

## Complaint

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

*Docket C-203. Complaint, Aug. 7, 1962—Decision, Aug. 7, 1962*

Consent order requiring the Evanston, Ill., publisher of "Golf Digest" magazine, to cease violating Sec. 2(d) of the Clayton Act by making payments—and on the basis of individual negotiation and not proportionally equal—to certain operators of chain retail outlets in railroad, airport, and bus terminals and outlets in hotels and office buildings, while not offering such allowances on proportionally equal terms to all competitors of such outlets, including drug and grocery chains and other newsstands.

## COMPLAINT

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

PARAGRAPH 1. Respondent Golf Digest, Inc. is a corporation organized and doing business under the laws of the State of Illinois, with its office and principal place of business located at 1236 Sherman Avenue, Evanston, Ill. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including magazines under copyrighted titles including "Golf Digest". Respondent's sales of publications during the calendar year 1960 exceeded five hundred thousand dollars.

PAR. 2. Publications published by respondent are distributed by respondent to customers through its national distributor, Publishers Distributing Corporation, hereinafter referred to as PDC.

PDC has acted and is now acting as national distributor for the publications of several independent publishers, including respondent publisher. PDC, as national distributor of publications published by respondent and other independent publishers, has performed and is now performing various services for these publishers. Among the services performed and still being performed by PDC for the benefit of these publishers are the taking of purchase orders and the

distributing, billing and collecting for such publications from customers. PDC has also negotiated promotional arrangements with the retail customers of the publishers it represents, on behalf of and with the knowledge and approval of said publishers, including respondent publisher.

In its capacity as national distributor for respondent in dealing with the customers of respondent, PDC served and is now serving as a conduit or intermediary for the sale, distribution and promotion of publications published by respondent.

PAR. 3. Respondent, through its conduit or intermediary, PDC, has sold and distributed and now sells and distributes its publications in substantial quantities in commerce, as "commerce" is defined in the Clayton Act, as amended, to competing customers located throughout various states of the United States and in the District of Columbia.

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 some of its customers as compensation or in consideration for services or facilities furnished, or contracted to be furnished, by or through such customers in connection with the handling, sale, or offering for sale of publications sold to them by respondent. Such payments or allowances were not made available on proportionally equal terms to all other customers of respondent competing in the distribution of such publications.

PAR. 5. As an example of the practices alleged herein, respondent has made payments or allowances to certain retail customers who operate chain retail outlets in railroad, airport and bus terminals, as well as outlets located in hotels and office buildings. Such payments or allowances were not offered or otherwise made available on proportionally equal terms to all other customers (including drug chains, grocery chains and other newsstands) competing with the favored customers in the sale and distribution of the publications of respondent publisher. Among the favored customers receiving payments in 1960 which were not offered to other competing customers in connection with the purchase and sale of respondent's publications were:

Customers:	<i>Approximate Amount Received</i>
Union News Co., New York City, N.Y.-----	\$3,899.90
ABC Vending Corp., Long Island City, N.Y.-----	61.62
Fred Harvey, Chicago, Ill.-----	<sup>1</sup> 123.00
Barkalow Bros., Omaha, Nebr.-----	<sup>1</sup> 64.80

<sup>1</sup> Received in 1961.

Respondent made said payments to its favored customers on the basis of individual negotiations. Among said favored customers such payments were not made on proportionally equal terms.

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

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (d) of Section 2 of the Clayton Act, as amended, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

1. Respondent, Golf Digest, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1236 Sherman Avenue, in the city of Evanston, State of Illinois.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent.

#### ORDER

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

Paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensa-

tion or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of publications including magazines published, sold or offered for sale by respondent, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of its other customers competing with such favored customer in the distribution of such publications including magazines.

The word "customer" as used above shall be deemed to mean anyone who purchases from Golf Digest, Inc., acting either as principal or agent, or from a distributor or wholesaler where such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

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

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IN THE MATTER OF

DAVID BENIOFF BROTHERS, INC., ET AL.

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

*Docket C-204. Complaint, Aug. 14, 1962—Decision, Aug. 14, 1962*

Consent order requiring San Francisco furriers to cease violating the Fur Products Labeling Act by substituting non-conforming labels for those affixed to fur products by manufacturers or distributors; by labels and invoices which showed the United States to be the country of origin of imported furs; by failing to disclose on labels when furs were artificially colored or fur products were composed of cheap or waste fur; failing to show on labels and invoices the country of origin of imported furs; failing to show on invoices the true animal name of fur and to disclose when furs were natural; and failing in other respects to comply with labeling 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 David Benioff Brothers, Inc., a corporation, and David Benioff, Robert Benioff, Robert Taylor, and John Everett,

individually and as officers of the said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent David Benioff Brothers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

Individual respondents David Benioff, Robert Benioff, Robert Taylor, and John Everett are officers of the said corporate respondent and control, direct and formulate the acts, practices and policies of the said corporate respondent.

Respondents are wholesalers of fur products and have their office and principal place of business at 140 Geary Street, San Francisco, Calif.

PAR. 2. Subsequent to the effective date of the Fur Products Labeling Act on August 9, 1952, and more especially since 1953, 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 sold, advertised, offered for sale and processed fur products which have been shipped and received in commerce and upon which fur products substitute labels have been placed by respondents, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 3. Respondents, in selling, advertising, offering for sale and processing fur products which have been shipped and received in commerce, misbranded said fur products by substituting for the labels affixed to such fur products, by manufacturers or distributors pursuant to Section 4 of the Fur Products Labeling Act, labels which did not conform to the requirements of said Section 4, in violation of Section 3(e) of said Act.

PAR. 4. Certain of said fur products were misbranded or otherwise falsely or deceptively labeled in that labels affixed to the said fur products misrepresented the country of origin of the furs contained in the said fur products, in violation of Section 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products but not limited thereto were fur products with labels which showed the country of origin of the furs contained in the fur products to be the United States when in truth and in fact the furs contained in the fur products were imported.

PAR. 5. 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.

Among such misbranded fur products but not limited thereto were fur products with labels which failed:

1. To disclose that the fur contained in the fur products was bleached, dyed or otherwise artificially colored, when such was the fact.

2. To show the country of origin of the imported furs contained in fur products.

PAR. 6. 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:

1. Labels affixed to fur products failed to show that the fur products were composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur when such was the fact, in violation of Rule 20 of said Rules and Regulations.

2. 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.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products but not limited thereto, were invoices pertaining to such fur products which failed:

1. To show the true animal name of the fur used in the fur product.
2. To show the country of origin of the imported furs contained in fur products.

PAR. 8. 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 said invoices failed to contain a dis-

closure that the fur products were natural when such was the fact, in violation of Rule 19(g) of said Rules and Regulations.

PAR. 9. Certain of said fur products were falsely and deceptively invoiced in that invoices pertaining to the said fur products misrepresented the country of origin of the furs contained in the said fur products, in violation of Section 5(b)(2) of the Fur Products Labeling Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices which showed the country of origin of the furs contained in the fur products to be the United States, when in truth and in fact the furs contained in the fur products were imported.

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

#### DECISION AND ORDER

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

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

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

1. Respondent David Benioff Brothers, Inc., 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 140 Geary Street, San Francisco, Calif.

Respondents David Benioff, Robert Benioff, Robert Taylor, and John Everett are officers of said corporation and their address is the same as that of said corporation.

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

ORDER

*It is ordered,* That respondents David Benioff Brothers, Inc., a corporation, and its officers, and David Benioff, Robert Benioff, Robert Taylor, and John Everett, 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; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the sale, advertising, offering for sale or processing of any fur product which has been shipped and received in commerce, and upon which fur products a substitute label has been placed by the respondents, 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. Misrepresenting the country of origin of the furs contained in 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 Section 4(2) of the Fur Products Labeling Act.

C. Substituting labels for labels affixed to such fur products pursuant to Section 4 of the Fur Products Labeling Act and which substitute labels do not conform to the requirements of Section 4 of said Act.

D. Failing to disclose that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur, when such is the fact.

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



## Complaint

## 2. Falsely or deceptively invoicing fur products by:

A. Misrepresenting the country of origin of the imported furs contained in fur products.

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

C. Failing to disclose that fur products are natural, when such is the fact.

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

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IN THE MATTER OF  
WALTER HOLDING COMPANY

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

*Docket C-205. Complaint, Aug. 15, 1962—Decision, Aug. 15, 1962*

Consent order requiring a Tampa, Fla., packer of citrus fruit to cease allowing illegal commissions on a large number of sales to direct buyers purchasing for their own accounts for resale.

## 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 (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent Walter Holding Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in Tampa, Florida, with mailing address as P.O. Box 8303, Tampa, Fla.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are hereinafter sometimes referred to as citrus fruit or fruit products.

Respondent sells and distributes its citrus fruit directly, and in many instances through brokers, to buyers located in various sections of the United States. When brokers are utilized in making sales, respondent pays said brokers for their services a brokerage or commission, usually at the rate of 5 cents per carton or 10 cents per 1 $\frac{3}{8}$  bushel box or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of its business over the past several years, respondent has sold and distributed and is now selling and distributing citrus fruit, in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several states of the United States other than the State of Florida in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from its place of business or packing plant in the State of Florida, or from other places within said state, to such buyers or to the buyers' customers located in various other states of the United States. **Thus there has been, at all times mentioned herein, a continuous course of trade in commerce in citrus fruit across state lines between said respondent and the respective buyers thereof.**

PAR. 4. In the course and conduct of its business, as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of its brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying, granting or allowing to these brokers, and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent in paying, granting or allowing to brokers and direct buyers a commission, brokerage or other compensation, or an allowance or discount in lieu thereof, on their own purchases, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13).

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsection (c) of Section 2 of the Clayton Act, as amended, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

1. Respondent Walter Holding Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located in Tampa, Florida, with mailing address as P.O. Box 8303, Tampa, Fla.

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

ORDER

*It is ordered,* That the respondent Walter Holding Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products, in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

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

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

## Complaint

## IN THE MATTER OF

## SUPERIOR INSULATING TAPE COMPANY ET AL.

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

*Docket C-206. Complaint, Aug. 15, 1962—Decision, Aug. 15, 1962*

Consent order requiring St. Louis manufacturers to cease representing falsely that their rolls of "SI" brand plastic tape—sold in rolls ranging from ½ inch wide and 10 feet long to ¾ inch wide and 60 feet long—contained more tape than was the fact through mounting the tape on a cardboard spool part of which was of the same color and appearance as the tape while the center was of a contrasting color, usually orange.

## 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 Superior Insulating Tape Company, a corporation, and J. A. Schweig and Julius S. Schweich, 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 Superior Insulating Tape Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 3100 Lambdin Avenue, in the city of St. Louis, State of Missouri.

Respondents J. A. Schweig and Julius S. Schweich 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 business 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 manufacturing, advertising, offering for sale, sale and distribution of various kinds of tape to distributors and wholesalers 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 Missouri 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. One type of tape offered for sale and sold by respondents, as aforesaid, is their SI brand plastic tape. Said tape is sold in rolls of various sizes ranging from  $\frac{1}{2}$  inch wide and 10 feet long to  $\frac{3}{4}$  inch wide and 60 feet long.

The aforesaid tape is mounted on or rolled around a cardboard core or spool part of which is the same color and of the same appearance as the tape wound around it while the balance or center of the core or spool is of a contrasting color, usually orange.

PAR. 5. By means of the aforesaid rolls of tape; in the manner constructed and colored as aforesaid, the respondents have represented, and now represent, contrary to the facts, that their said rolls of tape contain more tape than they actually contain.

PAR. 6. By the aforesaid practices, respondents place in the hands of others a means and instrumentality by and through which they may mislead the public as to the amount of tape contained in respondents' said product.

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 various types of tape of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive 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 the aforesaid product contains more tape per roll than is the fact and into the purchase of substantial quantities of respondents' said tape by reason of said erroneous and mistaken belief.

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

#### DECISION AND ORDER

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

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

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

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

1. Respondent, Superior Insulating Tape Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of business located at 3100 Lambdin Avenue, in the city of St. Louis, State of Missouri.

Respondents J. A. Schweig and Julius S. Schweich are officers of said corporation, and their address is the same as that of said corporation.

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

#### ORDER

*It is ordered*, That respondents, Superior Insulating Tape Company, a corporation, and its officers, and J. A. Schweig and Julius S. Schweich, 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, or sale, of SI brand plastic tape, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or indirectly, by means of packaging, or in any other manner, that its products are larger in size, such as length, width, area, weight, thickness, or quantity, or in any other manner, than is the actual fact.

2. Engaging in any practice or plan which will provide retailers of their merchandise with the means of misrepresenting its merchandise as set forth in Paragraph 1 above.

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

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IN THE MATTER OF

J. PARKER LAMPERT DOING BUSINESS AS MISSION  
FRUIT & VEGETABLE COMPANY

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

*Docket C-207. Complaint, Aug. 21, 1962—Decision, Aug. 21, 1962*

Consent order requiring Mission, Tex., packers of citrus fruit to cease violating Section 2(c) of the Clayton Act by paying a commission or discount to brokers and other direct buyers purchasing for their own accounts for resale.

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 (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent J. Parker Lampert is an individual doing business as Mission Fruit & Vegetable Company with his office and principal place of business located at Mission, Texas, with mailing address as Post Office Box 793, Mission, Texas.

PAR. 2. Respondent is now and for the past several years has been engaged in the business of packing, selling and distributing citrus fruit, such as oranges, tangerines and grapefruit, all of which are sometimes referred to as citrus fruit or fruit products. Respondent sells and distributes his products directly, and in many instances through brokers, to buyers located in various sections of the United States. When brokers are utilized in making sales, respondent pays said brokers for their services a brokerage or commission, usually at the rate of 5 cents per carton or 10 cents per 1 $\frac{3}{5}$  bushel box or equivalent. Respondent's annual volume of business in the sale and distribution of citrus fruit is substantial.

PAR. 3. In the course and conduct of his business over the past several years, respondent has sold and distributed, and is now selling and

distributing, citrus fruit in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, to buyers located in the several States of the United States other than the State of Texas in which respondent is located. Respondent transports, or causes such citrus fruit, when sold, to be transported from his place of business or packing plant in the State of Texas, or from other places within said state, to such buyers or to the buyers' customers located in various other states of the United States. Thus there has been at all times mentioned herein, a continuous course of trade in commerce in said citrus fruit across state lines between said respondent and the respective buyers thereof.

PAR. 4. In the course and conduct of his business, as aforesaid, respondent has been and is now making substantial sales of citrus fruit to some, but not all, of his brokers and direct buyers purchasing for their own account for resale, and on a large number of these sales respondent paid, granted or allowed, and is now paying granting or allowing to these brokers and other direct buyers on their purchases, a commission, brokerage, or other compensation, or an allowance or discount in lieu thereof, in connection therewith.

PAR. 5. The acts and practices of respondent in paying, granting or allowing to brokers and direct buyers a commission, brokerage or other compensation, or an allowance or discount in lieu thereof, on their own purchases, as above alleged and described, are in violation of subsection (c) of Section 2 of the Clayton Act, as amended (U.S.C. Title 15, Sec. 13).

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of subsection (c) of Section 2 of the Clayton Act, as amended; and

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



The Commission, having reason to believe that the respondent has violated subsection (c) of Section 2 of the Clayton Act, as amended, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent J. Parker Lampert is an individual doing business as Mission Fruit & Vegetable Company, with his office and principal place of business located at Mission, Texas, with mailing address as Post Office Box 793, Mission, Texas.

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

## ORDER

*It is ordered*, That the respondent, J. Parker Lampert, an individual doing business as Mission Fruit & Vegetable Company, his agents, representatives and employees, directly or through any corporate or other device, in connection with the sale of citrus fruit or fruit products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

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

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

## IN THE MATTER OF

## MYSTERY PUBLISHING COMPANY ET AL.

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

*Docket C-208. Complaint, Aug. 24, 1962—Decision, Aug. 24, 1962*

Consent order requiring two New York City publishers of "Dude" magazine, and "Gent", "Real", and "See" magazines, respectively, with a common

## Complaint

61 F.T.C.

national distributor, to cease violating Sec. 2(d) of the Clayton Act by making individually negotiated payments or allowances not proportionally equal, to certain operators of chain retail outlets in railroad, airport, and bus terminals, and outlets in hotels and office buildings, while not making such allowances available on proportionally equal terms to drug chains, grocery chains, and other newsstands.

## COMPLAINT

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

PARAGRAPH 1. Respondent Mystery Publishing Company is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 505 8th Avenue, New York, N.Y. Said respondent, among other things, has been engaged, and is presently engaged, in the business of publishing and distributing various publications, including magazines under copyrighted titles, including "Dude." Respondent's sales of publications during the period from January 1, 1960, through June 30, 1961, exceeded seven hundred thousand dollars.

PAR. 2. Respondent Excellent Publications, Inc., is a corporation organized and doing business under the laws of the State of New York, with its office and principal place of business located at 505 8th Avenue, New York, N.Y. Said respondent, among other things, has been engaged, and is presently engaged, in the business of publishing and distributing various publications, including magazines under copyrighted titles, including "Gent," "Real," and "See." Respondent's sales of publications during the period from January 1, 1960, through June 30, 1961, exceeded one million four hundred thousand dollars.

PAR. 3. Publications published by the respondents named herein are distributed by said respondents to customers through their national distributor, Kable News Company, hereinafter referred to as Kable. Kable has acted and is now acting as national distributor for the publications of several independent publishers, including the respondents named herein. Kable, as national distributor of publications published by said respondents and other independent publishers, has performed and is now performing various services for these publishers. Among the services performed and still being performed by Kable for the benefit of these publishers are the taking of purchase orders and the distributing, billing and collecting for such publications from

customers. Kable has also negotiated promotional arrangements with the retail customers of the publishers it represents, on behalf of and with the knowledge and approval of said publishers, including respondent publisher.

In its capacity as national distributor for said respondents, in dealing with the customers of said respondents, Kable served and is now serving as a conduit or intermediary for the sale, distribution and promotion of publications published by said respondents.

PAR. 4. Respondents Mystery Publishing Company and Excellent Publications, Inc., through their conduit or intermediary, Kable, have sold and distributed, and now sell and distribute, their publications in substantial quantities, in commerce, as "commerce" is defined in the Clayton Act, as amended, to competing customers located throughout various states of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of their business in commerce, respondents Mystery Publishing Company and Excellent Publications, Inc. have paid or contracted for the payment of something of value to or for the benefit of some of their customers as compensation or in consideration for services or facilities furnished, or contracted to be furnished, by or through such customers in connection with the handling, sale, or offering for sale of publications sold to them by said respondents. Such payments or allowances were not made available on proportionally equal terms to all other customers of said respondents competing in the distribution of such publications.

PAR. 6. As an example of the practices alleged herein, respondents Mystery Publishing Company and Excellent Publications, Inc. have made payments or allowances to certain retail customers who operate chain retail outlets in railroad, airport and bus terminals, as well as outlets located in hotels and office buildings. Such payments or allowances were not offered or otherwise made available on proportionally equal terms to all other customers (including drug chains, grocery chains and other newsstands) competing with the favored customers in the sale and distribution of the publications of said respondent publishers. Among the favored customers receiving payments in 1960, and during the first six months of 1961, which were not offered to other competing customers in connection with the purchase and sale of respondents' publications were:

Customers:	MYSTERY PUBLISHING COMPANY	
	1960	Approximate Amount Received 1961 (Jan.-June)
ABC Vending Corp., Long Island City, N.Y.-----	\$242. 00	\$90. 48
Union News Co., New York, N.Y.-----	500. 00	2, 502. 90
Interstate Hosts, Los Angeles, Calif.-----	185. 71	103. 74

## Decision and Order

61 F.T.C.

## EXCELLENT PUBLICATIONS, INC.

ABC Vending Corp., Long Island City, N.Y.-----	321.55	125.54
Union News Co., New York, N.Y.-----	12,191.89	4,376.37
Interstate Hosts, Los Angeles, Calif.-----	129.95	149.37
Greyhound Post Houses, Forest Park, Ill.-----	344.16	220.38

Respondents made said payments to their favored customers on the basis of individual negotiations. Among said favored customers such payments were not made on proportionally equal terms.

PAR. 7. The acts and practices of said respondents, as alleged above, are in violation of the provisions of subsection (d) of Section 2 of the Clayton Act, as amended.

## DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of subsection (d) of Section 2 of the Clayton Act, as amended, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

1. Respondent Mystery Publishing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 505 Eighth Avenue, in the city of New York, State of New York.

Respondent Excellent Publications, 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 505 Eighth Avenue, in the city of New York, State of New York.

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

## ORDER

*It is ordered*, That respondents Mystery Publishing Company and Excellent Publications, Inc., both corporations, their respective officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of publications, including magazines, in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of publications, including magazines published, sold or offered for sale by respondents, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of their other customers competing with such favored customer in the distribution of such publications, including magazines.

The word "customer" as used above shall be deemed to mean anyone who purchases from a respondent, acting either as principal or agent, or from a distributor or wholesaler where such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

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

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IN THE MATTER OF  
THE MARTIN-SENOUR COMPANY

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

*Docket C-209. Complaint, Aug. 31, 1962—Decision, Aug. 31, 1962*

Consent order requiring a Cleveland distributor of plastic metal menders designated "Blu-Flex" and "Fuse-Tite" to wholesalers, to cease such unfair practices as stating in catalogs "Blu-Flex \* \* \* It's non-toxic" when in fact such product could cause itching or skin irritation; to disclose conspicuously on labels such danger in use and treatment therefor and the fact of the product's flammability; and to make similar disclosures on labels of its "Fuse-Tite" product, as well as the importance of avoiding its vapors.

## Complaint

61 F.T.C.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Martin-Senour Company, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Martin-Senour Company is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 101 Prospect Avenue, N.W., in the city of Cleveland, State of Ohio.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of, among other things, plastic metal menders designated "Blu-Flex" and "Fuse-Tite" to wholesalers for resale to retailers.

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

PAR. 4. In the course and conduct of its business, and for the purpose of inducing the sale of its plastic metal mender designated "Blu-Flex" respondent has made the following statement in catalog sheets, and by other media: "Blu-Flex \* \* \* It's non-toxic".

PAR. 5. By and through the use of the aforesaid descriptive statement, respondent represented, directly or by implication, that the plastic metal mender designated "Blu-Flex" is non-toxic.

PAR. 6. In truth and in fact, the metal mender designated "Blu-Flex" is not non-toxic as the cream hardener, a component of said product, contains cyclohexanone peroxide which is a primary irritant and sensitizer to the skin and when the cream hardener is combined with the putty, the other component of said product, to make said metal mender, the product resulting therefrom is not non-toxic and may cause itching or skin irritation. Therefore, the statement and representation set forth in paragraph 4 was, and is, false, misleading and deceptive.

PAR. 7. The labels on the products composing the respondent's plastic metal menders designated "Blu-Flex" and "Fuse-Tite" are misleading in the following respects:

(a) The cyclohexanone peroxide contained in the cream hardener, which is a component of the plastic metal mender designated "Blu-Flex", may be flammable if coming in contact with heat or flame and may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. Because it contains cyclohexanone peroxide, the cream hardener is toxic if taken internally and, therefore, should be kept out of reach of children. If said cream hardener containing cyclohexanone peroxide is ingested, vomiting should be induced and a physician consulted. The label on the respondent's cream hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label for the putty, which is a component of "Blu-Flex", and with respect to conditions of storage of the cream hardener.

(b) The label on the respondent's putty used in the plastic metal mender designated "Blu-Flex" is misleading in that it fails to reveal the material fact that after it is mixed with the cream hardener the product resulting therefrom may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin.

(c) The label on the respondent's liquid hardener, which is a component of the plastic metal mender designated "Fuse-Tite", contains only a statement as to storing it in a cool place and cautionary statements as to the product being irritating to the skin, that the product should be flushed from the skin and that it should be kept away from children. Because it contains methyl ethyl ketone peroxide, the liquid hardener is toxic and if taken internally, vomiting should be induced and a physician consulted. The methyl ethyl ketone peroxide in the liquid hardener may be flammable if coming in contact with heat or flame. The vapors from the methyl ethyl ketone peroxide in the liquid hardener may be harmful if inhaled and, therefore, the product should be used in a well ventilated area and the vapors avoided. The label on the respondent's liquid hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of the said product as directed on the label for the putty, which is a component of "Fuse-Tite", and with respect to conditions of storage of the liquid hardener.

(d) After the putty used in the plastic metal mender designated "Fuse-Tite" is combined with the liquid hardener, the product result-

ing therefrom may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. After the liquid hardener is combined with the putty to make the plastic metal mender designated "Fuse-Tite", the vapors from the methyl ethyl ketone peroxide contained in the liquid hardener may be harmful if inhaled and, therefore, the plastic metal mender should be used in a well ventilated area and the vapors avoided. The label on the respondent's putty used in the plastic metal mender designated "Fuse-Tite" is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of the product as directed on its label.

PAR. 8. In the course and conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of plastic metal menders of the same general kind and nature as those sold by respondent.

PAR. 9. The use by respondent of the aforesaid false, misleading and deceptive statement, representation, and practice and failure to warn the purchasing public on the labels of the products of the dangers attendant to the use of the products have had, and now have, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statement and representation was and is true and that there is no danger in use of the products and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken beliefs.

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

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by



the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondent has violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent, The Martin-Senour Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 101 Prospect Avenue N.W., in the city of Cleveland, State of Ohio.

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

## ORDER

*It is ordered,* That respondent The Martin-Senour Company, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of plastic metal menders designated "Blu-Flex" and "Fuse-Tite", or any other product or products of similar composition or possessing substantially similar properties under whatever name or names sold, do forthwith cease and desist from:

1. Representing, directly or by implication, that the plastic metal mender designated "Blu-Flex", or any other product of similar composition or possessing substantially similar properties, is non-toxic or will not cause itching or skin irritation.

2. Using a label on the container for the cream hardener which does not set forth in a clear and conspicuous manner the following statements: "CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

3. Using a label on the container for the putty used in the plastic metal mender designated "Blu-Flex", or any other product

of similar composition or possessing substantially similar properties, which does not set forth in a clear and conspicuous manner the following statements: "CAUTION: After mixing with cream hardener, avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

4. Using a label on the container for the liquid hardener which does not set forth in a clear and conspicuous manner the following statements: "CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water. Use in well ventilated area; avoid vapors."

5. Using a label on the container for the putty used in the plastic metal mender designated "Fuse-Tite", or any other product of similar composition or possessing substantially similar properties, which does not set forth in a clear and conspicuous manner the following statements: "CAUTION: After mixing with liquid hardener, avoid prolonged or repeated contact with skin. In case of contact, flush skin with water. Use in well-ventilated area; avoid vapors."

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

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IN THE MATTER OF  
ALTHEIMER & BAER, INC., ET AL.

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

*Docket C-210. Complaint, Sept. 5, 1962—Decision, Sept. 5, 1962*

Consent order requiring Chicago distributors of a variety of merchandise to cease supplying their retail dealers with advertising material and other printed matter which misrepresented the availability, quantity, composition, prices, guarantees, and other features of their said products, as in the order below more specifically set out.

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 Altheimer & Baer,

Inc., a corporation, and Milton L. Altheimer, individually and as an officer of said corporation, and Lewis J. Solomon, individually and as Advertising Manager of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Altheimer & Baer, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 404 North Wells Street, Chicago, Ill.

Respondent Milton L. Altheimer is an officer of the corporate respondent. Respondent Lewis J. Solomon is Advertising Manager 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 various articles of merchandise such as dishes, tableware, sheets, towels, watches and fishing equipment, 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 merchandise, when sold, to be shipped from various States to purchasers thereof located in States other than the State in which the shipment originated, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, for the purpose of inducing the sale of their merchandise, have engaged in the practice of supplying their retail dealers with advertising material and other printed matter containing various statements and representations of which the following are typical, but not all inclusive:

\$39.95 While Stocks Last  
 While Limited Quantities Last  
 Quantities Limited  
 118 Pieces of . . . tools . . . Plus bonus gift of 11 Piece Ensemble  
 Included FREE . . . 11 Piece Handy Tool Ensemble  
 No—Not \$29.95, No—\$24.95, Yes Only \$17.88  
 Never Before Yes—Never Before at This Sale Price \$22.95  
 Never Before at This Low Low-Price  
 10 Year Factory Guarantee . . . Factory Guaranteed

Chrome Vanadium Alloy Steel . . . Alloy Steel  
Hydromatic Dishwasher . . . Its Completely Automatic

PAR. 5. Through the use of the aforesaid practices respondents have represented, and have placed in the hands of retailers the means and instrumentalities of representing, directly or by implication, that:

1. Certain offers of merchandise must be accepted at once or within a limited time.

2. The supply or quantity of certain articles of merchandise is limited.

3. The tool set advertised at \$39.95 contains 118 pieces of tools and that an 11-piece tool ensemble will be given "free" with this set, that is, as a gift or gratuity without cost to the purchaser.

4. Certain prices, set out in juxtaposition with a lower price, are the generally prevailing prices at which the designated merchandise is sold at retail in the trade area or areas where the representations are made.

5. The prices at which certain merchandise is being offered for sale are special prices which are lower than the generally prevailing prices at which said merchandise is sold at retail in the trade area or areas where the representations are made.

6. Certain merchandise is unconditionally guaranteed for a definite period of time.

7. The wrenches and tools in the set offered at \$39.95 are all made of chrome vanadium alloy steel, and the 11-piece set of  $\frac{3}{8}$ " drive socket wrenches included therein is made of alloy steel.

8. Certain dishwashers offered for sale are completely automatic.

PAR. 6. In truth and in fact:

1. Said offers of merchandise need not be accepted at once or within a limited time.

2. The supply or quantity of said articles of merchandise is not limited. Adequate quantities are available.

3. The tool set advertised at \$39.95 does not contain 118 pieces of tools and purchasers of this set do not receive an 11-piece tool ensemble free or without cost because the price charged for the merchandise purchased includes the price of the said ensemble.

4. The prices set out in juxtaposition with a lower price are not the generally prevailing prices at which the merchandise is sold at retail in the trade area or areas where the representations are made.

5. The prices at which said merchandise is being offered for sale are not special prices and are not lower than the generally prevailing prices at which the merchandise is sold at retail in the trade area or areas where the representations are made.

6. Respondents' merchandise is not unconditionally guaranteed for any definite period of time and the advertising does not disclose the nature and terms of the guarantee or in what manner the guarantor will perform.

7. The wrenches and tools in the set offered at \$39.95 are not all made of chrome vanadium alloy steel, and the 11-piece set of  $\frac{3}{8}$ " drive socket wrenches, included therein, is not made of alloy steel. The latter set, and other wrenches and tools in the set, are made of carbon steel and not chrome vanadium or alloy steel.

8. Said dishwashers are not completely automatic since they have no timing device that will automatically activate and shut off all cycles of operation.

Therefore, the statements and representations referred to in paragraphs 4 and 5 were and are false, misleading and deceptive.

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

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

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

#### DECISION AND ORDER

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

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint

to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

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

1. Respondent, Altheimer & Baer, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 404 North Wells Street, in the city of Chicago, State of Illinois.

Respondent Milton L. Altheimer is an officer of said corporation. Respondent Lewis J. Solomon is Advertising Manager of said corporation. Their address is the same as that of said corporation.

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

#### ORDER

*It is ordered*, That respondents Altheimer & Baer, Inc., a corporation, and its officers, and Milton L. Altheimer, individually and as an officer of said corporation, and Lewis J. Solomon, individually and as Advertising Manager 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 merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or indirectly, that:

1. Offers of merchandise must be accepted at once, or within a limited time, when there is, in fact, no specific time limitation.

2. The supply or quantity of any merchandise is limited when adequate quantities are available.

3. Tool sets or other assemblages of merchandise contain a greater number of pieces or components than is a fact.

4. Merchandise is given free or without charge in connection with the purchase of other merchandise when the price charged for the merchandise purchased includes the price of the so-called free merchandise.

5. Any amount is the usual and customary retail price of merchandise when it is in excess of the generally prevailing price or prices at which the merchandise is sold at retail in the trade area or areas where the representation is made.

6. Any price is a "sale" or special price unless such price constitutes a reduction from the generally prevailing price or prices at which the merchandise is sold at retail in the trade area or areas where the representation is made.

7. Any merchandise is guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

8. Any tool or wrench made of carbon steel is made of chrome vanadium alloy steel or other alloy steel.

9. Any machine or device is automatic or completely automatic unless it contains mechanisms or features whereby all operations of the machine or device are completed without the intervention of the operator after the machine or device has been activated.

B. Misrepresenting in any manner the composition, quantity, quality, usual price, availability or performance of any product.

C. Furnishing or otherwise placing in the hands of distributors or dealers in said products the means and instrumentalities by and through which they may mislead or deceive the public in the manner or as to the things hereinabove prohibited.

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

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IN THE MATTER OF

THE BORG-ERICKSON CORPORATION

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

*Docket C-211. Complaint, Sept. 5, 1962—Decision, Sept. 5, 1962*

Consent order requiring a Chicago manufacturer of scales to cease representing falsely in advertisements in magazines and newspapers, and in mats, catalog inserts, folders, containers, display cards, and other advertising material furnished to dealers that its bathroom scales were "BUILT LIKE A FINE

## Complaint

61 F.T.C.

WATCH", "AMAZINGLY PRECISE", had "POSITIVE ACCURACY", etc.; and by use of the expression "Lifetime Service Policy", that they unconditionally serviced the scales without charge.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Borg-Erickson Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Borg-Erickson Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1133 North Kilbourn Avenue, Chicago 51, Ill.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacturing, advertising, offering for sale, sale and distribution of scales, consisting mainly of bathroom scales. Respondent's products are sold principally to department stores for resale to the public, but they are also sold to jobbers, catalog houses, premium accounts and stamp companies.

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

PAR. 4. In the course and conduct of its business as aforesaid, relating to bathroom scales, respondent has made various statements in advertisements inserted in magazines and newspapers of national circulation and in mats, catalog inserts, folders, containers, display cards and other advertising material furnished to dealers, respecting performance of said scales. Typical, but not all inclusive of such statements, are the following:

THIS IS THE BATH SCALE BUILT LIKE A FINE WATCH.

IT ENDS ALL GUESSING ABOUT WEIGHT. IT TELLS YOU THE MOMENT YOU GAIN OR LOSE A SINGLE POUND. IT MAKES WEIGHT WATCHING EASY AND SURE.

AMAZINGLY PRECISE—OUNCES GAINED SHOW ON YOUR BORG BEFORE THEY SHOW ON YOU.



DEPENDABLE ACCURACY WITH POSITIVE REPEATABILITY.

. . . POSITIVE ACCURACY . . . .

THESE SCALES WEIGH ACCURATELY ON ALL FLOORING, INCLUDING DEEP CARPET.

FAMOUS BORG ACCURACY.

THE SCALE WITH DEPENDABLE ACCURACY.

PAR. 5. Through the use of the aforesaid quoted statements respondent represents directly or indirectly that its bathroom scales are instruments which show the exact weight of the person or thing weighed and that such scales indicate weight to the ounce.

PAR. 6. In truth and in fact said scales are not instruments which show the exact weight of the person or thing weighed because in many instances they register either more or less than the true weight placed on them, and they do not indicate weight to the ounce but only to the pound. Therefore, the statements and representations referred to in paragraphs 4 and 5 hereof are false, misleading and deceptive.

PAR. 7. Respondent uses the expression "Lifetime Service Policy" in the advertising of said scales, representing thereby that respondent will unconditionally service said scales without charge for the life of the purchaser.

PAR. 8. In truth and in fact said "service policy" is subject to conditions and charges which are not set forth in the advertising and the "Lifetime" referred to is the life of the scales. Therefore, the statement and representation of a "Lifetime Service Policy" is false, misleading and deceptive.

PAR. 9. Respondent, by furnishing retailers and others with advertising material containing the statements and representations as aforesaid, has thereby placed in the hands of retailers and others the means and instrumentalities through and by which the purchasing public may be misled as to the performance of said scales and the servicing thereof.

PAR. 10. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of scales of the same general kind and nature as those sold by respondent.

PAR. 11. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondent's product by means of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

1. Respondent, The Borg-Erickson Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 1133 North Kilbourn Avenue, in the city of Chicago, State of Illinois.

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

#### ORDER

*It is ordered,* That respondent The Borg-Erickson Corporation, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of bathroom scales, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

## Complaint

## 1. Representing directly or indirectly:

(a) That said scales are instruments which show the exact weight of the person or thing weighed.

(b) That said scales indicate increases or decreases in weight by the ounce.

(c) That products are serviced by respondent unless the nature and extent of servicing, the manner in which respondent will perform such servicing and the duration thereof is clearly and conspicuously disclosed.

2. Furnishing or otherwise placing in the hands of retailers, or others, any means or instrumentality by or through which they may mislead or deceive the public in the manner or as to the things hereinbefore prohibited.

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

## IN THE MATTER OF

## REPUBLIC MOLDING CORPORATION

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

*Docket C-212. Complaint, Sept. 5, 1962—Decision, Sept. 5, 1962*

Consent order requiring a Chicago manufacturer of plastic kitchen products and other houseware accessories, to cease violating Sec. 2(d) of the Clayton Act by promulgating advertising arrangements with its department store customers providing that it would pay 10 percent of their total annual purchases of its products to be used in advertising the products, and then in many instances exceeding the 10 percent limitation in allowances to certain customers in Akron, Cincinnati, and Cleveland, Ohio, but not to their competitors; and to cease violating Sec. 2(e) of the same Act by furnishing the services of demonstrators to certain customers in the aforesaid cities but not to others.

## COMPLAINT

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

Complaint

61 F.T.C.

## COUNT I

PARAGRAPH 1. Respondent, Republic Molding Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 6465 North Avondale Avenue, Chicago, Ill.

PAR. 2. Respondent is now, and for many years past has been engaged in the manufacture, sale and distribution of plastic kitchen products and other houseware accessories. Respondent sells its products to a large number of customers located throughout the United States. Respondent's sales of its products are substantial, amounting in the year 1958 to over \$3,800,000; and for the year 1959 to over \$4,500,000.

PAR. 3. Respondent has two principal methods of sale and distribution for its plastic kitchen and other houseware products. It sells direct to department store customers and also sells to jobbers and distributors who purchase said products in varying quantities for resale.

PAR. 4. 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 sells and causes its products to be transported from the respondent's principal place of business, located in the State of Illinois, to customers located in other States of the United States. There has been at all times mentioned herein a continuous course of trade in commerce in said products across state lines between said respondent and the purchasers of such products.

PAR. 5. In the course and conduct of its business in commerce, 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 respondent, and such payments were not made available on proportionally equal terms to all other customers competing in the sale and distribution of respondent's products.

PAR. 6. As illustrative of such practices respondent has promulgated advertising agreements or arrangements with its department store customers providing that respondent will pay to each customer 10 percent of that customer's total annual purchases of respondent's products, said payments or allowances to be used by the customer in advertising respondent's products. In applying the terms of its advertising agreements or arrangements respondent did not limit its payments and allowances to 10 percent of the customer's total annual purchases, but in many instances exceeded this 10 percent limitation

## Complaint

for some of its customers, while adhering to this limitation in the case of allowances or payments made to other competing customers.

During the years 1958 and 1959 respondent offered to pay, and paid, allowances for advertising in excess of 10 percent of total annual sales to various of its customers located in Akron, Cincinnati and Cleveland, Ohio. During this same period other customers of respondent competing in the aforesaid cities did not receive allowances for advertising in excess of 10 percent of their total annual purchases from respondent.

PAR. 7. The acts and practices of respondent as alleged above are in violation of subsection (d) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13).

## COUNT II

PARAGRAPH 1. Paragraphs 1 through 4 of Count I are hereby adopted and made a part of this Count as fully as if herein set forth verbatim.

PAR. 2. In the course and conduct of its business in commerce, respondent contracted to furnish, furnished, or contributed to the furnishing to some of its purchasers, services and facilities in connection with the handling, offering for sale or sale of such commodities so purchased from respondent, and such services and facilities were not made available on proportionally equal terms to all other purchasers competing in the sale and distribution of respondent's products.

As illustrative of such practices respondent has contracted to furnish, and has furnished or contributed to the furnishing to various purchasers located in Akron, Cincinnati and Cleveland, Ohio, the services and facilities of special personnel known as "demonstrators". Such personnel compensated and furnished by the respondent are installed in the places of business of such purchasers to assist in advising customers and to display, demonstrate, offer for sale and sell respondent's commodities to the said purchaser's customers.

PAR. 3. During the same period of time respondent has sold its commodities to other purchasers competing with the purchasers described above, and has not contracted to furnish, furnished, or contributed to the furnishing of services and facilities of demonstrators to said purchasers on proportionally equal terms.

PAR. 4. The acts and practices of respondent as alleged above violate subsection (e) of Section 2 of the Clayton Act, as amended by the Robinson-Patman Act (U.S.C. Title 15, Sec. 13).

## DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of subsections (d) and (e) of Section 2 of the Clayton Act, as amended, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

1. Respondent Republic Molding Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 6465 North Avondale Avenue, in the city of Chicago, State of Illinois.

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

## ORDER

*It is ordered*, That respondent Republic Molding Corporation, a corporation, its officers, directors, agents, representatives and employees, directly or through any corporate or other device, in the course of business in commerce, as "commerce" is defined in the Clayton Act as amended, do forthwith cease and desist from:

(1) Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation or in consideration for advertising, or any other services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of plastic kitchen products, houseware accessories and related products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on pro-

## Complaint

portionally equal terms to all other customers competing with such favored customer in the distribution or resale of such products.

(2) Discriminating, directly or indirectly, among competing purchasers of its plastic kitchen products, houseware accessories and related products, by contracting to furnish, furnishing, or contributing to the furnishing of the services of demonstrators, or any other services or facilities connected with the processing, handling, offering for sale or sale of respondent's products, to any purchaser from respondent unless such services or facilities are made available on proportionally equal terms to all purchasers competing in the distribution or resale of such products.

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

## IN THE MATTER OF

## ACTUAL PUBLISHING COMPANY, INC., ET AL.

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

*Docket C-213. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring the New York City publisher of "Vue," "Romance Time," and "Hollywood Screen Parade" magazines, among others, to cease violating Sec. 2(d) of the Clayton Act by making payments to operators of chain retail outlets in railroad, airport, and bus terminals and outlets in hotels and office buildings, and on the basis of individual negotiation, while not offering such payments on proportionally equal terms to all other customers, including drug chains, grocery chains, and other newsstands.

## COMPLAINT

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

PARAGRAPH 1. Respondent Actual Publishing Company, Inc., is a corporation organized and doing business under the laws of the State

of New York, with its principal office and place of business located at 509 Fifth Avenue, New York, N.Y. Said respondent, among other things, has been engaged and is presently engaged in the business of publishing and distributing various publications including magazines under copyrighted titles included "Vue," "Romance Time," and "Hollywood Screen Parade." Respondent's sales of publications during calendar year 1960 exceeded \$330,000.00

PAR. 2. Respondent Allen Stearn, an individual, is the president of Actual Publishing Company, Inc. He formulates, directs and controls the acts and practices of said corporate respondent, and his address is the same as that of the corporate respondent.

PAR. 3. Publications published by the corporate respondent are distributed by said respondent to customers through its national distributor, Kable News Company, hereinafter referred to as Kable.

Kable has acted and is now acting as national distributor for the publications of several independent publishers, including respondent publisher. Kable, as national distributor of publications published by said respondent and other independent publishers, has performed and is now performing various services for these publishers. Among the services performed and still being performed by Kable for the benefit of these publishers are the taking of purchase orders and the distributing, billing and collecting for such publications from customers. Kable has also participated in the negotiation of various promotional arrangements with the retail customers of said publishers, including said respondent.

In its capacity as national distributor for respondent Actual Publishing Company, Inc., in dealing with the customers of said respondent, Kable served and is now serving as a conduit or intermediary for the sale, distribution and promotion of publications published by said respondent.

PAR. 4. Respondent Actual Publishing Company, Inc., through its conduit or intermediary, Kable, has sold and distributed and now sells and distributes its publications in substantial quantities in commerce, as "commerce" is defined in the Clayton Act, as amended, to competing customers located throughout various States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of its business in commerce, respondent Actual Publishing Company, Inc., has 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, or contracted to be furnished, by or through such customers in connection with the handling, sale, or offering for sale of publica-



tions sold to them by said respondent. Such payments or allowances were not made available on proportionally equal terms to all other customers of said respondent competing in the distribution of such publications.

PAR. 6. As an example of the practices alleged herein, respondent Actual Publishing Company, Inc., has made payments or allowances to certain retail customers who operate chain retail outlets in railroad, airport and bus terminals, as well as outlets located in hotels and office buildings. Such payments or allowances were not offered or otherwise made available on proportionally equal terms to all other customers (including drug chains, grocery chains and other newsstands) competing with the favored customers in the sale and distribution of the publications of said respondent publisher. Among the favored customers receiving payments in 1960, which were not offered to other competing customers in connection with the purchase and sale of respondent's publications were Greyhound Post Houses of Forest Park, Illinois, and ABC Vending Corporation of Long Island City, New York. These customers received \$196.90 and \$91.12, respectively. Said respondent made said payments to its favored customers on the basis of individual negotiations.

PAR. 7. The acts and practices of respondents as alleged above are in violation of the provisions of subsection (d) of Section 2 of the Clayton Act, as amended.

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of subsection (d) of Section 2 of the Clayton Act, as amended, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

Decision and Order

61 F.T.C.

1. Respondent, Actual Publishing Company, 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 509 Fifth Avenue, in the city of New York, State of New York.

Respondent Allen Stearn is an officer of said corporation and his address is the same as that of said corporation.

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

## ORDER

*It is ordered,* That respondents Actual Publishing Company, Inc., a corporation, its officers, and Allen Stearn, individually and as an officer of said corporation, directly or through any corporate or other device, in connection with the distribution, sale or offering for sale of publications, including magazines, in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from:

Paying or contracting for the payment of an allowance or anything of value to, or for the benefit of, any customer as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the handling, offering for sale, sale or distribution of publications, including magazines published, sold or offered for sale by respondents, unless such payment or consideration is affirmatively offered and otherwise made available on proportionally equal terms to all of their other customers competing with such favored customer in the distribution of such publications, including magazines.

The word "customer", as used above, shall be deemed to mean anyone who purchases from a respondent, acting either as principal or agent, or from a distributor or wholesaler where such transaction with such purchaser is essentially a sale by such respondent, acting either as principal or agent.

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

## Complaint

## IN THE MATTER OF

GEORGE HORWITZ ET AL. DOING BUSINESS AS  
NORTH BERGEN QUILTING COMPANY

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

*Docket C-214. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring manufacturers of sleeping bags and cot pads in North Bergen, N.J., to cease confusing purchasers as to the finished size of their products by listing the "cut size" in their circulars and other advertising and promotional material and on attached tags or labels, when the actual size was smaller than the cut size.

## 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 George Horwitz and Milton Horwitz, individually and as copartners doing business as North Bergen Quilting Company, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents George Horwitz and Milton Horwitz are individuals and copartners doing business as North Bergen Quilting Company, with their office and principal place of business located at 6035 Hudson Boulevard, North Bergen, N.J.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture, advertising, offering for sale, sale and distribution of sleeping bags and cot pads 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 retailers 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 listing in their circu-

lars, and other advertising and promotional material and by tags, tickets or labels attached to said products listing the "cut size" thereof, which is almost invariably larger than the actual size of the products in question. The term "cut size", when used in the manner as alleged above, is confusing and tends to indicate that such a description is the actual size of the finished products. In truth and in fact, this is almost never the case, as the actual size of the finished products is smaller than the sizes set out on the labels.

Therefore the statements and representations set forth above were, and are, false, misleading and deceptive.

PAR. 5. By the aforesaid acts and practices respondents place in the hands of the uninformed or unscrupulous retailers means and instrumentalities by and through which they may mislead the public as to the size of said products.

PAR. 6. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products 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.

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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5(a)(1) of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by

## Decision and Order

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

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

1. Respondents George Horwitz and Milton Horwitz are individuals and copartners doing business as North Bergen Quilting Company, with their office and principal place of business located at 6035 Hudson Boulevard, North Bergen, N.J.

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 George Horwitz and Milton Horwitz, individually and as copartners doing business as North Bergen Quilting Company or under any other name or names, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution, in commerce as "commerce" is defined in the Federal Trade Commission Act, of sleeping bags, cot pads or other similar merchandise, do forthwith cease and desist from:

1. Advertising, labeling, representing in circulars, catalogs or otherwise representing the "cut size" or dimensions of material used in their construction unless such representations are accompanied by descriptions of the finished or actual size, with the latter description being given at least equal prominence;

2. Misrepresenting the size of such product on labels or in any other manner;

3. Furnishing to others any means or instrumentality by or through which the public may be misled as to the finished or actual size of their finished products.

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

Complaint

61 F.T.C.

IN THE MATTER OF

## ROBIN PHARMACAL CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-215. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring New York City distributors of drug preparations to wholesale and retail druggists and pharmacists to cease advertising falsely in periodicals, letters, etc., that they had "unvarying quality controls" and exercised "constant checkups" which assured "uniform, quality production".

## 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 Robin Pharmacal Corporation, Sidney Rich, individually and Sidney Rich and Charlotte Rich, 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 Robin Pharmacal Corporation 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 30-30 Northern Boulevard, Long Island City, in the city of New York, State of New York.

Respondent Robin Pharmacal Corporation is a closed corporation, the entire stock of which is owned by Sidney Rich and Charlotte Rich, his wife. Respondents Sidney Rich and Charlotte Rich are sole officers of the corporate respondent and comprise all the members of the board of directors. Sidney Rich formulates, directs and controls 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 have been for more than one year last past, engaged in the sale and distribution to retail druggists and pharmacists, and drug wholesalers and distributors, of preparations containing ingredients which come within the classification of drugs and foods 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:

1. Aspirin
2. Phenobarbital Tablets
3. dl-Amphetamine Sulfate Tablets
4. Triple Antibiotic Lozenges
5. Digitalis Tablets
6. Cobalamin Tablets
7. Piperazine Citrate Tablets
8. Geriatric Tablets
9. A.P.C. Tablets
10. Dextro-amphetamine Sulfate Tablets
11. Multivitamin Tablets
12. Sodium Pentobarbital Capsules
13. Coricomp Capsules

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 and is 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, 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 and drug wholesalers and distributors; 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:

#### UNVARYING QUALITY CONTROLS

At Robin control is more than a must. Constant check-ups are made not only of production runs but quality checks are made of raw material deliveries. You are assured of uniform, quality production.

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, by stating that they have "unvarying quality controls" and that they exercise "constant checkups" which assure "uniform, quality production", that they employ an adequate control system.

PAR. 7. In truth and in fact respondents do not have an adequate control system. Therefore the aforesaid advertisements set forth and referred to in paragraph 5, above, were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act.

PAR. 8. The dissemination by the respondents of the false advertisements, as aforesaid, constituted and now constitutes unfair and deceptive acts and practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

1. Respondent Robin Pharmacal Corporation 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 30-30 Northern Boulevard, Long Island City, in the city of New York, State of New York.

Respondents Sidney Rich and Charlotte Rich are officers of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject



matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

*It is ordered*, That respondents Robin Pharmacal Corporation, a corporation, and its officers, and Sidney Rich, individually, and Sidney Rich and Charlotte Rich, 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 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 "unvarying quality control" or "uniform quality production", or any other words or terms of similar import or meaning; or

(b) Represents, directly or indirectly, 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. Disseminating, or causing to be disseminated, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of drugs or food, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the terms or representations prohibited in paragraph 1 hereof.

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

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 IN THE MATTER OF

D. S. LAHMERS CO., INC., ET AL.

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

*Docket C-216. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring Dover, Ohio, sellers of a plastic metal mender designated "Laco Presto" to automotive jobbers for resale to autobody repair shops,

## Complaint

61 F.T.C.

to cease advertising falsely in magazines and on labels, etc., that the product was non-toxic, and to label containers conspicuously as to dangers attendant on its use.

## 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 D. S. Lahmers Co., Inc., a corporation, and Don S. Lahmers, 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 D. S. Lahmers Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 616 Harger Street, in the city of Dover, State of Ohio.

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

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of, among other things, a plastic metal mender designated "Laco Presto" to automotive jobbers for resale to autobody repair shops.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business in the State of Ohio 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 product 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 plastic metal mender designated "Laco Presto", respondents have made certain statements and representations in advertisements in magazines of national circulation and on labels, and by other media, of which the following are typical:

non-toxic cream hardener  
non-toxic LACO PRESTO

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, respondents represented, directly or by implication:

- (1) That the cream hardener is nontoxic
- (2) That the plastic metal mender is nontoxic.

PAR. 6. In truth and in fact:

(1) The cream hardener is not nontoxic and may cause itching or skin irritation as it contains benzoyl peroxide, which is a primary irritant and sensitizer to the skin.

(2) The cream hardener must be combined with the putty to make the plastic metal mender and when this is done the product resulting therefrom may cause itching or skin irritation and is not nontoxic under all conditions of use.

Therefore, the statements and representations set forth in paragraph 4 were, and are, false, misleading and deceptive.

PAR. 7. The label on the respondents' cream hardener contains only cautionary statements as to the flammability of the product, as to its being kept out of reach of children and as to the steps to be taken if it is ingested. However, the benzoyl peroxide contained in the cream hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. The label on the respondents' cream hardener is misleading in that it fails to reveal this material fact with respect to the consequences which may result from the use of the product as directed on the label for the putty. The label on the respondents' putty is misleading in that it fails to reveal the material fact that after it is mixed with the cream hardener the product resulting therefrom may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin.

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

PAR. 9. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices and failure to warn the purchasing public on the labels of the product of the dangers attendant to the use of the product 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 that there is no danger in use of the product and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken beliefs.

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 the respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the corporation named above, and the respondents named in the caption hereof having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent D. S. Lahmers Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 616 Harger Street, in the city of Dover, State of Ohio.

Respondent Don S. Lahmers is an officer of said corporation and his address is the same as that of said corporation.

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

#### ORDER

*It is ordered*, That respondent D. S. Lahmers Co., Inc., a corporation, and its officers, and respondent Don S. Lahmers, individually and

as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a plastic metal mender designated "Laco Presto", or any other product of similar composition or possessing substantially similar properties under whatever name sold, do forthwith cease and desist from:

(1) Representing, directly or by implication, that the cream hardener or the metal mender is nontoxic or will not cause itching or skin irritation.

(2) Using a label on the container for the cream hardener which does not set forth in a clear and conspicuous manner the following statements:

CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water.

(3) Using a label on the container for the putty which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: After mixing with cream hardener, avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

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

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IN THE MATTER OF

POLLOCK STORES CO., INC., ET AL.

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

*Docket C-217. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring a corporate operator of several branch stores and its branch in Fort Smith, Ark., to cease violating the Fur Products Labeling Act by failing to label fur products with the required information and to label them as "natural" when such was the case; failing, in invoicing, to show the true animal name of fur and, in invoicing and advertising, to disclose when it was artificially colored; representing falsely, in newspaper

advertising, that prices of fur products were reduced "28% to 47%"; failing to maintain adequate records as a basis for pricing claims; and failing in other respects 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 Pollock Stores Co., Inc., a corporation, and Lowell Sellars, individually and general manager of Arcade-Rockwood, a branch store of the said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Pollock Stores Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oklahoma with its office and principal place of business located at 900 Garrison Avenue, Fort Smith, Ark. The corporate respondent operates several branch stores and retails various commodities including fur products. One of the branch stores is Arcade-Rockwood located at 900 Garrison Avenue, Fort Smith, Ark.

Individual respondent Lowell Sellars is general manager of the Arcade-Rockwood store and controls, directs and formulates the acts, practices and policies of the fur department of the said Arcade-Rockwood store. His 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 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 the Rules and Regulations promulgated thereunder.

Among such misbranded fur products, but not limited thereto, were fur products that were not labeled with any of the information required under the said Act and said Rules and Regulations.

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 set forth in abbreviated form, in violation of Rule 4 of said Rules and Regulations.

(b) Failure to describe fur products as natural where such fur products were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) 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 the 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.

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

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

Among such falsely and deceptively invoiced fur products, but not limited thereto, were invoices pertaining to such fur products which failed:

1. To show the true animal name of the fur used in the fur product.
2. To disclose that the fur contained in the fur products was bleached, dyed or otherwise artificially colored, when such was the fact.

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 inasmuch as 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 or deceptively advertised in that said fur products were not advertised as required under the provisions of Section 5(a) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

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

Among and included in the advertisements as aforesaid, but not limited thereto, were advertisements of respondents which appeared in issues of Southwest American and Fort Smith Times Record, newspapers published in the city of Fort Smith, State of Arkansas 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, respondents falsely and deceptively advertised fur products in that said advertisements:

(a) Represented through percentage savings claims such as "Give the Finest for Christmas and Save 28% to 47%" that prices of fur products were reduced in direct proportion to the percentage of savings stated when such was not the fact, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of said Rules and Regulations.

(b) Failed to describe fur products as natural where such fur products were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

PAR. 8. Respondents in advertising fur products for sale as aforesaid, made claims and representations respecting prices and values of fur products. Said representations were of the type covered by subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act. Respondents 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. 9. The aforesaid acts and practices of respondents as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition under the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

1. Respondent Pollock Stores Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oklahoma with its office and principal place of business located at 900 Garrison Avenue, Fort Smith, Arkansas. The corporate respondent operates several branch stores and retails various commodities including fur products. One of the branch stores is Arcade-Rockwood, also located at the above address. Respondent Lowell Sellars is general manager of the Arcade-Rockwood store and his address is the same as that of said corporate respondent.

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

#### ORDER

*It is ordered*, That respondent Pollock Stores Co., Inc., a corporation, trading under its own name or as Arcade-Rockwood or under any other trade name, and its officers, and respondent Lowell Sellars, individually and as general manager of Arcade-Rockwood, a branch

store of the 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; or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. Misbranding fur products by:

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

B. Setting forth on labels affixed to fur products:

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

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

C. Failing to describe fur products as natural where such fur products are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

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

F. Failing to set forth the item number or mark assigned to a fur product.

2. Falsely or deceptively invoicing fur products by:

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

- B. Failing to set forth the item number or mark assigned to a fur product.
3. Falsely and 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. Represents directly or by implication through percentage savings claims that prices of fur products are reduced in direct proportion to the percentage of savings stated, when such is not the fact.
- B. Misrepresents in any manner the savings available to purchasers of respondents' fur products.
- C. Fails to describe fur products as natural where such fur products are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.
4. Making claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

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

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IN THE MATTER OF  
THE FABRIC SHOP, INC., ET AL.

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

*Docket C-218. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring sellers of fabrics in Louisville, Ky., to cease violating the Textile Fiber Products Identification and the Wool Products Labeling Acts by falsely advertising textile fiber products in newspapers as "Linen Weave", failing to set forth the true generic names of fibers contained in products and in the proper order, using the names of fur-bearing animals for fabrics which were not fur products, and removing required labels prior

Complaint

61 F.T.C.

to ultimate sale; failing to identify the manufacturer, etc., of wool products; and failing in other respects to comply with requirements of the Acts, as in the order below more specifically indicated.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act, and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that The Fabric Shop, Inc., a corporation, and Julius Lazar and Werner Herz, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939 and it appearing to the Commission that a proceeding by it in respect thereof, would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The Fabric Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Kentucky. Individual respondents Julius Lazar and Werner Herz are officers of corporate respondent and formulate, direct and control the acts, practices and policies of the corporate respondent.

Respondents are engaged in the retail sale of fabrics and have their office and principal place of business at 218 South Fourth Street, Louisville, Ky.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondents have been and are now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regu-

lations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products but not limited thereto, were fabrics which were falsely and deceptively advertised in The Courier-Journal, a newspaper published in the city of Louisville, Commonwealth of Kentucky, and having a wide circulation in said State and various other States of the United States in that certain of said advertisements contained terms which represented either directly or by implication that certain fibers were present when such was not the case.

Among such terms, but not limited thereto, was the term "Linen Weave", when no linen was present in the said product.

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

Among such misbranded textile fiber products but not limited thereto were textile fiber products, namely fabrics, without labels and with labels which failed:

1. To disclose the name or other identification issued and registered by the Commission of the manufacturer of the product or one or more persons subject to Section 3 of the said Act, with respect to such product.

2. To disclose the percentage of such fibers present by weight.

3. To disclose the true generic name of the fibers present.

PAR. 5. Certain of said textile fiber products were misbranded by respondents in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

- A. Information required under Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder was set forth in handwriting on labels in violation of Rule 16(b) of the aforesaid Rules and Regulations.

- B. Fiber trademarks were placed on labels without the generic names of the fibers appearing on such labels, in violation of Rule 17(a) of the aforesaid Rules and Regulations.

- C. Fiber trademarks were used on labels without full and complete fiber content disclosure appearing on such labels, in violation of Rule 17(b) of the aforesaid Rules and Regulations.

PAR. 6. After certain textile fiber products were shipped in commerce, respondents removed or caused or participated in the removal of the stamps, tags, labels, or other means of identification required by the Textile Fiber Products Identification Act to be affixed to such textile fiber products prior to the time such textile fiber products were sold and delivered to the ultimate consumer, in violation of Section 5(a) of said Act and the Rules and Regulations promulgated thereunder.

PAR. 7. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products but not limited thereto, were fabrics which were falsely and deceptively advertised in *The Courier-Journal*, a newspaper published in the city of Louisville, Commonwealth of Kentucky and having a wide circulation in said State and various other States of the United States, in the following respects:

1. The true generic names of the fibers in such articles were not set forth.
2. The generic names of the fibers contained in such products were not set forth in the order of predominance by weight.

PAR. 8. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products but not limited thereto, were textile fiber products which were falsely and deceptively advertised in *The Courier-Journal*, a newspaper published in the city of Louisville, Commonwealth of Kentucky and having a wide circulation in said State and various other States of the United States in the following respects:

A. Fiber trademarks were used in advertising textile fiber products, namely fabrics, without a full disclosure of the fiber content information required by the said Act, and the Rules and Regulations thereunder in at least one instance in said advertisements, in violation of Rule 41 (a) of the aforesaid Rules and Regulations.

B. Fiber trademarks were used in advertising textile fiber products, namely fabrics, containing more than one fiber and such fiber trademarks did not appear in the required fiber content information in immediate proximity and conjunction with the generic names of the fibers to which they related in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

C. Fiber trademarks were used in advertising textile fiber products, namely fabrics, containing only one fiber and such fiber trademarks did not appear, at least once in the said advertisements in immediate proximity and conjunction with the generic names of the fibers to which they related in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

D. The generic name of a fiber was used in advertising textile fiber products, in such a manner as to be false, deceptive, and misleading as to fiber content and to indicate, directly or indirectly, that such textile fiber product was composed wholly or in part of such fiber when such was not the case, in violation of Rule 41(d) of the aforesaid Rules and Regulations.

Among such products, but not limited thereto, were textile fiber products, namely fabrics, advertised as "Linen Weave" thus implying that such products were composed wholly or in part of linen when in fact the products contained no linen.

E. Nonrequired information and representations used in advertising textile fiber products were false, deceptive and misleading as to the fiber content of the textile fiber products and were set forth and used so as to interfere with, minimize and distract from the required information, in violation of Rule 42(b) of the aforesaid Rules and Regulations.

Among such products, but not limited thereto, were textile fiber products, namely fabrics, advertised as "Linen Weave" thus representing, directly or by implication, that the said products contained linen when such was not the case.

PAR. 9. Certain of said textile fiber products were falsely and deceptively advertised by means of labels affixed to such textile fiber products in that the names of fur-bearing animals, including leopard and ocelot, but not limited thereto, were used in the advertising of such products when said products or parts thereof in connection with which the names of the fur-bearing animals were used were not furs or fur products within the meaning of the Fur Products Labeling Act and did not contain the hair or fiber of such fur-bearing animals, in violation of Section 4(g) of the Textile Fiber Products Identification

Act and Rule 9 of the Rules and Regulations promulgated thereunder.

PAR. 10. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

PAR. 11. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since July, 1961, respondents have introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale in commerce, wool products, as "commerce" and "wool products" are defined in said Act.

PAR. 12. Certain of said wool products were misbranded by respondents in that they were not stamped, tagged or labeled with any of the information required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act of 1939 and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded wool products, but not limited thereto, were bolts of fabric with labels which failed:

1. To disclose the true generic names of the fibers present.
2. To disclose the percentage of such fibers.
3. To disclose the name, or other identification issued and registered by the Commission, of the manufacturer of the product or one or more persons subject to Section 3 of the said Act, with respect to such product.

PAR. 13. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respect:

Information required under Section 4(a)(2) of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder was set out in handwriting on labels, in violation of Rule 10(a) of the aforesaid Rules and Regulations.

PAR. 14. The acts and practices of the respondents as set forth in paragraphs 11, 12 and 13, were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.



## Decision and Order

## DECISION AND ORDER

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

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

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

1. Respondent, The Fabric Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Kentucky, with its office and principal place of business located at 218 South Fourth Street, in the city of Louisville, Commonwealth of Kentucky.

Respondents Julius Lazar and Werner Herz are officers of said corporation and their address is the same as that of said corporation.

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

## ORDER

*It is ordered,* That respondents The Fabric Shop, Inc., a corporation, and its officers, and Julius Lazar, and Werner Herz, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been

advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

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

2. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising, or otherwise identifying such products by representing either directly or by implication, through the use of such terms as "Linen Weave" or any other such terms, that any fibers are present in a textile fiber product when such is not the case.

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

4. Setting forth on labels affixed to textile fiber products information required under Section 4(b) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder in handwriting.

5. Using a fiber trademark on labels affixed to such textile fiber products without the generic name of the fiber appearing on such label.

6. Using a generic name or fiber trademark on any label whether required or nonrequired, without making a full and complete fiber content disclosure in accordance with the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder the first time such generic name or fiber trademark appears on the label.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under Section 4(b)(1) and (2) of the Textile

## Decision and Order

Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Using any name, word, depiction, descriptive matter, or other symbol, which connotes or signifies a fur-bearing animal, unless such products or parts thereof in connection with which such name, word, depiction, descriptive matter or other symbol is used, are furs or fur products within the meaning of the Fur Products Labeling Act, provided, however, that where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber", "hair", or "blend", may be used.

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

4. Using a fiber trademark in advertising textile fiber products containing more than one fiber without such fiber trademark appearing in the required fiber content information in immediate proximity and conjunction with the generic name of the fiber in plainly legible type or lettering of equal size and conspicuousness.

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

6. Using a generic name of a fiber in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to fiber content or to indicate, directly or indirectly, that such textile fiber products are composed wholly or in part of such fiber when such is not the case.

7. Using nonrequired information and representations in advertising textile fiber products in such a manner as to be false, deceptive or misleading as to the fiber content of the textile fiber products or so as to interfere with, minimize or detract from required information.

*It is further ordered*, That respondents The Fabric Shop, Inc., a corporation and its officers, and Julius Lazar, and Werner Herz, individually and as officers of said corporation, and respondents' repre-

sentatives, agents and employees, directly or through any corporate or other device do forthwith cease and desist from removing, or causing or participating in the removal of the stamp, tag, label, or other identification required to be affixed to any textile fiber product, after such textile fiber product has been shipped in commerce, and prior to the time such textile fiber product is sold and delivered to the ultimate consumer.

*It is further ordered,* That respondents The Fabric Shop, Inc., a corporation, and its officers, and Julius Lazar, and Werner Herz, 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 offering for sale, sale, transportation, distribution or delivery for shipment in commerce of any wool product, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

B. Setting forth on labels affixed to wool products information required under Section 4(a)(2) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

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

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IN THE MATTER OF

CLELAND SIMPSON COMPANY TRADING AS GLOBE  
STORE ET AL.

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

*Docket C-219. Complaint, Sept. 10, 1962—Decision, Sept. 10, 1962*

Consent order requiring Scranton, Pa., sellers of freezers and foods by means of a "Freezer Food Plan", to cease representing falsely in television and radio commercials, newspaper advertising, and other promotional material, that purchasers of its said "Plan" would receive the same amount of food and

## Complaint

a freezer for the same, or less, money than they had been paying for food, receive the freezer free, and pay wholesale prices; and making other misrepresentations as in the order below indicated.

## 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 Cleland Simpson Company, a corporation trading and doing business as Globe Store, and Herbert Lugg, an individual, 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 Cleland Simpson Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 119-135 Wyoming Avenue, Scranton 3, Pa., where it is trading and doing business as Globe Store.

Herbert Lugg is an individual who manages and directs the sale of a Freezer Food Plan as sold by the corporate respondent. 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 advertising, offering for sale, sale and distribution of freezers and foods by means of a so-called Freezer Food Plan.

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

PAR. 4. 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 freezers, food and freezer-food plans.

PAR. 5. In the course and conduct of their business, respondents have disseminated, and caused the dissemination of, certain advertisements concerning the said food and freezer food plan by the United States mails, and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including but not limited to, advertisements inserted in newspapers and other advertising media, and

by means of circulars, brochures and by radio and television broadcasts, by stations having sufficient power to carry such broadcasts across state lines, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of food, as the term "food" is defined in the Federal Trade Commission Act; and have disseminated and caused the dissemination of advertisements by various means, including those aforesaid, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of food and freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. By means of advertisements disseminated, as aforesaid and by the oral statements of sales representatives, respondents have represented, directly or by implication:

1. That "Home Economists" will assist purchasers of the aforesaid Freezer Food Plan in planning their food orders.
2. That the freezers and the food are fully and unconditionally guaranteed or insured under the contract.
3. That purchasers of the aforesaid Freezer Food Plan will receive the same amount of food and a freezer for the same or less money than they have been paying for food alone.
4. That purchasers can enter the Freezer Food Plan on a trial basis.
5. That purchasers will receive a freezer free of charge.
6. That purchasers of the aforesaid Freezer Food Plan make one monthly payment which covers both food and freezer.
7. That respondents sell their food at wholesale prices.

PAR. 7. In truth and in fact:

1. The individuals sent to help purchasers of the aforesaid Freezer Food Plan in planning food orders are not "Home Economists". They have not had sufficient or proper training to warrant calling them "Home Economists".
2. The freezers and the food are not fully or unconditionally guaranteed or insured under the contract.
3. Purchasers of the aforesaid Freezer Food Plan do not receive a freezer and food for the same or less money than they had been paying for food alone.
4. Purchasers of the aforesaid food plan are not able to enter the plan on a trial basis, but are bound by the original provisions of the contract.
5. Purchasers of the Freezer Food Plan do not receive a freezer free of charge, but in fact purchase and pay for said freezer.
6. Purchasers of the aforesaid Freezer Food Plan are required to make two monthly payments, one for food and one for the freezer.

7. Respondents do not sell their food to purchasers of the Freezer Food Plan at wholesale prices.

Therefore, the advertisements referred to in paragraph 5 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, and the statements and representations referred to in paragraph 6 were, and now are, false, misleading and deceptive.

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

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, including the dissemination by respondents of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices, in commerce within the intent and meaning of the Federal Trade Commission Act, and in violation of Sections 5 and 12 of said Act.

#### DECISION AND ORDER

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

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

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agree-

Decision and Order

61 F.T.C.

ment, makes the following jurisdictional findings, and enters the following order:

1. Respondent, Cleland Simpson Company, 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 119-135 Wyoming Avenue, in the city of Scranton, State of Pennsylvania.

Respondent Herbert Lugg is an individual who manages, directs and controls the Freezer Food Plan sold by said corporation. His address is the same as that of said corporation.

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

## ORDER

## PART I

*It is ordered*, That Cleland Simpson Company, a corporation, trading and doing business as Globe Store, or any other name, and its officers and Herbert Lugg, an individual, 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 freezers, foods or a freezer food plan in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that:

(a) A "Home Economist" or other formally trained individuals will assist purchasers of the aforesaid Freezer Food Plan in planning their food orders;

(b) The freezer or any part thereof or the food are guaranteed or insured in any manner, unless the nature and extent of the guarantee or insurance, and the manner in which the guarantor or the insurer will perform thereunder are clearly and conspicuously disclosed in immediate conjunction with any such representation;

(c) Purchasers of a freezer food plan will receive the same or any amount of food and a freezer for the same or less money than they have been paying for food alone;

(d) Purchasers can enter the Freezer Food Plan on a trial basis;

(e) Purchasers receive a freezer or any other item free of charge;



- (f) Purchasers of the Freezer Food Plan make but one monthly payment covering both the food and the freezer.
2. Representing that purchasers of a freezer food plan can buy their food from respondents at wholesale prices.
  3. Misrepresenting in any manner the savings realized by the purchasers of a freezer food plan, freezer or food.

## PART II

*It is further ordered,* That respondents Cleland Simpson Company, a corporation, trading and doing business as Globe Store, or any other name, and its officers and Herbert Lugg, an individual, and respondents' agents, representatives and employees, directly, or through any corporate or other device in connection with the offering for sale, sale or distribution of any food or any purchasing plan involving food, do forthwith cease and desist from:

1. Disseminating or causing to be disseminated, any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any representation or misrepresentation prohibited in paragraphs 1 through 3 of Part I of this order.

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 of any food, or any purchasing plan involving food in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in paragraphs 1 through 3 of Part I of this order.

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

## IN THE MATTER OF

## FIBRE GLASS-EVERCOAT COMPANY, INC., ET AL.

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

*Docket C-200. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring Cincinnati sellers of a plastic metal mender designated "Ever-Flex" to automotive distributors and jobbers for resale, to cease

## Complaint

61 F.T.C.

representing falsely in advertising that their said product was nontoxic and safe, and to cease selling it without adequate warning on containers of the dangers attendant on its use.

## 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 Fibre Glass-Evercoat, Company, Inc., a corporation, and Joseph Linder and Carl Friedman, individually and as officers of said corporation, and John Fielman and Cecil Wilson, 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 Fibre Glass-Evercoat Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 8500 Blue Ash Road, in the city of Cincinnati, State of Ohio.

Respondents Joseph Linder and Carl Friedman are officers of the corporate respondent and John Fielman and Cecil Wilson are sales managers for said corporation. 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 among other things, a plastic metal mender designated "Ever-Flex" to automotive distributors and jobbers for resale to the consumer.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, when sold, to be shipped from their place of business in the State of Ohio 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 product 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 plastic metal mender designated "Ever-Flex", respondents have made certain statements and represen-

## Complaint

tations in advertisements in magazines of national circulation, in catalogue sheets, and by other media, of which the following are typical:

## NEW non-toxic CREME CATALYST

Ever-

Flex

\* \* Non-toxic

\* \* Creme or Liquid hardener

\* \* 100% Safe

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, respondents represented, directly or by implication:

(1) That the creme hardener and the liquid hardener are nontoxic and safe.

(2) That the plastic metal mender is nontoxic and safe.

PAR. 6. In truth and in fact:

(1) The creme hardener and the liquid hardener are not nontoxic and safe as the creme hardener contains benzoyl peroxide and the liquid hardener contains methyl ethyl ketone peroxide, both of which are primary irritants and sensitizers to the skin. The vapors from the methyl ethyl ketone peroxide may be harmful if inhaled.

(2) The creme hardener or the liquid hardener must be combined with the putty to make the plastic metal mender and when this is done the product resulting therefrom may cause itching or skin irritation, may be injurious when the vapors from the liquid hardener are inhaled and is not safe or nontoxic under all conditions of use.

Therefore the statements and representation set forth in paragraph 4 were, and are false, misleading and deceptive.

PAR. 7. The benzoyl peroxide contained in the creme hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. Because it contains benzoyl peroxide, the creme hardener is toxic if taken internally and, therefore, should be kept out of reach of children. If the creme hardener is ingested, vomiting should be induced and a physician consulted. Because it contains benzoyl peroxide the creme hardener may be flammable if coming in contact with heat or flame. The label on the respondents' creme hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label for the putty and with respect to the conditions of storage of the creme hardener.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of plastic metal

menders of the same general kind and nature as that sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and failure to warn the purchasing public on the labels of the product of the dangers attendant to the use of the product 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 that there is no danger in use of the product and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken beliefs.

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 the respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the corporation named above, and the respondents named in the caption hereof having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent, Fibre Glass-Evercoat Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws

of the State of Ohio, with its office and principal place of business located at 8500 Blue Ash Road, in the city of Cincinnati, State of Ohio.

Respondents, Joseph Linder and Carl Friedman are officers of said corporation and John Fielman and Cecil Wilson are sales managers for said corporation and their address is the same as that of the said corporation.

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

#### ORDER

*It is ordered*, That respondent Fibre Glass-Evercoat Company, Inc., a corporation, and its officers, and respondents Joseph Linder and Carl Friedman, individually and as officers of said corporation, and John Fielman and Cecil Wilson, individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a plastic metal mender designated "Ever-Flex," or any other product of similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Representing, directly or by implication, that the creme hardener or the liquid hardener or the plastic metal mender is nontoxic or safe or will not cause itching or skin irritation.

2. Using a label on the container for the creme hardener which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

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

Complaint

61 F.T.C.

IN THE MATTER OF  
LEIFER-LEVITT, INC., ET AL.

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

*Docket C-221. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring manufacturing furriers in New York City to cease violating the Fur Products Labeling Act by labeling and invoicing as "natural," fur products which were artificially colored, and failing to show on labels and invoices when they were bleached or dyed; and by furnishing false guaranties with respect to certain of their fur products by representing falsely in writing that they had a continuing guaranty on file with the Commission.

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 Leifer-Levitt, Inc., a corporation, and Abe Leifer and Samuel Levitt, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of such 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. Leifer-Levitt, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Individual respondents Abe Leifer and Samuel Levitt are officers of the said corporate respondent and control, direct and formulate the acts, practices and policies of said corporate respondent.

Respondents are manufacturers of fur products and have their office and principal place of business at 350 Seventh Avenue, New York, N.Y.

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 misbranded in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified to show that the fur contained therein was natural when in fact such fur was bleached, dyed or otherwise artificially colored, 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.

Among such misbranded fur products, but not limited thereto, were fur products with labels which failed to show that the fur product contained or was composed of bleached, dyed, or otherwise artificially colored fur, when such was the fact.

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

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

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in that said fur products were invoiced to show that the fur contained therein was natural when in fact such fur was bleached, dyed or otherwise artificially colored, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

PAR. 7. Respondents furnished false guaranties under Section 10(b) of the Fur Products Labeling Act with respect to certain of their fur products by falsely representing in writing that they had a continuing guaranty on file with the Federal Trade Commission when respondents in furnishing such guaranties had reason to believe that the fur products so falsely guaranteed would be sold, transported and distributed in commerce, in violation of Rule 48(c) of the Rules and Regulations promulgated under the Fur Products Labeling Act and Section 10(b) of said Act.

PAR. 8. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

## DECISION AND ORDER

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

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

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

1. Respondent, Leifer-Levitt, 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 350 Seventh Avenue, in the city of New York, State of New York.

Respondents Abe Leifer and Samuel Levitt are officers of said corporation and their address is the same as that of said corporation.

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

## ORDER

*It is ordered*, That respondents Leifer-Levitt, Inc., a corporation, and its officers, and Abe Leifer and Samuel Levitt, individually and as officers of said corporation and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction, into commerce, or the sale, advertising, or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "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. Representing directly or by implication on labels that fur contained in fur products is natural, when such is not the fact.
  - 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 Section 4(2) of the Fur Products Labeling Act.
2. Falsely or deceptively invoicing fur products by:
  - A. Representing directly or by implication on invoices that the fur contained in fur products is natural, when such is not the fact.
  - B. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(b)(1) of the Fur Products Labeling Act.
3. Furnishing a false guaranty that any fur product is not misbranded, falsely invoiced, or falsely advertised, when respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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IN THE MATTER OF

U.S. CHEMICAL & PLASTICS, INC., ET AL.

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

*Docket C-222. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring Canton, Ohio, distributors of plastic metal menders designated "Jet Black", "Jet Bond", "Kwik Magic" and "Black Label" to warehouse distributors and jobbers for resale to autobody repair shops and others, to cease representing falsely that such products were nontoxic and safe under all conditions of use, and to label containers of the products clearly and conspicuously with directions for safe use.

Complaint

61 F.T.C.

## 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 U.S. Chemical & Plastics, Inc., a corporation, and Jerome L. Maggiore, Philip Maggiore and Jerome V. Maggiore, 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 U.S. Chemical & Plastics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 4944 Seventeenth Street, S.W., in the city of Canton, State of Ohio.

Respondents Jerome L. Maggiore, Philip Maggiore and Jerome V. Maggiore 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, among other things, plastic metal menders designated "Jet Black", "Jet Bond", "Kwik Magic" and "Black Label" to warehouse distributors and jobbers for resale to autobody repair shops and other consumers.

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 Ohio 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 plastic metal menders designated "Jet Black", "Jet Bond", "Kwik Magic" and "Black Label", respondents have made certain statements and representations in advertising in magazines of national circulation, in form letters, circulars and catalog sheets and on labels, and by other media, of which the following are typical:

485

## Complaint

Jet Black filler provides \*\*\* safety and is used with a non-toxic cream hardener \*\*\*\*\*. \*\*\*\*\* Jet Bond also features non-toxic cream hardener. \*\*\* It also is non-toxic, and involves no \*\*\* itching.

\*\*\* Jet Black \*\*\*\* Used with non-toxic cream hardener. \*\*\* will not irritate skin.

## JET BOND DELIVERS

\*\*\*\*\* safety—thanks to \*\* non-toxic cream hardener. \*\*\* Jet Bond cream hardener is non-toxic, \*\*\* no itching, no irritated skin.

Kwik-Magic autobody filler with non-toxic cream hardener.

KWIK MAGIC \*\*\* NO ITCH.

Safety (Kwik Magic Label)

Safety (Black Label Label)

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, respondents represented, directly or by implication:

- (1) That the cream hardener is nontoxic.
- (2) That the metal menders designated "Jet Black", "Jet Bond" and "Kwik Magic" will not cause itching and are nontoxic and safe.
- (3) That the metal mender designated "Black Label" is safe.

PAR. 6. In truth and in fact:

(1) The cream hardener is not nontoxic and may cause itching or skin irritation as it contains benzoyl peroxide, which is a primary irritant and sensitizer to the skin.

(2) The cream hardener must be combined with a putty to make the plastic metal menders designated "Jet Black", "Jet Bond" and "Kwik Magic" and when this is done the products resulting therefrom may cause itching or skin irritation and they are not nontoxic and safe under all conditions of use.

(3) The putty and liquid hardener composing the metal mender designated "Black Label" are not safe and may cause itching or skin irritation as the putty contains cobalt naphthenate and the liquid hardener contains methyl ethyl ketone peroxide, both of which are primary irritants and sensitizers to the skin. The vapors from the methyl ethyl ketone peroxide contained in the liquid hardener may be harmful if inhaled.

Therefore, the statements and representations set forth in paragraph 4 were, and are, false, misleading and deceptive.

PAR. 7. The label on the respondents' cream hardener contains only cautionary statements as to the flammability of the product, as to its being kept out of reach of children and as to steps to be taken if it is ingested. However, the benzoyl peroxide contained in the cream hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. The label on the respondents' cream hard-

ener is misleading in that it fails to reveal this material fact with respect to the consequences which may result from the use of the product as directed on the labels for the putties used in the plastic metal menders designated "Jet Black", "Jet Bond" and "Kwik Magic". Each of the labels on the respondents' putties used in the plastic metal menders designated "Jet Black", "Jet Bond" and "Kwik Magic" is misleading in that it fails to reveal the material fact that after the putty is mixed with the cream hardener the product resulting therefrom may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. The label on the respondents' liquid hardener contains only cautionary statements as to the flammability of the product, as to its being kept out of reach of children and as to the steps to be taken if ingested. However, the methyl ethyl ketone peroxide contained in the liquid hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. The vapors from the methyl ethyl ketone peroxide contained in the liquid hardener may be harmful if inhaled and, therefore, the product should be used in a well ventilated area and the vapors avoided. The label on the respondents' liquid hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label for the putty used in the plastic metal mender designated "Black Label". The label on the respondents' putty used in the plastic metal mender designated "Black Label" contains only a cautionary statement as to the product being kept out of reach of children. Because it contains cobalt naphthenate, the putty used in the plastic metal mender designated "Black Label" is toxic if taken internally and, therefore, if the putty is ingested vomiting should be induced and a physician consulted. The cobalt naphthenate contained in said putty and the methyl ethyl ketone peroxide contained in the liquid hardener, which is mixed with the putty to make the plastic metal mender, may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. The label on the respondents' putty used in the plastic metal mender designated "Black Label" is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on its label and with respect to the conditions of its storage. The label on the respondents' putty used in the plastic metal mender designated "Black Label" is further misleading in that it fails to reveal the material fact that after it is mixed with the liquid hardener the vapors from the methyl ethyl ke-

tone peroxide contained in the liquid hardener may be harmful if inhaled and, therefore, the product should be used in a well ventilated area and the vapors avoided.

PAR. 8. In the course 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 plastic metal menders of the same general kind and nature as that sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and failure to warn the purchasing public on the labels of the products of the dangers attendant to the use of the products 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 that there is no danger in use of the products and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken beliefs.

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

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the corporation named above, and the respondents named in the caption hereof having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order :

1. Respondent, U.S. Chemical & Plastics, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 4944 Seventeenth Street, S.W. in the city of Canton, State of Ohio.

Respondents, Jerome L. Maggiore, Philip Maggiore and Jerome V. Maggiore are officers of the said corporation and their address is the same as that of said corporation.

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

ORDER

*It is ordered*, That respondent U.S. Chemical & Plastics, Inc., a corporation, and its officers, and respondents Jerome L. Maggiore, Philip Maggiore and Jerome V. Maggiore, 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 Commission Act, of plastic metal menders designated "Jet Black", "Jet Bond", "Kwik Magic" and "Black Label", or any other product or products of similar composition or possessing substantially similar properties under whatever name or names sold, do forthwith cease and desist from :

1. Representing, directly or by implication :

(a) That the cream hardener is nontoxic or will not cause itching or skin irritation.

(b) That any of the plastic metal menders is nontoxic or safe or will not cause itching or skin irritation.

2. Using a label on the container for the cream hardener which does not set forth in a clear and conspicuous manner the following statements :

"CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

3. Using a label on the container for any of the putties used in the plastic metal menders designated "Jet Black", "Jet Bond"

or "Kwik Magic", or any other product or products of similar composition or possessing substantially similar properties, which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: After mixing with cream hardener, avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

4. Using a label on the container for the liquid hardener which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water. Use in well ventilated area; avoid vapors."

5. Using a label on the container for the putty used in the plastic metal mender designated "Black Label", or any other product of similar composition or possessing substantially similar properties, which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water. Use in well ventilated area; avoid vapors."

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

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IN THE MATTER OF  
LAM FI CORP. ET AL.

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

*Docket C-223. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring Rochester, N.Y., distributors of a plastic metal mender designated "Jiffy Black" to consumers to cease representing falsely that such product was nontoxic, and to label containers clearly and conspicuously with adequate warnings as to possible danger attendant on its use and directions for safe handling.

Complaint

61 F.T.C.

## 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 Lam Fi Corp., a corporation, and Howard L. Guenther, Earl J. Guenther, and Joseph L. Demske, 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 Lam Fi 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 1929 East Main Street, in the city of Rochester, State of New York.

Respondents Howard L. Guenther, Earl J. Guenther and Joseph L. Demske 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, among other things, a plastic metal mender designated "Jiffy Black" to the consumer.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, 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 product 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 plastic metal mender designated "Jiffy Black", respondents have made certain statements and representations in advertisements in a magazine of national circulation, in circulars and on labels, and by other media, of which the following are typical:

NON-TOXIC CREAM HARDENER  
JIFFY BLACK BODY-FILL  
With The Non-Toxic  
CREAM HARDENER  
NO ITCH



PAR. 5. By and through the use of the aforesaid statements, and representations, and others of similar import but not specifically set forth herein, respondents represented, directly or by implication:

- (1) That the cream hardener is nontoxic.
- (2) That the plastic metal mender is nontoxic and will not cause itching.

PAR. 6. In truth and in fact:

- (1) The cream hardener is not nontoxic and may cause itching or skin irritation as it contains benzoyl peroxide, which is a primary irritant and sensitizer to the skin.
- (2) The cream hardener must be combined with the putty to make the plastic metal mender and when this is done the product resulting therefrom may cause itching or skin irritation and is not nontoxic under all conditions of use.

Therefore, the statements and representations set forth in paragraph 4 were, and are, false, misleading and deceptive.

PAR. 7. The benzoyl peroxide contained in the cream hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. Because it contains benzoyl peroxide, the cream hardener is toxic if taken internally and, therefore, should be kept out of reach of children. If the cream hardener is ingested, vomiting should be induced and a physician consulted. Because it contains benzoyl peroxide, the cream hardener may be flammable if coming in contact with heat or flame. The label on the respondents' cream hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label for the putty and with respect to conditions of storage of the cream hardener. The label on the respondents' putty is misleading in that it fails to reveal the material fact that after it is mixed with the cream hardener the product resulting therefrom may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin.

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

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and failure to warn the purchasing public on the labels of the product of the dangers

attendant to the use of the product 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 that there is no danger in use of the product and into the purchase of substantial quantities of the respondents' product by reason of said erroneous and mistaken beliefs.

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 the respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the corporation named above, and the respondents named in the caption hereof having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent Lam Fi 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 1929 East Main Street, in the city of Rochester, State of New York.

Respondents Howard L. Guenther, Earl J. Guenther and Joseph L. Demske are officers of said corporation and their address is the same as that of said corporation.

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

## ORDER

*It is ordered*, That respondent Lam Fi Corp., a corporation, and its officers, and respondents Howard L. Guenther, Earl J. Guenther, and Joseph L. Demske, 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 Commission Act, of a plastic metal mender designated "Jiffy Black", or any other product of similar composition or possessing substantially similar properties, under whatever name sold, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That the cream hardener is nontoxic or will not cause itching or skin irritation.

(b) That the plastic metal mender is nontoxic or will not cause itching or skin irritation.

2. Using a label on the container for the cream hardener which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

3. Using a label on the container for the putty which does not set forth in a clear and conspicuous manner the following statements:

"CAUTION: After mixing with cream hardener, avoid prolonged or repeated contact with skin. In case of contact, flush skin with water."

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

Complaint

61 F.T.C.

IN THE MATTER OF

H. CLAUSEN &amp; CO., INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT*Docket C-224. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring distributors in the Village of Fords, N.J., of a plastic metal mender designated "Claw Plast Black Armor" to automotive jobbers, distributors, and warehouses for resale to autobody and truck repair shops, to cease advertising falsely that their said product was nontoxic under all conditions of use, and to set forth clearly and conspicuously on labels on containers warning of dangers and directions for safe use thereof.

## 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 H. Clausen & Co., Inc., a corporation, and Tyrus W. Peck, 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 H. Clausen & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 1055 King George Road, in the Village of Fords, State of New Jersey.

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

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of, among other things, a plastic metal mender designated "Claw Plast Black Armor" to automotive jobbers, distributors and warehouses for resale to autobody and truck repair shops.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said product, 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 product 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 plastic metal mender designated "Claw Plast Black Armor" respondents have made certain statements and representations in advertisements in magazines of national circulation, in catalogue sheets, price lists and circulars and on labels, and by other media, of which the following are typical:

Claw Plast Black Armor Plastic Putty  
Filler\*\*\*\*\*NON-TOXIC  
non-toxic "CREME-GOLD" hardener  
non-toxic, non-injurious (Label on Putty)

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, respondents represented, directly or by implication:

- (1) That the creme hardener is nontoxic.
- (2) That the plastic metal mender is nontoxic and noninjurious.

PAR. 6. In truth and in fact:

(1) The creme hardener is not nontoxic and may cause itching or skin irritation as it contains benzoyl peroxide, which is a primary irritant and sensitizer to the skin.

(2) The creme hardener or the liquid hardener must be combined with the putty to make the plastic metal mender and when this is done, the product resulting therefrom may cause itching or skin irritation, may be injurious if the vapors from the liquid hardener are inhaled, and is not nontoxic under all conditions of use.

Therefore, the statements and representations set forth in paragraph 4 were, and are, false, misleading and deceptive.

PAR. 7. The label on the respondents' liquid hardener contains only cautionary statements as to the flammability of the product, as to avoiding contact with the skin by the product and as to the product being kept out of reach of children. Because it contains methyl ethyl ketone peroxide, the liquid hardener is toxic if taken internally and, therefore, if the liquid hardener is ingested vomiting should be induced and a physician consulted. The vapors from the methyl ethyl ketone peroxide contained in the liquid hardener may be harmful if inhaled and, therefore, the product should be used in a well ventilated area and the vapors avoided. The label on the respondents' liquid hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label for the putty and with respect to conditions of

## Complaint

61 F.T.C.

storage of the liquid hardener. The benzoyl peroxide contained in the creme hardener may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. Because it contains benzoyl peroxide, the creme hardener is toxic if taken internally and, therefore, should be kept out of reach of children. If the creme hardener is ingested, vomiting should be induced and a physician consulted. Because it contains benzoyl peroxide, the creme hardener may be flammable if coming in contact with heat or flame. The label on the respondents' creme hardener is misleading in that it fails to reveal these material facts with respect to the consequences which may result from the use of said product as directed on the label on the putty and with respect to conditions of storage of the creme hardener. The label on the respondents' putty is misleading in that it fails to reveal the material fact that after it is mixed with the liquid hardener or the creme hardener the product resulting therefrom may through prolonged or repeated contact with the skin irritate or sensitize the skin and, therefore, in case of contact should be flushed from the skin. The label on the respondents' putty is further misleading in that it fails to reveal the material fact that after it is mixed with the liquid hardener the vapors from the methyl ethyl ketone peroxide contained in the liquid hardener may be harmful if inhaled and, therefore, the product should be used in a well ventilated area and the vapors avoided.

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

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and failure to warn the purchasing public on the labels of the product of the dangers attendant to the use of the product 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 that there is no danger in use of the product and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken beliefs.

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 the respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

## Decision and Order

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the corporation named above, and the respondents named in the caption hereof having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondents with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent H. Clausen & Co., 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 1055 King George Road in the Village of Fords, State of New Jersey.

Respondent Tyrus W. Peck is an officer of said corporation and his address is the same as that of said corporation.

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

## ORDER

*It is ordered*, That respondent H. Clausen & Co., Inc., a corporation, and its officers, and respondent Tyrus W. Peck, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of a plastic metal mender designated "Claw Plast Black Armor", or any other product of similar composition or possessing substantially simi-

lar properties, under whatever name sold, do forthwith cease and desist from:

1. Representing, directly or by implication, that the creme hardner or the metal mender is nontoxic, noninjurious or will not cause itching or skin irritation.

2. Using a label on the container for the liquid hardener which does not set forth in a clear and conspicuous manner the following statements:

“CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water. Use in well ventilated area; avoid vapors.”

3. Using a label on the container for the creme hardener which does not set forth in a clear and conspicuous manner the following statements:

“CAUTION: Keep away from heat or flame. Keep out of reach of children. If taken internally, induce vomiting; consult physician. Avoid prolonged or repeated contact with skin. In case of contact, flush skin with water.”

4. Using a label on the container for the putty which does not set forth in a clear and conspicuous manner the following statements:

“CAUTION: After mixing with liquid hardener or creme hardener, avoid prolonged or repeated contact with skin. In case of contact, flush skin with water. After mixing with liquid hardener, use in well ventilated area; avoid vapors.”

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

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IN THE MATTER OF

MARK GREEN TRADING AS  
MARK GREEN

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

*Docket C-225. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring a New York City furrier to cease violating the Fur Products Labeling Act by failing to show on labels when fur products con-



## Complaint

tained used or artificially colored fur, failing to label or invoice secondhand products as required, and failing in other respects 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 Mark Green, an individual trading as Mark Green, 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. Mark Green is an individual trading as Mark Green whose former office and principal place of business was located at 28 South Main Street, Danielson, Conn. His present address is 286 Fort Washington Avenue, New York, N.Y. Respondent is engaged in the retail sale of fur products.

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 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 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.

Among such misbranded fur products, but not limited thereto, were fur products without labels and with labels which failed:

1. To show that the fur products contained or were composed of used fur, when such was the fact.

2. To disclose that the fur contained in the fur products was bleached, dyed, or otherwise artificially colored, when such was the fact.

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:

1. The disclosure "secondhand", where required, was not set forth on labels, in violation of Rule 23 of said Rules and Regulations.

2. Required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 5. Certain of said fur products were falsely and deceptively invoiced by the respondent in that invoices were not furnished to purchasers of fur products as required by Section 5(b)(1) of the Fur Products Labeling Act and 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:

1. The disclosure "secondhand", where required, was not set forth on invoices, in violation of Rule 23 of said Rules and Regulations.

2. 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 and unfair methods of competition in commerce under the Federal Trade Commission Act.

#### DECISION AND ORDER

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

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

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

## Decision and Order

1. Respondent is an individual trading as Mark Green whose former office and principal place of business was located at 28 South Main Street, Danielson, Conn. His present address is 286 Fort Washington Avenue, New York, N.Y.

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

## ORDER

*It is ordered*, That respondent Mark Green, an individual trading as Mark Green 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 product; or in connection with the sale, advertising, offering for sale, transportation, or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "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 Section 4(2) of the Fur Products Labeling Act.

B. Failing to disclose that fur products are "second-hand", when such is the fact.

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

2. Falsely or deceptively invoicing fur products by:

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

B. Failing to disclose that fur products are "second-hand" when such is the fact.

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

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

Complaint

61 F.T.C.

IN THE MATTER OF  
DIAPERWITE, INC., ET AL.

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

*Docket C-226. Complaint, Sept. 11, 1962—Decision, Sept. 11, 1962*

Consent order requiring New York City manufacturers of a compound for use in washing baby diapers and sold to drug and grocery stores and chains, to cease violating Secs. 2(d) and 2(e), respectively, of the Clayton Act by (1) making payments to certain retail grocery chains and certain wholesale grocers pursuant to a contract which provided for a quarterly allowance of 5% of purchases in return for two one-column-inch newspaper advertisements plus in-store displays during the quarter, while not making the contract available to many of the favored purchasers' competitors and not making any alternative plan available to customers who could not utilize newspaper advertising and, further, failing to require full performance from the favored customers, and making lump sum payments to certain customers on the basis of individual negotiations and without reference to purchases; and (2) by furnishing their "Diaperwite" product in one-ounce sample size packages without charge and with freight prepaid to some of their customers but not to all such customers' competitors.

## COMPLAINT

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

## COUNT I

PARAGRAPH 1. Respondent Diaperwite, Inc., is a corporation organized and doing business under the laws of the State of New York, with its principal office and place of business located at 99 Hudson Street, New York, N.Y. Said respondent, among other things, has been engaged and is presently engaged in the business of manufacturing and selling a compound used in washing baby diapers. This compound is sold by said respondent under the registered trademark "Diaperwite." Respondent's product "Diaperwite" is purchased from respondent for resale by drugstores and drug chains and by grocery stores and grocery chains located in every State of the United States. Said respondent's sales in the fiscal year ending May 31, 1961, totalled

approximately \$333,000 and were distributed among approximately 700 customers.

PAR. 2. Respondents Abraham Hochberg, Burton Hochberg and Helena Barkman, individuals, are the president, vice president and secretary-treasurer, respectively, of respondent Diaperwite, Inc. Said individual respondents control, dominate and direct the acts and practices of said corporation. The acts and practices of said corporation as hereinafter alleged were adopted and pursued with the knowledge and approval and at the behest of said individual respondents. The corporate respondent and the individual respondents will be referred to collectively as "the respondents", hereinafter, unless otherwise indicated.

PAR. 3. Respondents have sold and distributed and now sell and distribute their product "Diaperwite" in substantial quantities in commerce as "commerce" is defined in the amended Clayton Act, to competing customers located throughout various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business in commerce, respondents have paid or contracted for the payment of something of value to or for the benefit of some of their customers as compensation or in consideration for services or facilities furnished, or contracted to be furnished, by or through such customers in connection with the handling, sale, or offering for sale of products sold to them by said respondents. Such payments or allowances were not made available on proportionally equal terms to all other customers of respondents competing in the distribution of such products.

PAR. 5. As an example of the practices alleged herein, respondents have made payments or allowances to certain customers operating retail grocery chains and to certain wholesale grocers pursuant to a contract drafted by said respondents which provides for a quarterly allowance of 5% of purchases in return for two one-column-inch newspaper advertisements plus in-store displays during the quarter. This contract has not been made available to many customers of said respondents who compete in the distribution of respondents' products with the favored customers. Other customers of said respondents who compete in the distribution of respondents' products with the favored customers are unable to utilize newspaper advertising, and said respondents have failed to make available to these customers any alternative plan which would provide for proportionally equal treatment. Additionally, said respondents, on occasions, have failed to require from their favored customers, as a prerequisite to payment, the full performance as set forth in the contract. Among the favored cus-

## Complaint

61 F.T.C.

tomers receiving payments under this contract during the fiscal year ending May 31, 1960 are:

<i>Customer</i>	<i>Approximate Amount Received</i>
<i>Retail:</i>	
Food Fair.....	\$1,962.02
Grand Union.....	740.59
Twin County Grocers, Inc.....	645.48
Wakefern Food Corp.....	247.33
<i>Wholesale:</i>	
Hudson Wholesale Grocery Co.....	208.50
General Trading Co.....	64.80

As a further example of the practices alleged herein, said respondents, on the basis of individual negotiations, have made payments to certain favored customers pursuant to agreements contemplating lump sum payments without reference to the purchases of such favored customers. In some instances, such agreements expressly stated that payments thereunder would be in addition to the 5% contractual payments described above. Such lump sum payments were not made available on proportionally equal terms by said respondents to all of their other customers competing in the distribution of respondents' products with the favored customers. Among the special arrangements thus negotiated on an individual basis by said respondents were:

1. Food Fair Stores, Inc. In May, 1958, said respondents paid \$750.00 to this favored customer for participation in a special "Anniversary Promotion". Respondents' products were featured by Food Fair stores located throughout New Jersey and in Baltimore, Maryland, and Philadelphia, Pennsylvania.

On May 14, 1959, respondents paid \$300.00 to this customer for in-store promotions for one week in 90 Food Fair stores located in New Jersey and for inclusion in 35 Food Fair advertisements in newspapers of general circulation in New Jersey.

On August 6, 1959, respondents paid \$300.00 to this customer for in-store promotions for one week in 117 Food Fair stores located in Philadelphia, Pennsylvania and for inclusion in 21 Food Fair advertisements in Philadelphia newspapers of general circulation.

On August 20, 1959, respondents paid \$150.00 to this customer for in-store promotions for one week in 61 Food Fair stores located in Baltimore, Maryland, and throughout Virginia and southern Pennsylvania and for inclusion in 10 Food Fair advertisements in newspapers of general circulation in these areas.

During the third quarter of 1959, respondents doubled Food Fair's regular cooperative advertising allowance of 5% of purchases and paid \$581.25 to this customer, such payment being in reimbursement

of cooperative advertising. During said period, this customer's purchases from respondents totalled \$5,795.50. In return for said payments, respondents' products were included in 76 Food Fair newspaper advertisements and were granted in-store displays throughout the Food Fair chain.

2. American Stores Co. On April 18, 1958, said respondents agreed to pay this customer the flat sum of \$2,500.00 for weekly cooperative radio advertising over WCAU, one of the leading radio stations located in Philadelphia, Pennsylvania. When American's program was subsequently discontinued, respondents agreed to apply the unused balance of the lump sum, \$850.00, to newspaper advertising. The total amount paid to this customer was more than double the amount said customer would have earned under respondents' regular 5% contract. American Stores Co. operates 74 Acme Markets in New Jersey and 67 such stores in Philadelphia, Pennsylvania.

3. Twin County Grocers, Inc. This customer of respondent is a retail cooperative corporation whose member-owners operate 140 grocery stores including 70 Food Town stores located in New Jersey. From 1958 through the third quarter of 1961 respondents, in addition to the regular 5% cooperative advertising allowance, have paid \$25 per month to this customer for a special feature in an order book mailed bi-weekly to member stores. The member stores of this cooperative corporation are engaged in competition in the distribution of respondents' products with many customers of respondents to whom such payments were not made available on proportionally equal terms including other cooperative corporations and voluntary chains which utilize order books mailed periodically to member stores.

4. Hudson Wholesale Grocery Co. This customer is a wholesale grocer selling to 6,500 retail grocers located throughout New Jersey and metropolitan New York. In 1958 respondents paid \$150.00 to this customer for a feature advertisement in an order book printed by Hudson and mailed to all of its customers. This customer is engaged in competition with many other wholesale grocers who are also customers of respondents and who also utilize order books and to whom such payments were not made available on proportionally equal terms.

PAR. 6. The acts and practices of respondents, as alleged above, are in violation of the provisions of subsection (d) of Section 2 of the amended Clayton Act.

#### COUNT II

PAR. 7. The provisions of paragraphs 1 through 3 of Count I, above are fully incorporated by reference herein as if fully set forth in text.

PAR. 8. In the course and conduct of their business in commerce, respondents furnished or contracted to furnish services or facilities to or for the benefit of some of their customers in connection with the handling, sale, or offering for sale of products sold to them by said respondents. Such services or facilities were not made available on proportionally equal terms to all other customers of said respondents competing in the distribution of such products.

PAR. 9. As an example of the practices alleged herein, respondents have packaged their product "Diaperwite" in a one-ounce sample size. These samples have been furnished without charge and with freight prepaid by said respondents to some of their customers but have not been made available on proportionally equal terms to all of their customers who compete in the distribution of such product with the favored customers. Among the favored customers who have received this service or facility from said respondents are Food Fair and The Grand Union Company.

PAR. 10. The acts and practices of respondents, as alleged above, are in violation of the provisions of subsection (e) of Section 2 of the amended Clayton Act.

#### DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of subsections (d) and (e) of Section 2 of the Clayton Act, as amended, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

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

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

1. Respondent, Diaperwite, 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 99 Hudson Street, in the city of New York, State of New York.

Respondents Abraham Hochberg, Burton Hochberg and Helena Barkman are officers of said corporation and their address is the same as that of said corporation.

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

ORDER

*It is ordered,* That respondent Diaperwite, Inc., a corporation, its officers, and respondents Abraham Hochberg, Burton Hochberg and Helena Barkman, individually and as officers of said corporation, and respondents' employees, agents and representatives, directly or through any corporate or other device, in the course of business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

1. Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondents as compensation or in consideration for advertising or display or any other services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of cleaning compounds manufactured, sold or offered for sale by respondents, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution of such products.

2. Furnishing, contracting to furnish, or contributing to the furnishing of any service or facility to, or for the benefit of, any customer of respondents in connection with the processing, handling, sale, or offering for sale of cleaning compounds manufactured, sold or offered for sale by respondents, unless such service or facility is made available on proportionally equal terms to all other customers competing with such favored customer in the distribution of such products.

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