typical of such statements is the following:

PREMIER
Television Picture Tube
* * *
This Is A NEW FULLY
GUARANTEED TUBE

PAR. 5. Through the use of the aforesaid statement, respondents represented that certain of their television picture tubes were new in their entirety.

PAR. 6. Said statement and representation was false, misleading and deceptive. In truth and in fact, the television picture tubes represented as being "new" are not new in their entirety.

PAR. 7. The television picture tubes sold by respondents are rebuilt and contain used parts. Respondents do not disclose on the tubes, or on invoices, or in an adequate manner on the cartons in which they are packed, or in any other manner, that said television picture tubes are rebuilt and contain used parts.

When television picture tubes are rebuilt containing used parts, in the absence of any disclosure to the contrary, or in the absence of an adequate disclosure, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 8. By failing to disclose the fact as set forth in Paragraph Seven, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

PAR. 9. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of television picture tubes.

PAR. 10. The use by respondents of the aforesaid false, misleading and deceptive statement and representation and the failure of respondents to disclose on their television picture tubes, on invoices, and in adequate manner on the cartons in which they are packed, or in any other manner, that they are rebuilt containing used parts, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said picture tubes are new in their entirety and into the purchase of substantial quantities of respondents' tubes 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, and is being, done to competition in commerce.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair

methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Michael J. Vitale supporting the complaint.
Mr. William M. Ivler, of New York, N. Y., for respondents.

INITIAL DECISION OF JOHN LEWIS, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on September 26, 1960, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition, in commerce, in violation of the Federal Trade Commission Act, by the use of false, deceptive and misleading statements concerning certain rebuilt television picture tubes containing used parts, which are manufactured and sold by them. After being served with said complaint, respondents appeared by counsel and entered into an agreement dated December 19, 1960, containing a consent order to cease and desist purporting to dispose of all this proceeding as to all parties. Said agreement, which has been signed by the respondents, by counsel for said respondents and by counsel supporting the complaint, and approved by the Director, Associate Director, and Assistant Director of the Commission's Bureau of Litigation, has been submitted to the above-named hearing examiner for his consideration, in accordance with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings.

Respondents, pursuant to the aforesaid agreement, have admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Said agreement further provides that 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 such agreement. It has been agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if entered after a full hearing and that the complaint may be used in construing the terms of said order. It has also been agreed that the record herein shall consist solely of the complaint and said agreement, and that said agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

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

1. Respondent National Television Tube, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at Route 46 and 6th Street, Saddle Brook, New Jersey.

Respondent John Sansone is an officer of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents 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 National Television Tube, Inc., a corporation, and its officers, and John Sansone, individually and as an officer of said corporation, and said respondents' representatives, agents and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of rebuilt television picture tubes containing used parts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that said television picture tubes are new.

2. Failing to clearly disclose on the tubes, on the cartons in which they are packed, on invoices, and in advertising, that said tubes are rebuilt and contain used parts.

3. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

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 1st day of March, 1961, become the decision of the Commission; and, accordingly:

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

In The Matter Of

WEST-WARD, INC., ET AL.

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

Docket 8141. Complaint, Oct. 13, 1960—Decision, Mar. 1, 1961

Consent order requiring New York City distributors of drugs to retailers, hospitals, the U.S. Government, etc., to cease representing falsely in advertisements in catalogs and periodicals, letters and other mail that they employed a "quality control system"; that assays and quantitative analyses were made of each of their numerous preparations and in their own laboratories; and that the stability of certain of their enteric coated tablets had been established as to potency and disintegration characteristics.

Complaint

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that West-ward, Inc., a corporation, and Samuel G. Goldstein, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Paragraph 1. Respondent West-ward, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 745 Eagle Avenue in the City of New York, State of New York.

Respondent Samuel G. Goldstein is an officer of the corporate respondent. He formulates, directs and controls the acts and prac-

tices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for more than one year last past, engaged in the sale and distribution to retail druggists and pharmacists, hospitals, institutions and the United States Government, of preparations containing ingredients which come within the classification of drugs and food as the terms "drug" and "food" are defined in the Federal Trade Commission Act.

Among, but not all inclusive of, the said preparations are those designated as follows. In certain instances the therapeutic importance of such preparations and their principal uses, as shown in respondents' literature, are set out.

1. *Designation:* All-The Vitamins and Minerals
2. *Designation:* Ammonium Chloride Tablets—E.C.
3. *Designation:* Sodium Salicylate Tablets—E.C.
4. *Designation:* Amphetamine (5 mg.) with Amobarbital (32 mg.) Tablets
   Uses: For Dysmenorrhea, Fatigue, Obesity and as Vasoconstrictors.
5. *Designation:* Digoxin Tablets, 0.25 mg. U.S.P.
   Uses: For Cardiac Insufficiency. * * * Indicated in all clinical conditions in which the cardio-tonic effect of digitalis is indicated, and prompt action is required.
6. *Designation:* Hydrocortisone Tablets, 20 mg.
   Uses: For Allergy, Arthritis, Dermatitis, Eczema.
7. *Designation:* Methyl Testosterone Tablets—C.T.
   Uses: As Androgens and for Hypogonadism (Male) Lactation (Suppression), Uterine (Functional) Bleeding.
8. *Designation:* Niacinamide Tablets, U.S.P.
   Uses: For Pellagra and chronic alcoholism.
9. *Designation:* Penta-erythritol Tetranitrate with Phenobarbital Tablets.
   Uses: A long lasting oral vasodilator for prophylaxis in angina pectoris.
10. *Designation:* Phenobarbital Tablets
    Uses: For Anxiety and Apprehensive States, Convulsions and as Sedatives.
11. *Designation:* Secobarbital Sodium Capsules
    Uses: For Anxiety and Apprehensive States, Convulsions, Nausea and as Sedatives.
12. *Designation:* Thyroid Tablets
    Uses: For Abortion (Habitual and Threatened) and Obesity.

PAR. 3. Respondents cause their said preparations, when sold, to be transported from their place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been substantial.

PAR. 4. In the course and conduct of their said business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said preparations by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in periodicals and catalogs, letters and other mailing pieces, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said preparations by retail druggists and pharmacists, hospitals, institutions and the United States Government; and have disseminated, and caused the dissemination of, advertisements concerning said preparations by various means, including but not limited to the aforesaid media, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act.

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

* * * enclosed is a copy of the West-ward Catalog, 1960 edition, which lists approximately 400 pharmaceutical products only under the generic name . . . and every product listed is subjected to West-ward's rigid quality control system. This control is your professional assurance that when you dispense a West-ward product, your patron receives the very best at the most reasonable price.

* * * Our prices are * * * . . . consistent with the costs of maintaining a rigid, complex and intensive control system so that we can provide the profession with quality controlled, generic name products of unvarying excellence and uniformity; this is your professional assurance for recommending West-ward products.

(Direct mailing to pharmacists over name
Earl J. Buchanan, Vice-Pres. Sales).

Since quality control is such an important factor in the pharmaceutical profession, Mr. Buchanan of our sales department, has asked me to write you about the West-ward quality control system.

As the chief chemist of West-ward's laboratories, I give you my professional assurance that the standard operational procedures comprising the West-ward quality control system, guarantee the reliability and consistently high quality of West-ward products. I state categorically, that no West-ward product leaves our plant without being subjected to this system.

Briefly, our quality control system is divided into five operational phases; raw materials, products-in-process, finished products, labels and packaging. In each phase there are many intermediate steps of checks and balances too numerous to mention here; however, one of the most important, and of greatest interest to you, is the actual assay of the finished product illustrated by the enclosed assay card. This card outlines all official tests (U.S.P., NF

and NND (which are performed by our own chemists and technicians, in our own laboratories under my personal supervision.

(Direct mailing to pharmacists over name
Henry Kubicki, Chief Chemist).

West-ward's Ammonium Chloride Tablets enteric coated, are of a superior quality. Infinite care is taken to assure that each and every tablet meets the most exacting specifications for potency and stability. In addition West-ward's enteric coating is standardized for * * * disintegration time * * *. (West-ward 1960 Catalog).

West-ward's Sodium Salicylate Tablets, enteric coated, are of a superior quality. Infinite care is taken so that each and every tablet meets the most exacting specifications for potency and stability. In addition West-ward's enteric coating is standardized for * * * disintegration time * * *. (West-ward 1960 Catalog).

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

1. By stating that they have "quality control", a "quality control system" and a "control system", that they employ an adequate control system.

2. By stating that assays are performed on every preparation offered for sale and sold by them, that quantitative analyses are made of each preparation which assure the amount of each of the active ingredients therein.

3. That the stability of certain of respondents' enteric coated tablets as to potency and disintegration characteristics has been established.

4. That the assays they allegedly perform on all of their preparations are performed in their own laboratories.

PAR. 7. The said advertisements were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

1. Respondents do not have an adequate control system.

2. Respondents do not perform assays on some of their preparations and make no quantitative analyses thereof. With respect to some other preparations the purported assays are inadequate to assure that the amount of each active ingredient claimed to be therein is, in fact, present in the amount claimed.

3. The stability of certain of respondents' enteric coated tablets has not been established either as to potency or as to disintegration characteristics.

4. Many of the preparations offered for sale and sold by respondents are manufactured for them by service contractors. When so

manufactured, many of such assays as may be performed are performed only by said service contractors in their own laboratories.

PAR. 8. The dissemination by the respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Berryman Davis supporting the complaint.

Mr. Carson Gray Frailey of Washington, D. C., for respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on October 13, 1960 charging them with the dissemination of false advertisements constituting unfair and deceptive acts and practices in commerce within the intent and meaning and in violation of the Federal Trade Commission Act.

On December 15, 1960, counsel submitted to the undersigned Hearing Examiner an agreement, dated December 9, 1960, among respondents, counsel representing them and counsel supporting the complaint, providing for the entry without further notice of a consent order. The agreement was duly approved by the Director, the Assistant Director and the Associate Director of the Bureau of Litigation.

The Hearing Examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. An admission by all the respondent parties thereto of jurisdictional facts;

B. Provisions that:

(1) The complaint may be used in construing the terms of the order;

(2) The order shall have the same force and effect as if entered after a full hearing;

(3) 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;

(4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

(5) The order may be altered, modified, or set aside in the manner provided by statute for other orders;

C. Waivers of:

(1) The requirement that the decision must contain a statement of findings of fact and conclusion of law;

(2) Further procedural steps before the Hearing Examiner and the Commission.

In addition the agreement contains the following permissive provisions: A waiver by the respondents of any right to challenge or contest the validity of the order entered in accordance with the agreement, and 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.

Having considered said agreement including the proposed order and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding, the Hearing Examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

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

1. Respondent West-ward, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 745 Eagle Avenue in the City of New York, State of New York.

2. Respondent Samuel G. Goldstein is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents, West-ward, Inc., a corporation, and its officers, and Samuel G. Goldstein, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of drugs or food do forthwith cease and desist from, directly or indirectly:

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

(a) Uses the terms "quality control", "quality control system" or "control system", or any other words or terms of similar import or meaning; or

(b) Represents, directly or indirectly:

(1) That respondents have an adequate control system, or misrepresents the nature or extent of the procedures used by them in the manufacture, preparation or distribution of drugs or food.

(2) That a quantitative analysis is made of each of respondents' preparations to determine the amount of each of the active ingredients contained therein.

(3) That respondents have established the stability as to potency or disintegration characteristics of their enteric coated tablets, unless such is the fact.

(4) That respondents perform assays in their own laboratories on all of the preparations offered for sale and sold by them.

2. Disseminating or causing the dissemination of any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparations, which advertisement contains any of the terms or representations prohibited in paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision herein, filed January 10, 1961, accepting an agreement containing a consent order theretofore executed by the respondents and counsel in support of the complaint; and

It appearing that through inadvertence the word "from" erroneously appears in the seventh line of the preamble of the order contained in the initial decision; and

The Commission being of the opinion that this departure from the agreement of the parties should be corrected:

It is ordered, That the initial decision of the hearing examiner be, and it hereby is, modified by striking from the seventh line of the preamble of the order contained in said initial decision the word "from" as it appears immediately following the word "desist".

It is further ordered, That the initial decision, as so modified, shall, on the 1st day of March, 1961, become the decision of the Commission.

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

IN THE MATTER OF

ALFRED MIELZINER TRADING AS MIELZINER FURS

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

Docket 8179. Complaint, Nov. 23, 1960—Decision, Mar. 1, 1961

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

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Alfred Mielziner, an individual trading as Mielziner Furs, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Alfred Mielziner is an individual trading as Mielziner Furs with his office and principal place of business located at 13129 Shaker Square, Cleveland, Ohio.

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

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

PAR. 4. 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 promulgated thereunder was mingled with non-required information, in violation of Rule 29(a) of said Rules and Regulations.

(b) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not completely set out on one side of labels, in violation of Rule 29(a) of said Rules and Regulations.

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

(d) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth in the required sequence, in violation of Rule 30 of said Rules and Regulations.

(e) Information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder was not set forth separately on labels with respect to each section of fur products composed of two or more sections containing different animal furs, in violation of Rule 36 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by respondent 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.

PAR. 6. 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 in the Rules and Regulations promulgated thereunder was set forth in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

(b) Required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

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

W. S. Mielziner, Esq., of Cleveland, Ohio, for respondent.

681-237—63——18

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on November 23, 1960, charging him 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 his fur products. Respondent appeared by counsel and entered into an agreement, dated December 20, 1960, 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 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.

Respondent, pursuant to the aforesaid agreement, has 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 respondent waives 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 respondent that he has violated the law as alleged in the complaint, that said order to cease and desist shall have the same force and effect as if entered after a full hearing and may be altered, modified, or set aside in the manner provided for other orders, and that the complaint may be used in construing the terms of the order.

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

1. Respondent Alfred Mielziner is an individual with his office and principal place of business located at 13129 Shaker Square, in the City of Cleveland, State of Ohio.

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

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

1. Misbranding fur products by:

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

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 non-required 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 all 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.

E. Failing to set forth separately on labels affixed 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:

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

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

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

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 1st day of March 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

NIBCO INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 2(d) OF THE CLAYTON ACT

Docket 8074. Complaint, Aug. 10, 1960—Decision, Mar. 2, 1961

Consent order requiring an Elkhart, Ind., manufacturer of valves, fittings, and related products used by plumbers and pipefitters, to cease discriminating among its customers in violation of Sec. 2(d) of the Clayton Act by such practices as paying sums of money amounting to more than $2500 to the American Radiator and Standard Sanitary Corp. for promoting its products through television programs in the trading areas of New Orleans, La., and Pittsburgh, Pa., without making comparable payments available to competitors of the latter.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party named in the caption hereof and hereby made respondent herein, and hereinafter designated and described more particularly, has been and is using unfair methods of competition and unfair acts and practices in commerce in violation of Section 5 of the Federal

Trade Commission Act (15 U.S.C. Sec. 45), and has been and is violating subsection (d) of Section 2 of of the Clayton Act, as amended (15 U.S.C. Sec. 13), and it appearing to the Commission that a proceeding by it would be to the interest of the public, the Commission hereby issues its complaint, stating its charges with respect thereto as follows:

COUNT I

Charging violation of Section 5 of the Federal Trade Commission Act, the Commission alleges:

PARAGRAPH 1. Respondent Nibco, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, with its principal office and place of business located at 500 Simpson Street, Elkhart, Indiana.

PAR. 2. Respondent is now and has been engaged in the manufacture, sale and distribution of valves, fittings and related products, as used by plumbers and pipefitters.

Respondent sells its products of like grade and quality, for use or resale, to a large number of customers located throughout the United States, including wholesalers and manufacturer's representatives. Said manufacturer's representatives are independent businessmen, under contract with respondent, purchasing from respondent for resale to wholesalers. Approximately 85% of respondent's sales are made to said manufacturer's representatives. Respondent's sales of its products are substantial, exceeding $20,000,000 annually.

PAR. 3. Respondent, in the course and conduct of its business, as aforesaid, has caused and now causes its said products to be shipped and transported from the state or states of location of its various manufacturing plants, warehouses and places of business, to purchasers thereof located in states other than the state or states wherein said shipment or transportation originated. There has been at all times mentioned herein a continuous course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, as aforesaid, respondent has established and maintains a policy whereby it fixes certain specified prices and discounts at which its products are to be resold by its above-mentioned manufacturer's representatives. Such prices and discounts are made known to said manufacturer's representatives by published price lists or otherwise, and said manufacturer's representatives are required to adhere to such prices and discounts.

The direct effect of said policy and practices has been to cause respondent's manufacturer's representatives to sell respondent's products at the prices and discounts fixed and established by respond-

ent; to prevent respondent's said manufacturer's representatives from selling respondent's products at prices either greater or less than those fixed and established by respondent, which greater or less prices they may deem adequate or warranted by their respective selling costs and by trade and competitive conditions generally; to suppress competition among said manufacturer's representatives in the distribution and sale of respondent's products; to suppress competition among respondent's said manufacturer's representatives and others in the distribution and sale of valves and fittings to the wholesaler trade; and to deprive the ultimate purchasers of such products of the advantages in price which they would otherwise obtain from a free and unobstructed flow of commerce in such products.

PAR. 5. The acts and practices of respondent, as herein alleged, are all to the injury and prejudice of competitors of respondent, of purchasers from respondent, and of the public; have a tendency and effect of obstructing, hindering, lessening and preventing competition in the sale of valves, pipe fittings and related products in commerce within the intent and meaning of the Federal Trade Commission Act; and constitute unfair methods of competition and unfair acts and practices in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Charging violation of subsection (d) of Section 2 of the Clayton Act, as amended, the Commission alleges:

PARAGRAPHS 1, 2 and 3: The allegations of Paragraphs 1, 2 and 3 of COUNT I of this complaint are incorporated herein by reference and constitute the allegations of Paragraphs 1, 2 and 3 of COUNT II, except that the reference in Paragraph 3 of COUNT I to the Federal Trade Commission Act is eliminated herein, and reference to the Clayton Act, as amended, is substituted therefor.

PAR. 4. In the course and conduct of its business in commerce, respondent has paid or contracted for the payment of something of value to or for the benefit of certain of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent, and such payments have not been offered or otherwise made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 5. For example, between September 1958 and June 1959 respondent contracted to pay, and periodically did pay, sums amounting to more than $2500.00 to the American Radiator and Standard Sanitary Corporation for services and facilities furnished

it by American Radiator and Standard Sanitary Corporation in promoting the sale of respondent's products through television programs sponsored by American Radiator and Standard Sanitary Corporation in the trading areas of New Orleans, Louisiana, and Pittsburgh, Pennsylvania. Such payments were not offered or otherwise made available on proportionally equal terms to all other customers competing with American Radiator and Standard Sanitary Corporation in the sale and distribution of products of like grade and quality purchased from respondent.

PAR. 6. The acts and practices of respondent, as alleged herein, are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson Patman Act.

Mr. Lynn C. Paulson and *Mr. Timothy J. Cronin, Jr.*, for the Commission.

Welch, Mott & Morgan, of Washington, D. C., by *Mr. Harold E. Mott* and *Mr. Edward J. Stegemann;* and *Bontrager & Spahn*, of *Elkhart, Ind.*, for the respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding, issued August 10, 1960, contains two counts. Count I charges respondent Nibco Inc., a corporation, located at 500 Simpson Street, Elkhart, Indiana, with violation of Section 5 of the Federal Trade Commission Act and Count II charges said respondent with violation of subsection (d) of Section 2 of the Clayton Act, as amended, in connection with the manufacture, sale and distribution of valves, fittings and related products, as used by plumbers and pipefitters.

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

In Count I of the complaint, respondent Nibco Inc. is charged with establishing and maintaining a policy whereby it fixes certain specified prices and discounts at which its products are to be resold. It was alleged in the agreement that this charge was based upon the belief that respondent's system of distribution utilized distributors who were independent businessmen, when in fact said distributors were manufacturers' sales representatives, and as such were agents of the respondent. Consequently, it was agreed that Count I of the complaint should be dismissed.

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

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

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

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

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

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

ORDER

It is ordered, That respondent Nibco Inc., a corporation, and its officers, employees, agents and representatives, directly or through any corporate or other device, in or in connection with the offering for sale, sale or distribution of pipe, pipe fittings, and related products, in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

Paying or contracting for the payment of anything of value to, or for the benefit of, any customers of respondent as compensation

or in consideration for any services or facilities furnished by or through such customers in connection with the handling, offering for sale, sale or distribution of said products, unless such payment or consideration is affirmatively made available on proportionally equal terms to all other customers competing in the distribution of such products.

It is further ordered, That COUNT I of the complaint herein 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 2nd day of March, 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

ALUMINUM COMPANY OF AMERICA ET AL.

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

Docket 7735. Complaint, Jan. 8, 1960—Decision, Mar. 4, 1961

Consent order requiring two aluminum manufacturers—parent corporation and wholly owned subsidiary—and their corporate advertising agency, to cease using false and misleading representations and disparaging competitive products in demonstrations on television programs to sell their "New Super-Strength Alcoa Wrap" aluminum household foil.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Aluminum Company of America, a corporation, Wear-Ever Aluminum, Inc., a corporation, and Ketchum, MacLeod & Grove, Inc., a corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding

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

PARAGRAPH 1. Respondent Aluminum Company of America is a corporation organized, 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 in the Alcoa Building, City of Pittsburgh, State of Pennsylvania.

Respondent Wear-Ever Aluminum, Inc. is a corporation organized, existing and doing business under and by virture of the laws of the State of Delaware, with its office and principal place of business located at 1730 Chestnut Street, Philadelphia, Pennsylvania. This corporate respondent is a wholly-owned subsidiary of respondent Aluminum Company of America and acts as the sales agent for said Aluminum Company of America.

Respondent Ketchum, MacLeod & Grove, Inc. is a corporation organized, 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 411 Seventh Avenue, City of Pittsburgh, State of Pennsylvania. This corporate respondent is the advertising agency of respondent Aluminum Company of America, and prepares and places for publication, or telecast, advertising material including but not limited to that hereinafter set forth to promote the sale of aluminum and aluminum products, including aluminum household foil.

PAR. 2. Respondents Aluminum Company of America and Wear-Ever Aluminum, Inc. are now, and for some time last past have been, engaged, among other things, in the manufacture, sale and distribution of aluminum household foil, using the trade name "NEW SUPER-STRENGTH ALCOA WRAP" for their product which they sell to distributors for resale and delivery to consumers. Said respondents cause their household foil, when sold, to be transported from their places of business, among others, in New Kensington, Pennsylvania, Oakland, California, and Chillicothe, Ohio, to purchasers thereof located in various other states of the United States. Respondents Aluminum Company of America and Wear-Ever Aluminum, Inc. maintain, and at all times mentioned herein have maintained, a substantial course of trade in said product in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents Aluminum Company of America and Wear-Ever Aluminum, Inc., in the course and conduct of their business,

at all times mentioned herein, have been, and are now, in substantial competition, in commerce, with corporations, firms and individuals in the sale of aluminum and aluminum products, including household foil.

PAR. 4. Respondent Ketchum, MacLeod & Grove, Inc. is now, and has been, in substantial competition, in commerce, with other corporations, firms and individuals engaged in the advertising business.

PAR. 5. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the sale of their aluminum and aluminum products, including household foil, respondents Aluminum Company of America and Wear-Ever Aluminum, Inc., with the aid and direct participation of respondent Ketchum, MacLeod & Grove, Inc., have caused the publication and dissemination of certain statements and pictorial presentations in newspapers having a general circulation and on television commercials broadcast over national networks.

Among and typical of the statements and representations contained in said advertisements, but not all-inclusive, including the audio-video representations contained in said television broadcasts, as above set forth, are the following:

VIDEO

Shows two hams side by side. One is labeled ORDINARY WRAP. Foil is tattered and torn. Ham is dried out. Other is not torn. Ham is fresh. Labeled NEW SUPER-STRENGTH ALCOA WRAP.

(A reproduction is attached hereto marked Exhibit "A" and made a part hereof.)

Shows ham labeled ORDINARY WRAP.

(A reproduction is attached hereto marked Exhibit "B" and made a part hereof.)

Shows ham labeled NEW SUPER-STRENGTH ALCOA WRAP.

(A reproduction is attached hereto marked Exhibit "C" and made a part hereof.)

AUDIO

Look! These leftover hams were wrapped and unwrapped the same number of times.

The ordinary foil is tattered and torn. Ham is dried out, tasteless.

But not a rip in new Alcoa Wrap. Ham is juicy, tasty!

PAR. 6. Through the use of the aforesaid statements and representations and through the use of said video demonstrations and others of the same import not specifically set out herein, respondents have represented, directly or by implication, that the ham and the household foil labeled "ORDINARY WRAP" and the ham and the household foil labeled "NEW SUPER-STRENGTH ALCOA WRAP" had undergone a valid demonstration under the same or similar conditions; that both hams had been wrapped and unwrapped

the same number of times; that as a result thereof the household foil labeled "ORDINARY WRAP" was tattered and torn, whereas the household foil labeled "NEW SUPER STRENGTH ALCOA WRAP" was not tattered and torn; and that the ham wrapped in said ordinary foil was dried out and tasteless, whereas the ham wrapped in said New Super-Strength Alcoa Wrap was juicy and tasty.

PAR. 7. The aforesaid statements, representations and demonstrations, as depicted in newspapers and television advertisements, are false and misleading in the following respects:

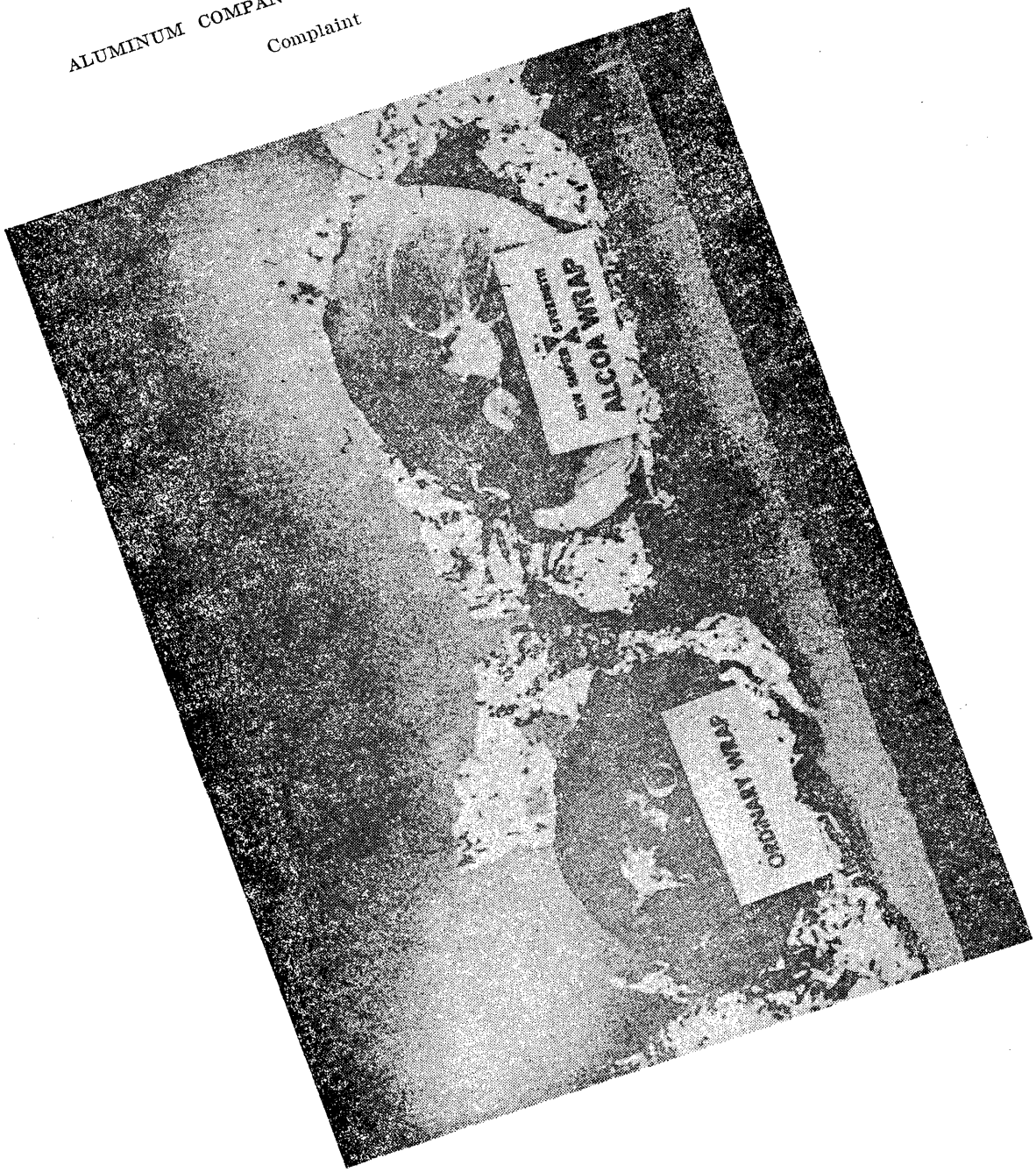
The two hams illustrated were not wrapped and unwrapped the same number of times, as represented in said advertisements.

The two hams illustrated were among several hams bought and allowed to age without wrapping for various periods of time. Among the hams purchased, two were selected for the demonstration. The ham which appeared to be the most fresh and moist was used in connection with the demonstration of New Super-Strength Alcoa Wrap. The ham which appeared to be the most dried out and tasteless was used in connection with the demonstration of the household foil labeled "ORDINARY WRAP."

The dried-out appearing ham used in connection with the demonstration of the household foil labeled "ORDINARY WRAP" was wrapped in foil, but the foil was deliberately torn and severely wrinkled, whereas the foil used in connection with the demonstration of New Super-Strength Alcoa Wrap was not subjected to the deliberate abuse to which the ordinary wrap was exposed.

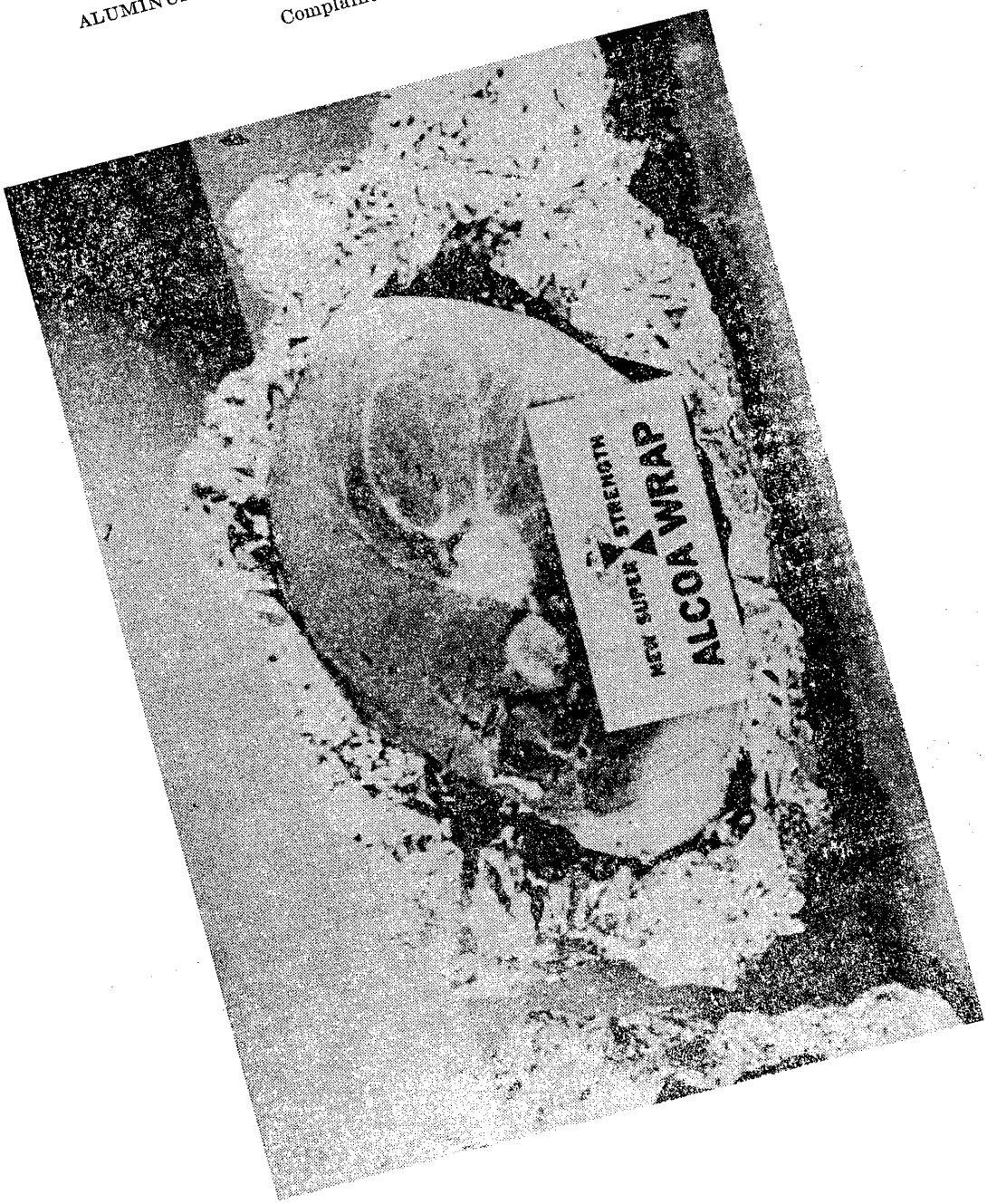
PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had, and now has, the capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of a substantial quantity of the product of respondents Aluminum Company of America and Wear-Ever Aluminum, Inc. because of such erroneous and mistaken belief. As a result thereof, substantial trade has been, and is being, unfairly diverted to said respondents from their competitors, and substantial injury has been and is being done to competition in commerce.

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


ALCOA WRAP
ORDINARY WRAP


ORDINARY WRAP

265



Mr. John T. Walker for the Commission.

Bergson & Borkland, by *Mr. Herbert A. Bergson*, of Washington, D. C., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on January 8, 1960, charging Respondents with violation of the Federal Trade Commission Act by the dissemination of false, misleading and deceptive statements and representations in newspaper and television advertisements with respect to their aluminum household foil, known as "New Super-Strength Alcoa Wrap".

Thereafter, on January 3, 1961, 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, Associate Director and Assistant Director of the Commission's Bureau of Litigation, and thereafter, on January 9, 1961, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Aluminum Company of America as a Pennsylvania corporation, with its office and principal place of business located in the Alcoa Building, Pittsburgh, Pennsylvania; Respondent Wear-Ever Aluminum, Inc. as a Delaware corporation, with its office and principal place of business located at Wear-Ever Building, New Kensington, Pennsylvania, and a sales office located at 1730 Chestnut Street, Philadelphia, Pennsylvania, this corporate respondent being a wholly-owned subsidiary of Respondent Aluminum Company of America and acting as the sales agent therefor in the sale of aluminum household foil; and Respondent Ketchum, McLeod & Grove, Inc. as a Pennsylvania corporation, with its office and principal place of business located at Four Gateway Center, Pittsburgh, Pennsylvania (formerly located at 411 Seventh Avenue, Pittsburgh, Pennsylvania), this corporate respondent being an advertising agency of Respondent Aluminum Company of America, and preparing and placing for publication or telecast, advertising material including but not limited to that set forth in the complaint, to promote the sale of aluminum and aluminum products, including aluminum household foil.

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 sall 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 Respondents that they have violated the law as alleged in the complaint.

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

It is ordered, That Respondents Aluminum Company of America, Wear-Ever Aluminum, Inc., and Ketchum, MacLeod & Grove, Inc., corporations, and their officers, and Respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of NEW SUPER-STRENGTH ALCOA WRAP, or other similar products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any demonstration purporting to prove, or representing as proving, the properties of said products in preserving the quality or appearance of food, or the strength, durability or any other property, quality or characteristic of said products, when such demonstration does not so prove;

2. Disparaging by untruthful statements or any misleading or deceptive method, including any pictorial presentation or demonstration, or in any other deceptive or misleading manner, any property, quality or characteristic of any product competitive with NEW SUPER-STRENGTH ALCOA WRAP or other similar product of Respondents.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 4th day of March, 1961, become the decision of the Commission; and accordingly:

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

In The Matter Of

H. M. PRINCE TEXTILES, INC., ET AL.

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

Docket 8026. Complaint, June 27, 1960—Decision, Mar. 4, 1961

Consent order requiring New York City distributors of textile fabrics to garment manufacturers, to cease representing falsely—orally and on invoices, contracts, and confirmations thereof—that fabrics composed wholly or in part of Iranian Cashmere were "100% Chinese Cashmere" and "100% Mongolian Cashmere."

Complaint

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested it by said Act, the Federal Trade Commission, having reason to believe that H. M. Prince Textiles, Inc., a corporation, and Hugo M. Prince and Peter Prince, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Paragraph 1. Respondent H. M. Prince Textiles, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 450 Seventh Avenue, in the City of New York, State of New York.

Respondents Hugo M. Prince and Peter Prince are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and

practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of textile fabrics to garment manufacturers.

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

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their fabrics, respondents have made certain statements with respect to the fiber content of their fabrics orally, on invoices, contracts and confirmations thereof that certain of their said fabrics were "100% Chinese Cashmere" and that others were "100% Mongolian Cashmere."

PAR. 5. Said statements and representations were false, misleading and deceptive. In truth and in fact, said fabrics were not composed of 100% Chinese Cashmere or 100% Mongolian Cashmere but were composed, wholly or in part, of Iranian Cashmere.

PAR. 6. In the course and 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 textile fabrics of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of 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 and is being done to competition in commerce.

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

Mr. Dewitt T. Puckett supporting the complaint.

Halperin Natanson Shivitz Scholer & Steingut by *Mr. David I. Shivitz* of New York, N. Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On June 27, 1960, the Federal Trade Commission issued a complaint charging that the above-named respondents had violated the provisions of the Federal Trade Commission Act. The complaint alleged that respondents had misrepresented the fiber content of their fabrics.

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

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

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent H. M. Prince Textiles, 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 450 Seventh Avenue, in the City of New York, State of New York.

2. Respondents Hugo M. Prince and Peter Prince are officers of

the corporate respondent. Their address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents, H. M. Prince Textiles, Inc., a corporation, and its officers, and Hugo M. Prince and Peter Prince, 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 or sale of fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner that fabrics composed in whole or in part of Iranian Cashmere are Mongolian Cashmere or Chinese Cashmere; or misrepresenting in any manner the nature or origin of the constituent fibers of which their fabrics are composed or the percentage or amounts thereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on the 4th day of March, 1961, 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

SIMMONS COMPANY

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

Docket 8116. Complaint, Sept. 16, 1960—Decision, Mar. 4, 1961

Consent order requiring a manufacturer of mattresses, box springs, upholstered sofas, and other household furniture, with headquarters in New York City, to cease violating Sec. 2(d) of the Clayton Act by paying favored customers for advertising or other services furnished in connection with the sale of its products, while not making such payments available on

proportionally equal terms to their competitors—paying, for example, amounts exceeding $2,400 and $4,000, respectively, to John Wanamaker and to Lit Bros., both of Philadelphia, for such services.

COMPLAINT

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

PARAGRAPH 1. Respondent, Simmons Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 300 Park Avenue in the City of New York, State of New York.

PAR. 2. Respondent is now and has been engaged in the manufacture and sale of mattresses, box springs, dual purpose upholstered sofas and other household furniture. Sales are made by respondent directly to department stores, furniture stores and other retailers throughout the United States. Net sales by respondent for the year ended December 31, 1959, were in excess of $132,600,000.

PAR. 3. In the course and conduct of its business, respondent has engaged, and is now engaging in commerce, as "commerce" is defined in the Clayton Act as amended. Respondent operates 11 plants and 60 warehouses in various cities throughout the United States and causes its products to be transported from their place of manufacture and storage to its customers in various states throughout the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business in commerce, during the years 1959 and 1960, respondent paid or contracted for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by said respondent and such payments were not made available on proportionally equal terms to all customers competing in the sale and distribution of products purchased from respondent. For example, since January 1, 1959, respondent has been using the Simmons Cooperative Advertising Plan, also known as SCAP, the terms of which are tailored to exclude all but respondent's larger customers.

As an example of this plan, during the year 1959, respondent contracted to pay, and did pay, to John Wanamaker and to Lit Bros., both of Philadelphia, Pennsylvania, amounts exceeding $2,400 and

$4,000 respectively, as compensation or as allowances for advertising or other services or facilities furnished by or through said John Wanamaker and Lit Bros., in connection with their offering for sale or sale of products sold to them by respondent. Such compensation or allowances were not offered or otherwise made available on proportionally equal terms to all other customers competing with John Wanamaker and Lit Bros. in the sale and distribution of products purchased from respondent.

Respondent has similarly favored other large customers in Philadelphia and in other cities over competing customers in such cities.

PAR. 5. The acts and practices of respondent as alleged above, violate subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act.

Frederic T. Suss, Esq., and *Philip F. Zeidman, Esq.*, Supporting the Complaint.

James B. Burke, Esq., of Burke & Burke, of New York, N.Y., for respondent.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

The complaint was issued in this proceeding on September 16, 1960, charging respondent with violating §2(d) of the Clayton Act as amended by the Robinson-Patman Act (U.S.C. Title 15, §13) by contracting for the payment of something of value to or for the benefit of some of its customers as compensation or in consideration for services or facilities furnished by or through such customers in connection with their offering for sale or sale of products sold to them by respondent without making such payments available on proportionally equal terms to all customers competing in the sale or distribution of products purchased from respondent. A true and correct copy of the complaint was served upon respondent as required by law. Thereafter respondent appeared by counsel and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated December 6, 1960, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on January 5, 1961, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to the respondent and contains the form of a consent cease-and-desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the Executive Vice President and General Manager of respondent corporation and by the attorneys for the parties and has been approved by the Associate Director and Director of the Bureau of

Litigation of the Federal Trade Commission. In said agreement respondent admits all of the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the 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 rights respondent may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Federal Trade Commission; that the order to cease and desist entered in this proceeding by the Commission may be entered without further notice to respondent, and when so entered such order will have the same force and effect as if entered after a full hearing. Said order 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.

The parties have covenanted that the said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement containing consent order, and it appearing that the order which is approved in and by said agreement disposes of all the issues presented by the complaint as to all of the parties involved, said agreement is hereby accepted and approved as complying with §§3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The undersigned hearing examiner, having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, makes the following findings and issues the following order:

FINDINGS

1. The Federal Trade Commision has jurisdiction over the parties and the subject matter of this proceeding;

2. Respondent Simmons Company is a corporation existing and doing busines under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 300 Park Avenue, New York, New York.

3. Respondent is engaged in commerce as "commerce" is defined in the Federal Trade Commission and the Clayton Acts;

4. The complaint filed herein states a cause of action against the respondent, under both the Federal Trade Commission and the Clayton Acts; and this proceeding is in the public interest. Now, therefore,

It is ordered, That Simmons Company, a corporation, its officers, employees, agents or representatives, directly or through any corporate or other device, in or in connection with the sale in commerce, as "commerce" is defined in the Clayton Act, as amended, of mattresses, box springs, upholstered sofas and other furniture, do forthwith cease and desist from:

Making or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for advertising or other services or facilities furnished by or through such customer, in connection with the handling, offering for resale, or resale of the respondents' products, unless such payment is made available on proportionally equal terms to all other customers competing in the distribution or resale of such products.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 4th day of March 1961, become the decision of the Commission; and accordingly:

It is ordered, That respondent Simmons 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

H. APPEL & SONS, INC., ET AL.

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

Docket 8121. Complaint, Sept. 23, 1960—Decision, Mar. 4, 1961

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by invoicing fur products falsely with respect to the name of the animal producing the fur, using the term "blended" improperly, and failing in other respects to comply with invoicing requirements.

COMPLAINT

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

PARAGRAPH 1. H. Appel & Sons, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 116 West 29th Street, New York, New York.

Stanley Appel, Paul Toporoff, and Norman Appel are president, secretary and treasurer, respectively, of the said corporate respondent. These individuals control, formulate and direct the acts, practices and policies of the said corporate respondent. Their office and principal place of business is the same as that of the said corporate respondent.

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

PAR. 3. Certain of said furs and fur products were falsely and deceptively invoiced by respondents in that such furs and fur products 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.

PAR. 4. Certain of said fur products were falsely and deceptively invoiced or otherwise falsely and deceptively identified with respect to the name or names of the animal or animals that produced the fur in violation of Section 5(b)(2) of the Fur Products Labeling Act.

PAR. 5. Certain of said furs 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 promulgated thereunder was set forth in abbreviated form in violation of Rule 4 of said Rules and Regulations.

(b) The term "'blended" was used as part of the information required under Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs in violation of Rule 19(e) of said Rules and Regulations.

PAR. 6. 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 that required item numbers were not set forth on invoices in violation of Rule 40 of said Rules and Regulations.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

Mr. DeWitt T. Puckett for the Commission.

Bernstein & Bernstein, by *Mr. Jonas H. Bernstein*, of New York, N. Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated September 23, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

On December 21, 1960, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

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

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

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

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

1. Respondent H. Appel & Sons, 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 at 116 West 29th Street, in the City of New York, State of New York.

Respondents Stanley Appel, Paul Toporoff and Norman Appel are officers of the corporate respondent and as such formulate, control and direct the policies, acts and practices of the corporate respondent. Their office and place of business is the same as that of the corporate respondent.

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

ORDER

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

A. Falsely or deceptively invoicing furs or fur products by:

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

B. Falsely or deceptively invoicing fur products by:

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

C. Falsely or deceptively invoicing fur products by:

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

D. Falsely or deceptively invoicing furs by:

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

2. Setting forth the term "blended" as part of the information required under section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing or tip-dyeing of furs.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 4th Day of March, 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

SUN-FAST TEXTILES, INC., ET AL.

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

Docket 8153. Complaint, Oct 24, 1960—Decision, Mar. 4, 1961

Consent order requiring New York City distributors of imported and domestic cotton fabrics to garment manufacturers to cease labeling and invoicing their domestic cotton fabrics falsely as "India Type Madras".

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe that Sun-Fast Textiles,

Inc., a corporation, Moses Schonfeld and Ruth B. Schonfeld, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Sun-Fast Textiles, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 125 West 41st Street, New York, New York.

Respondents Moses Schonfeld and Ruth B. Schonfeld are officers of the said corporate respondent. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in advertising, offering for sale, sale and distribution of imported and domestic cotton fabrics to garment manufacturers.

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

PAR. 4. Respondents, for the purpose of inducing the purchase of their products, have engaged in the practice of misrepresenting the material of which their products are made or composed, by labeling and invoicing their domestic cotton fabrics as "India Type Madras". In truth and in fact, the said domestic cotton fabrics are not "India Type Madras".

By use of such representations on labels and invoices, respondents represent that their domestic color-fast fabrics are the Madras cotton fabrics imported from India, which have a distinctive character and quality.

The word "Madras" has long been applied to a fabric produced in the Madras Province of India and is made of fine handloomed cotton, and if in a color other than natural, is dyed with bleeding vegetable dyes. Such fabric has for a long time been well and favorably known to the purchasing public.

PAR. 5. By the aforesaid practices, the respondents place in the hands of garment manufacturers and others, the means and instru-

mentalities by and through which they may mislead the public as to the character and quality of their products.

PAR. 6. 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 merchandise of the same general kind and nature as that sold by respondents.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had and now has the 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 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 and is being done to competition in commerce.

PAR. 8. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and to 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.

Mr. Harry E. Middleton, Jr., supporting the complaint.
Mr. Julius J. Rosen, of New York, N.Y., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

On October 24, 1960, the Federal Trade Commission issued a complaint charging that the above-named respondents had violated the provisions of the Federal Trade Commission Act. The complaint alleged that respondents had misrepresented the material of which their products are made or composed.

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

The pertinent provisions of said agreement are as follows: Respondents admit all jurisdictional facts; the complaint may be used in construing the terms of the order; the order shall have the same force and effect as if entered after a full hearing and the said

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

The undersigned hearing examiner having considered the agreement and proposed order, hereby accepts such agreement, makes the following jurisdictional findings, and issues the following order:

JURISDICTIONAL FINDINGS

1. Respondent Sun-Fast Textiles, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 125 West 41st Street, New York, New York.

2. Respondents Moses Schonfeld and Ruth B. Schonfeld are officers of the said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent. Their address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents Sun-Fast Textiles, Inc., a corporation and its officers, and Moses Schonfeld and Ruth B. Schonfeld, 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 fabrics or other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Madras" or any simulation thereof, either alone or in connection with other words to designate, describe, or refer to any fabric or other textile product which is not in fact made of fine cotton, hand-loomed and imported from India, and if the

cloth is other than natural in color, has not been dyed with bleeding vegetable dyes.

2. Placing in the hands of garment manufacturers and others a means and instrumentality by and through which they may deceive and mislead the purchasing public, concerning merchandise in the respects set out in Paragraph 1, above.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on the 4th day of March, 1961, 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

FELL-BASS, INC., ET AL.

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

Docket 7681. Complaint, Dec. 7, 1959—Decision, Mar. 7, 1961

Consent order requiring New York City manufacturers to cease violating the Wool Products Labeling Act by tagging as "100% Virgin Wool", ladies' skirts composed of fabrics containing substantially less than 100% wool, and by failing to label other wool products as required.

Mr. Charles W. O'Connell for the Commission.

DECISION OF THE COMMISSION AS TO RESPONDENT SAM FELL

The hearing examiner's initial decision, wherein the hearing examiner accepted an agreement containing a consent order to cease and desist theretofore executed by the respondents and counsel in support of the complaint, having been served on respondent Sam Fell on February 2, 1961;*

Now, therefore, pursuant to Sec. 3.21 of the Commission's Rules of Practice, said initial decision shall, on March 7, 1961, become the decision of the Commission; and, accordingly,

* Initial decision as to all respondents published in 56 F.T.C. 1181.

It is ordered, That respondent Sam Fell, individually and as an officer of Fell-Bass, Inc., a corporation, shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist contained in the aforesaid initial decision.

IN THE MATTER OF

ULTRAVISION MANUFACTURING CORPORATION ET AL.

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

Docket 8106. Complaint, Aug. 29, 1960—Decision, Mar. 7, 1961

Consent order requiring manufacturers of television picture tubes in Hawthorne, N. J., to cease selling television tubes which were reactivated or reconditioned or rebuilt containing previously used parts without clearly disclosing such facts on the tubes themselves and on cartons and invoices.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Ultravision Manufacturing Corporation, a corporation, and Carmine Cifaldi, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Ultravision Manufacturing Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the state of New Jersey, with its office and principal place of business located at 185 Goffle Road, Hawthorne, New Jersey.

Respondent Carmine Cifaldi is president of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, offering for sale, sale and distribution of television picture tubes, some of which are reactivated or reconditioned and some of which are rebuilt containing used parts, to distributors who sell to retailers for resale to the public.

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

PAR. 4. Respondents do not disclose on the tubes or on the cartons in which they are packed or on invoices or in any other manner that said television picture tubes are reactivated or reconditioned or rebuilt containing previously used parts.

PAR. 5. When television tubes are reactivated or reconditioned or rebuilt containing previously used parts, in the absence of a disclosure to the contrary, such tubes are understood to be and are readily accepted by the public as new tubes.

PAR. 6. By failing to disclose the facts as set out in Paragraph Four, respondents place in the hands of uninformed or unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature of their said television picture tubes.

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 engaged in the sale of television picture tubes.

PAR. 8. The failure of respondents to disclose on their television picture tubes, on the cartons in which they are packed, on invoices or in any other manner, that they are reactivated or reconditioned or rebuilt containing used parts, has had and now has, the tendency and capacity to mislead members of the purchasing public into the erroneous and mistaken belief that their said picture tubes are new in their entirety, and into the purchase of substantial quantities of respondents' said tubes by reason 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, and is being, done to competition in commerce.

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

Mr. Michael J. Vitale for the Commission.
Mr. Morton L. Kimmelman, of New York, N. Y., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

In the complaint dated August 29, 1960, the respondents are charged with violating the provisions of the Federal Trade Commission Act.

On December 20, 1960, the respondents and their attorney entered into an agreement with counsel in support of the complaint for a consent order.

Under the foregoing agreement, the respondents admit the jurisdictional facts alleged in the complaint. The parties agree, among other things, that the cease and desist order there set forth may be entered without further notice and have the same force and effect as if entered after a full hearing and the document includes a waiver by the respondents of all rights to challenge or contest the validity of the order issuing in accordance therewith. The agreement further recites that it is for settlement purposes only and does not constitute an admission by the respondents that they have violated the law as alleged in the complaint.

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

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

1. Respondent Ultravision Manufacturing Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 185 Goffle Road, Hawthorne, New Jersey.

Respondent Carmine Cifaldi is president of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent. His address is the same as that of the corporate respondent.

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

ORDER

It is ordered, That respondents Ultravision Manufacturing Corporation, a corporation, and its officers, and Carmine Cifaldi, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of television picture tubes which have been reactivated or reconditioned, or which have been rebuilt containing used parts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to clearly disclose on the tubes, on the cartons in which they are packed, on invoices, and in advertising, that said tubes are reactiviated or reconditioned, or rebuilt and contain used parts, as the case may be.

2. Placing any means or instrumentality in the hands of others whereby they may mislead the public as to the nature and condition of their television picture tubes.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 7th day of March, 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

TROPICAL FLOWERLAND ET AL.

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

Docket 8114. Complaint, Sept. 15, 1960—Decision, Mar. 7, 1961

Consent order requiring Los Angeles, Calif., sellers of a course of instruction on the growing of orchids and of orchid plants to the public in connection therewith, to cease representing falsely in advertising that by buying the orchid plants set out in their so-called "wholesale catalog" at the listed prices and selling them at retail, purchasers of their course could expect to make substantial profits.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Tropical Flowerland, a corporation, and George T. Hambaugh and Estelle M. Hambaugh, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Tropical Flowerland is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 100 South Vermont Avenue, Los Angeles, California.

Respondents George T. Hambaugh and Estelle M. Hambaugh are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time have been, engaged in the advertising, offering for sale, sale and distribution of a course of instruction on the raising or growing of orchids and the sale of orchid plants to the public.

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

PAR. 4. Respondents, in the course and conduct of their business, are now, and have been, in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as those sold by the respondents.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the sale of their products, respondents have caused advertisements to be placed in various publications having a distribution in the various States of the United States. Respondents have also caused advertisements of their products to be mailed to prospective purchasers in States other than the State of California.

PAR. 6. Respondents furnish two orchid plants to the purchasers of their course of instruction. Among the statements in their advertising matter are the following:

With your Course, Tropical Flowerland includes a "Quick-Profit Plan" which lets you start taking orders for Orchid plants immediately—the orders to be filled from our stock, while waiting for your own to develop.

Take orders now—to be filled from our big stock.

Until you have plants of your own to sell, you may take orders from Tropical Flowerland's beautiful illustrated catalog. Orchids like those pictured in this folder and many others, priced to you at our wholesale so you may make big profits.

The catalog referred to is designated as "wholesale catalog."

PAR. 7. Through the use of the aforesaid statements, and others of the same import not specifically set out herein, and the designation "Wholesale Catalog", respondents represent that the prices set out in their catalog for the various orchid plants and other merchandise are wholesale prices and that the purchasers of their courses by purchasing the orchid plants set out therein at the listed prices, can expect to obtain substantial profits by selling such plants at retail prices.

PAR. 8. Said statements and representations were false, misleading and deceptive. In truth and in fact, the prices quoted in said catalog are substantially in excess of the wholesale prices for most, or all, of the orchid plants and other merchandise listed in said catalog and are, in many instances, as much or more than the usual and customary retail prices. There is consequently little or no profit that can be realized from sales at retail of orchid plants purchased from respondents at their catalog prices.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements and representations has had, and now has, the capacity and tendency to mislead and deceive members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the purchase of a substantial number and quantity of respondents' said products 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.

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

Mr. Morton Nesmith for the Commission.
Mr. Henry Junge, of Chicago, Ill., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on September 15, 1960, issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars, and respondents were duly served with process.

On January 16, 1961, 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 counsel for both parties, under date of January 9, 1961, 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 Tropical Flowerland is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 100 South Vermont Avenue, in the City of Los Angeles, State of California.

Respondents George T. Hambaugh and Estelle M. Hambaugh are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation. Their address is the same as that of the corporate respondent.

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 to all parties.

4. Respondents waive:

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

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

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

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

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

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

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

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

It is ordered, That respondents Tropical Flowerland, a corporation, and its officers, and George T. Hambaugh and Estelle M. Hambaugh, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of orchids and other merchandise, and courses of instruction on the growing of orchids, orchid plants or nursery products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Representing, directly or by implication:

1. That any amount is the wholesale price of merchandise unless it is the price at which the merchandise is usually and customarily sold at wholesale;

2. That any profit can be made in the sale at retail by those purchasing merchandise from respondents unless the price paid to respondents is less than the usual and customary retail price of such merchandise.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 7th day of March, 1961, become the decision of the Commission; and, accordingly:

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

IN THE MATTER OF

MAX SCHARFMAN

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

Docket 8144. Complaint, Oct. 17, 1960—Decision, Mar. 7, 1961

Consent order requiring a furrier in New Rochelle, N. Y., to cease violating the Fur Products Labeling Act by using on labels of fur products the registered identification number of a person or concern not connected with marketing them; by advertising in newspapers which failed to disclose that certain products contained artificially colored fur, represented falsely that purchasers of advertised furs could "Save up to $200", that fur products concerned were composed of "choicest skins", that he manufactured his fur products, and that prices were reduced from regular prices which were in fact fictitious; and by failing to maintain adequate records as a basis for his pricing and value claims; and by failing in other respects to conform to labeling and invoicing requirements.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Max Scharfman, an individual, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Max Scharfman, an individual, prior to about April 5, 1960, traded as Rosalle Furs, with his office and principal place of business located at 178 North Avenue, New

Rochelle, New York. The business is now operated as Rosalle Furs, Inc., a corporation, at the same address.

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

PAR. 3. Respondent falsely and deceptively labeled or otherwise falsely or deceptively identified fur products by using the registered identification number of a person or concern not connected with marketing such fur products in violation of Section 4(1) of the Fur Products Labeling Act.

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

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by respondent 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.

PAR. 6. 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 that required item numbers were not set forth on invoices in violation of Rule 40 of said Rules and Regulations.

PAR. 7. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that respondent caused the dissemination in commerce, as "commerce" is defined in said Act, of certain newspaper advertisements, concerning said products, which were not in accordance with the provisions of Section 5(a) of the said Act and the Rules and Regulations promulgated thereunder; and which advertisements were intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of said fur products.

PAR. 8. Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondent which appeared in issues of the Standard Star, a newspaper published in the City of New Rochelle, State of New York, and having a wide

circulation in said State and various other States of the United States.

By means of said advertisements and others of similar import and meaning, not specifically referred to herein, respondent falsely and deceptively advertised fur products in that said advertisements:

(a) Failed to disclose that fur products contained or were composed of bleached, dyed or otherwise artificially colored fur when such was the fact in violation of Section 5(a)(3) of the Fur Products Labeling Act.

(b) Represented through such statements as "Save up to $200" that such savings could be effected through the purchase of respondent's fur products, when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

(c) Represented that fur products were composed of "choicest skins" when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

(d) Represented that respondent was a manufacturer of fur products, when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

(e) Represented prices of fur products as having been reduced from regular or usual prices where the so-called regular or usual prices were in fact fictitious in that they were not the prices at which said merchandise was usually sold by respondent in the recent regular course of business in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

PAR. 9. In advertising fur products for sale as aforesaid respondent made claims and representations respecting the prices and values of fur products. Respondent in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based in violation of Rule 44(e) of said Rules and Regulations.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices in commerce under the Federal Trade Commission Act.

DeWitt T. Puckett, Esq., supporting the complaint.

Jonas H. Bernstein, Esq., of *Bernstein & Bernstein*, of New York, N.Y., for respondent.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER

On October 17, 1960, the Federal Trade Commission issued a complaint against the above-named respondent, in which he was

charged with violating the Federal Trade Commission Act, and the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder by, among other things, failing to label and use the registered identification number of a person or concern not connected with marketing such fur products in accordance with the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, falsely and deceptively invoicing, falsely and deceptively advertising, and making claims and representations respecting prices and values of fur products without keeping adequate records of such products sold by it in interstate commerce. A true and correct copy of the complaint was served upon the respondent, as required by law. Thereafter respondent appeared by counsel and agreed to dispose of this proceeding without a formal hearing pursuant to the terms of an agreement dated December 14, 1960, containing consent order to cease and desist. The agreement was submitted to the undersigned hearing examiner on January 5, 1961, in accordance with §3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The agreement purports to dispose of this proceeding as to all parties and contains the form of a consent cease-and-desist order which the parties have represented is dispositive of the issues involved in this proceeding. The agreement has been signed by the respondent, the attorneys for both parties, and has been approved by the Assistant Director, Associate Director and Director of the Bureau of Litigation of the Federal Trade Commission. In said agreement respondent admits all of the jurisdictional facts alleged in the complaint and agrees that the record may be taken as if findings of jurisdictional facts had been made in accordance with such allegations. In the agreement the 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 rights respondent may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

The parties further agree, in said agreement, 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 agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Federal Trade Commission; that the order to cease and desist entered in this proceeding by the Commission may be entered without further notice to the respondent, and when so entered such order will have the same force and effect as if entered after a full hearing. Said order 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.

The parties have covenanted that the 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.

This proceeding having now come on for final consideration on the complaint and the aforesaid agreement of December 14, 1960, containing consent order, and it appearing that the order which is approved in and by said agreement disposes of all the issues presented by the complaint as to all of the parties involved, said agreement of December 14, 1960, is hereby accepted and approved as complying with §§3.21 and 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings. The undersigned hearing examiner, having considered the agreement and proposed order and being of the opinion that the acceptance thereof will be in the public interest, makes the following findings and issues the following order:

FINDINGS

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

2. Respondent Max Scharfman is an individual with his office and principal place of business located at 178 North Avenue, in the City of New Rochelle, State of New York;

3. Respondent is engaged in commerce as "commerce" is defined in the Federal Trade Commission Act and the Fur Products Labeling Act;

4. The complaint filed herein states a cause of action against the respondent under the Federal Trade Commission Act and under the Fur Products Labeling Act and the Rules and Regulations issued pursuant thereto; and this proceeding is in the public interest. Now, therefore,

It is ordered, That respondent Max Scharfman, his representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, or advertising or 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. Using the registered identification number of a person or concern not connected with marketing such fur products;

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

2. Falsely or deceptively invoicing fur products by:

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

B. Failing to set forth on invoices 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 that the fur product contains or is composed of bleached, dyed or otherwise artificially colored fur when such is the fact;

B. Represents, directly or by implication, that fur products are composed of choicest skins when such is not the fact;

C. Represents, directly or by implication, that respondent is a maufacturer of fur products or words of similar import when such is not the fact;

D. 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;

E. Misrepresents in any manner the savings available to purchasers of respondent's fur products.

4. Making claims and representations respecting prices and 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 7th day of March, 1961, become the decision of the Commission; and, accordingly:

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