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

NATELSON'S, INC., ET AL.

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

Docket C-1141. Complaint, Nov. 25, 1966—Decision, Nov. 25, 1966

Consent order requiring three retailers of women's wear in Omaha and Lincoln, Nebr., to cease falsely advertising, deceptively invoicing, and misbranding their wool, fur, and textile fiber products, and unlawfully removing or mutilating required labels.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Fur Products Labeling Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission having reason to believe that Natelson's Inc., Natelson's Crossroads, Inc., and Natelson's Gateway, Inc., corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Fur Products Labeling Act, the Wool Products Labeling Act of 1939 and the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Natelson's Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. Its office and principal place of business is located at 1517 Douglas, Omaha, Nebraska. Said corporate respondent operates women's wear retail outlets.

Respondent Natelson's Crossroads, Inc., is a corporation organized, existing and doing business under and by virtue of the laws

of the State of Nebraska. Its office and principal place of business is located at 72nd Street and Dodge, Omaha, Nebraska.

Respondent Natelson's Gateway, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. Its office and principal place of business is located at 60th and "O" Streets, Lincoln, Nebraska.

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 furs which have 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 fur products with labels which failed:

1. To show the true animal name of the fur used in any such 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.

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

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) The term "natural" was not used on labels to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artifically colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) The disclosure that 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, where required,

was not set forth on labels, in violation of Rule 20 of said Rules and Regulations.

(c) 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 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 fur products covered by invoices 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 product 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 in the following respects:

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

(b) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

PAR. 7. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements, but not limited thereto, were advertisements of respondents which appeared in issues of the Sunday World Herald, a newspaper published in the city of Omaha, State of Nebraska.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed to show that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, when such was the fact.

PAR. 8. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that the said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in that the term "natural" was not used to describe fur products which were not pointed, bleached, dyed, tip-dyed or otherwise artificially colored in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 9. In advertising fur products for sale, as aforesaid, respondents made pricing claims and representations of the types covered by subsections (a), (b), (c), and (d) or Rule 44 of the Regulations under the Fur Products Labeling Act. Repondents in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such pricing claims and representations were based, in violation of Rule 44(e) of the said Rules and Regulations.

PAR. 10. Respondents, in violation of Section 3(d) of the Fur Products Labeling Act, have removed and mutilated and have caused and participated in the removal and mutilation of, prior to the time fur products subject to the provisions of said Act were sold and delivered to the ultimate consumer, labels required by the Fur Products Labeling Act to be affixed to such products, without substituting therefor labels conforming to Section 4 of said Act and in the manner prescribed by Section 3(e) of said Act.

PAR. 11. 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.

PAR. 12. 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. 13. Certain of said textile fiber products were misbranded within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of advertisements which appeared in newspapers of interstate circulation, in that certain of said advertisements contained statements which represented, either directly or by implication, that said products were composed wholly or substantially of a fiber, when, in truth and in fact, said product was not composed wholly or substantially of said fiber.

PAR. 14. Certain of said textile fiber products were misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified with the information required under Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

PAR. 15. 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 articles of wearing apparel which were falsely and deceptively advertised by respondents, in newspapers of interstate circulation distributed throughout the United States, in that the true generic names of the fibers in such products were not set forth.

PAR. 16. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein,

respondents falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) Fiber trademarks were used in advertising textile fiber products, namely, ladies' undergarments, 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 advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

(b) Fiber trademarks were used in advertising textile fiber products, namely ladies' undergarments, 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 in plainly legible type or lettering of equal size and conspicuousness, in violation of Rule 41(b) of the aforesaid Rules and Regulations.

PAR. 17. Respondents, in violation of Section 5(a) of the Textile Fiber Products Identification Act have removed and mutilated and have caused and participated in the removal and mutilation of, prior to the time textile fiber products subject to the provisions of the Textile Fiber Products Identification Act were sold and delivered to the ultimate consumer, labels required by the Textile Fiber Products Identification Act to be affixed to such products, without substituting therefor labels conforming to Section 4 of said Act and in the manner prescribed by Section 5(b) of said Act.

PAR. 18. The acts and practices of respondents as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 19. Respondents, subsequent to the effective date of the Wool Products Labeling Act of 1939, and with the intent of violating the provisions of the said Act, after shipment to them in commerce of such products, have, in violation of Section 5 of said Act, caused or participated in the removal and mutilation of the stamp, tag, label or other identification required by said Act to be affixed to wool products subject to the provisions of such Act,

prior to the time such wool products were sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4(a) (2) of said Act.

PAR. 20. The acts and practices of the respondents as set forth above were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Fur Products Labeling Act, the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939; 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 said Acts, 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 Natelson's Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business located at 1517 Douglas, Omaha, Nebraska.

Respondent Natelson's Crossroads, Inc., is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Nebraska, with its principal office and place of business located at 72nd Street and Dodge, Omaha, Nebraska.

Respondent Natelson's Gateway, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its principal office and place of business located at 60th and "O" Streets, Lincoln, Nebraska.

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 Natelson's, Inc., Natelson's Crossroads, Inc., and Natelson's Gateway, Inc., corporations, and respondents' officers, 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 the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

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

2. Failing to set forth the term "natural" as part of the information required to be disclosed on labels under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to disclose on labels 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.

4. Failing to set forth on labels the item number or mark assigned to each such fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice"

is defined in the Fur Products Labeling Act, 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.

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

3. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

2. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

D. 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 respondents Natelson's, Inc., Natelson's Crossroads, Inc., and Natelson's Gateway, Inc., corporations, and respondents' officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

A. Mutilating or causing or participating in the mutila-

tion of, prior to the time any fur product subject to the provisions of the Fur Products Labeling Act is sold and delivered to the ultimate consumer, any label required by the said Act to be affixed to such fur product.

B. Removing or causing or participating in the removal of, prior to the time any fur product subject to the provisions of the Fur Products Labeling Act is sold and delivered to the ultimate consumer, any label required by the said Act to be affixed to such fur product, without substituting therefor a label conforming to Section 4 of said Act and Rules and Regulations promulgated thereunder, and in the manner prescribed by Section 3(e) of said Act.

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

A. Misbranding textile fiber products by:

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

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

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by

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

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

3. 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.

It is further ordered, That respondents Natelson's, Inc., Natelson's Crossroads, Inc, and Natelson's Gateway, Inc., corporations, and respondents' officers, agents, representatives and employees, directly or through any corporate or other device, do forthwith cease and desist from:

A. Mutilating, or causing or participating in the mutilation of, the stamp, tag, label or other identification required by the Textile Fiber Products Identification Act 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.

B. Removing or causing or participating in the removal of, the stamp, tag, label or other identification required by the Textile Fiber Products Identification Act 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, without substituting therefor labels conforming to Section 4 of said Act and the Rules and Regulations promulgated thereunder and in the manner prescribed by Section 5(b) of said Act.

It is further ordered, That respondents Natelson's, Inc.,

Natelson's Crossroads, Inc., and Natelson's Gateway, Inc., corporations, and respondents' officers, agents, representatives and employees, directly or through any corporate or other device, do forthwith cease and desist from:

A. Mutilating, or causing or participating in the mutilation of, the stamp, tag, label or other identification required by the Wool Products Labeling Act of 1939 to be affixed to wool products subject to the provisions of such Act, prior to the time any wool product subject to the provisions of said Act is sold and delivered to the ultimate consumer.

B. Removing, or causing or participating in the removal of, the stamp, tag, label or other identification required by the Wool Products Labeling Act of 1939 to be affixed to wool products subject to the provisions of such Act, prior to the time any wool product subject to the provisions of said Act is sold and delivered to the ultimate consumer, without substituting therefor labels conforming to Section 4(a) (2) of said Act.

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

IN THE MATTER OF

SCOTT MANUFACTURING AND INSTALLATION COMPANY, INC., TRADING AS YOUNGSTOWN AWNING AND WINDOW COMPANY ET AL.

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

Docket C-1142. Complaint, November 28, 1966—Decision, November 28, 1966

Consent order requiring a Creve Coeur, Mo., home improvement firm to cease using false pricing, savings, and quality claims and other misrepresentations to sell its residential siding and other products.

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 Scott

Manufacturing and Installation Company, Inc., a corporation, trading as Youngstown Awning and Window Company, and Joe H. Scott, individually and as an officer of said corporation, 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. Scott Manufacturing and Installation Company, Inc., 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 Creve Coeur Mill Road, in the city of Creve Coeur, State of Missouri. Said corporate respondent also trades as Youngstown Awning and Window Company.

Joe H. Scott is an individual and an officer of said corporation. He formulates, directs and controls the acts and practices of said corporation including those hereinafter set forth. His business address is the same as that of the said corporation.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of various items of home improvements, including residential siding, storm windows and awnings to the purchasing 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 other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products, respondents have, by promotional material and direct oral solicitations made by respondents or their salesmen or representatives, represented, directly or by implication, that:

1. Homes of prospective purchasers had been specially selected as model homes for the installation of respondents' siding; after installation such homes would be used as points of reference, for demonstration and advertising purposes by respondents; and, as a result of allowing their homes to be used as models, purchasers would be granted reduced prices or would receive allowances, discounts or commissions.

2. Respondents' products are being offered for sale at special or reduced prices, and that savings are thereby afforded purchasers from respondents' regular selling prices.

3. Respondents' products will never require painting or repairing.

4. The color of the respondents' products will remain unchanged and will last a lifetime.

5. Respondents' products are everlasting and are made of indestructible materials.

6. Storms, hail and other elements will not damage the respondents' products.

7. Respondents' products will reduce monthly heat bills by at least 25 percent.

8. Respondents' products and installations are "unconditionally guaranteed" in every respect without condition or limitation for an unlimited period of time.

PAR. 5. In truth and in fact:

1. Homes of prospective purchasers are not specially selected as model homes for installations of respondents' siding; after installations such homes are not used for demonstration and advertising purposes by respondents; and purchasers, as a result of allowing their homes to be used as models, are not granted reduced prices nor did they receive allowances, discounts or commissions.

2. Respondents' products are not being offered for sale at special or reduced prices and savings are not granted respondents' customers because of a reduction from respondents' regular selling price. In fact, respondents do not have a regular selling price but the price at which respondents' products are sold vary from customer to customer depending on the resistance of the prospective purchaser.

3. Products sold by respondents will require painting and repairing.

4. The color of respondents' products will change and will not last a lifetime.

5. The respondents' products are not everlasting and can be destroyed.

6. Storms, hail and other elements will damage respondents' products.

7. The respondents' products will not afford a savings of 25 percent or more on the monthly fuel bill of each purchaser.

8. Respondents' products and installations are not unconditionally guaranteed in every respect without conditions or limitations,

for an unlimited period of time. Such guarantee as may be provided is subject to numerous terms, conditions and limitations, and fails to set forth the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor would perform thereunder.

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

PAR. 6. In the conduct of their business and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of various items of home improvements, including residential siding, storm windows and awnings, of the same general kind and nature as that sold by respondents.

PAR. 7. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices 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 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 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 Scott Manufacturing and Installation Company, Inc., 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 Creve Coeur Mill Road, in the city of Creve Coeur, State of Missouri and trading as Youngstown Awning and Window Company.

Respondent Joe H. Scott is an individual and an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Scott Manufacturing and Installation Company, Inc., a corporation, trading and doing business as Youngstown Awning and Window Company or under any other name or names, and its officers, and Joe H. Scott, 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 advertising, offering for sale, sale or distribution of residential siding or similar products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. Representing, directly or by implication:

A. That the home of any of respondents' customers, or prospective customers, has been selected to be used or will be used as a model home, or otherwise, for advertising purposes.

B. That any allowance, discount or commission is granted by respondents to purchasers in return for permitting the premises on which respondents' products are

installed to be used for model homes or demonstration purposes.

C. That any price for respondents' products is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondents in the recent regular course of their business, or misrepresenting in any manner the savings available to purchasers.

D. That products sold by respondents will never require painting or repair.

E. That the colors in which respondents' products are furnished will remain unchanged or will last a lifetime.

F. That respondents' products are everlasting or are made of indestructible materials.

G. That storms, hail or other elements will not damage respondents' products.

H. That any percentage or any amount of saving on heating bills will result from the use of respondents' products: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that each purchaser will in fact realize savings in the amounts or percentage represented.

I. That any of respondents' products or installations are guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

II. Misrepresenting in any manner the efficacy, durability or efficiency of respondents' 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

IN THE MATTER OF

LINCOLN RUG & CARPET MART, INC., ET AL.

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

Docket 8688. Complaint, May 31, 1966—Decision, Dec. 1, 1966

Order requiring a Morton Grove, Ill., retailer of domestic grade carpeting to cease misrepresenting its business status and the grade, quality, availability and source of its products.

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 Lincoln Rug & Carpet Mart, Inc., a corporation, and Dorothy Gordon and Joseph Gordon, 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 Lincoln Rug & Carpet Mart, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 6231 West Dempster, Morton Grove, Illinois.

Respondents Dorothy Gordon and Joseph Gordon 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 offering for sale, sale and distribution of carpeting and rugs 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 and transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States, and maintain,

and at all times hereinafter mentioned 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, as aforesaid, respondents employ salesmen and representatives who call upon prospective purchasers and solicit the purchase of their products. In the course of such solicitation, said salesmen or representatives have made many statements and representations, directly or by implication, to prospective purchasers of their products.

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

(1) That respondents are commercial carpeting specialists or wholesalers.

(2) That the carpeting which is offered to the prospective customer is heavy duty, high quality carpeting used in commercial installations.

(3) That respondents' principal business is selling to commercial establishments, such as hotels, motels, theatres, restaurants, office buildings and hospitals.

(4) That the carpeting being offered for sale are remnants left over from installations in commercial establishments.

(5) That the carpeting offered for sale is not available in retail stores.

(6) That the carpeting being offered for sale is offered to individual consumers only for a limited time each year.

(7) That as commercial wholesale carpeters, respondents are able to offer and are in fact offering remnants of heavy duty, high quality carpeting used in commercial installations to consumers at prices substantially less than the price of such commercial carpeting which is represented as selling at prices from $20 per square yard up with consequent savings to the consumer.

PAR. 5. In truth and in fact:

(1) Respondents are not commercial carpeting specialists or wholesalers, but are retailers of domestic grade carpeting.

(2) The carpeting which respondents sell is not heavy duty, high quality commercial carpeting, but is carpeting which is usually and customarily sold for domestic use in the home.

(3) Respondents' principal business is not selling carpeting to commercial establishments, such as hotels, motels, theatres, restaurants, office buildings and hospitals, but selling to all consumers.

(4) The carpetings offered to the prospective customer are not remnants from commercial installations, but are from respondents' regular stock of carpetings.

(5) The carpeting sold by respondents is available in retail stores.

(6) Respondents sell to individual consumers at any and all times during each year.

(7) Respondents do not offer to the consumers remnants of heavy duty, high quality commercial carpeting at prices substantially less than the price of such commercial carpeting with consequent savings to the consumer.

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

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

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and into the purchase of 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 of the Federal Trade Commission Act.

Mr. J. Leon Williams supporting complaint.

Blank, Rudenko, Klaus & Rome, by *Mr. Daniel J. McCauley, Jr.,* Philadelphia, Pa.

Gordon & Reicin, by *Mr. George N. Gordon,* Chicago, Ill., for respondents.

INITIAL DECISION BY WILLIAM K. JACKSON, HEARING EXAMINER

OCTOBER 6, 1966

This proceeding was commenced by the issuance of a complaint on May 31, 1966, charging the corporate respondent and the two

named individual respondents, individually and as officers of said corporation, with unfair and deceptive acts and practices and unfair methods of competition in commerce, in violation of Section 5 of the Federal Trade Commission Act by misrepresenting the corporate respondent's trade or business status, and the grade, quality, availability, and sources of its products. Specifically, the complaint alleges that the corporate respondent is not a commercial carpeting specialist or wholesaler, as represented by its salesmen to prospective customers, but is a retailer of domestic grade carpeting. The complaint also alleges that prospective customers are misinformed that the carpeting offered to them is heavy duty, high quality commercial carpeting, is not available in retail stores, and is offered to individual consumers only for a limited time each year.

After being served with the said complaint, both the corporate and individual respondents appeared by counsel and on July 6, 1966, filed their joint answer admitting a number of the specific allegations in the complaint, denying others, and neither admitting nor denying the remainder. The complaint and answer thereto placed in issue substantial questions of law and fact.

A prehearing conference was held in this matter on June 7, 1966, at Washington, D.C. to discuss the dates and places of hearings, the exchange of lists of witnesses and documents, and the simplification and clarification of the issues.

Pursuant to the order of the Commission dated June 14, 1966, granting leave to hold hearing in more than one place, the hearing examiner, by order dated July 13, 1966, scheduled hearings in this matter for September 19, 1966, at Racine, Wisconsin, and September 22, 1966, at Chicago, Illinois.

On July 21, 1966, the hearing examiner issued a prehearing order reciting the results of the prehearing conference. By letter dated July 28, 1966, complaint counsel, in compliance with the hearing examiner's prehearing order, made full disclosure to respondents of the names and addresses of his witnesses and of his documentary evidence. Thereafter on August 3, 1966, the hearing examiner signed 31 subpoenas directing witnesses to appear in support of the complaint.

Immediately prior to the commencement of the hearings at Racine, Wisconsin, respondents' counsel orally advised the hearing examiner that they did not wish to contest the allegations contained in the complaint and they asked that the proceedings about to commence in Racine be cancelled and that a hearing be held at

Chicago, Illinois, on September 21, 1966, to enable them to formally place upon the record their decision. Accordingly, with the consent of complaint counsel, the hearing examiner cancelled the hearings in Racine, Wisconsin, and orally rescheduled a hearing on Septebmer 21, 1966 in Chicago, Illinois.

At the hearing held in Chicago on September 21, 1966, respondents, by counsel, made a motion requesting leave to withdraw their answer previously filed in this matter on July 6, 1966, and to file a Substituted Answer admitting all the material allegations contained in the complaint. In addition, respondents agreed to waive any right of appeal from the findings of the hearing examiner based upon such admissions and also agreed to accept the Order set forth in the complaint. Counsel supporting the complaint stated that he had no objection to the motion. Accordingly, the hearing examiner received respondents' oral motion, together with written copies thereof that were thereafter filed with the Office of the Secretary, and ordered on the record that the motion to file a Substituted Answer be granted. There being no further business, the hearing was adjourned.

On September 26, 1966, the hearing examiner issued a formal order accepting the Substituted Answer and filed the same with the Office of the Secretary.

Based upon the entire record consisting of the complaint, Substituted Answer, and other matters of record, the hearing examiner makes the following findings as to facts, conclusions drawn therefrom, and order.

FINDINGS OF FACT

1. Respondent Lincoln Rug & Carpet Mart, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 6231 West Dempster, Morton Grove, Illinois. (Substituted Answer, hereinafter designated S.A.)

2. Respondents Dorothy Gordon and Joseph Gordon 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. (S.A.)

3. Respondents are now, and for some time last past have been, engaged in the offering for sale, sale and distribution of carpeting and rugs to the public. (S.A.)

4. 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 and transported from their place of business in the State of Illinois to purchasers thereof located in various other States of the United States, and maintain, and at all times hereinafter mentioned have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act. (S.A.)

5. 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 products of the same general kind and nature as those sold by respondents. (S.A.)

6. In the course and conduct of their business, as aforesaid, respondents employ salesmen and representatives who call upon prospective purchasers and solicit the purchase of their products. In the course of such solicitation, said salesmen or representatives have made many statements and representations, directly or by implication, to prospective purchasers of their products.

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

(1) That respondents are commercial carpeting specialists or wholesalers.

(2) That the carpeting which is offered to the prospective customer is heavy duty, high quality carpeting used in commercial installations.

(3) That respondents' principal business is selling to commercial establishments, such as hotels, motels, theatres, restaurants, office buildings and hospitals.

(4) That the carpeting being offered for sale are remnants left over from installations in commercial establishments.

(5) That the carpeting offered for sale is not available in retail stores.

(6) That the carpeting being offered for sales is offered to individual consumers only for a limited time each year.

(7) That as commercial wholesale carpeters, respondents are able to offer and are in fact offering remnants of heavy duty, high quality carpeting used in commercial installations to consumers at prices substantially less than the price of such commercial carpeting which is represented as selling at prices from $20 per square yard up with consequent savings to the consumer. (S.A.)

7. In truth and in fact:

(1) Respondents are not commercial carpeting specialists or wholesalers, but are retailers of domestic grade carpeting.

(2) The carpeting which respondents sell is not heavy duty, high quality commercial carpeting, but is carpeting which is usually and customarily sold for domestic use in the home.

(3) Respondents' principal business is not selling carpeting to commercial establishments, such as hotels, motels, theatres, restaurants, office buildings and hospitals, but selling to all consumers.

(4) The carpetings offered to the prospective customer are not remnants from commercial installations, but are from respondents' regular stock of carpetings.

(5) The carpeting sold by respondents is available in retail stores.

(6) Respondents sell to individual consumers at any and all times during each year.

(7) Respondents do not offer to the consumers remnants of heavy duty, high quality commercial carpeting at prices substantially less than the price of such commercial carpeting with consequent savings to the consumer. (S.A.)

8. Accordingly, the hearing examiner finds that the statements and representations set forth in Paragraph 6 hereof were, and are false, misleading and deceptive.

9. The hearing examiner also finds that 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.

CONCLUSIONS

1. The aforesaid acts and practices of respondents, as herein found, 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.

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

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

The order as hereinafter set forth follows the form of the order contained in the complaint and is also the order agreed to by the parties.

After due consideration, the hearing examiner believes that such order is appropriate and may be entered.

ORDER

It is ordered, That the respondents Lincoln Rug & Carpet Mart, Inc., a corporation, and its officers, and respondents, Dorothy Gordon and Joseph Gordon, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of carpeting, rugs or any other products, 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. They are commercial carpeting specialists or wholesalers.

b. The carpeting they are selling to individual consumers is heavy duty, high quality commercial carpeting.

c. Their principal business is selling heavy duty, high quality carpeting to commercial establishments.

d. The carpetings they are selling are remnants left over from commercial installations.

e. The carpeting they sell is not available in retail stores.

f. They sell to individual consumers, only for limited periods of time each year.

g. Remnants of heavy duty, high quality commercial carpeting used in commercial installations are offered to consumers at less than the price initially charged for the prime portion thereof: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish the truthfulness of such representations.

2. Misrepresenting, in any manner, the savings available to purchasers of respondents' merchandise; respondents'

trade or business status; or the grade, quality, availability or source of their products.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 1st day of December 1966, become the decision of the Commission.

It is further ordered, That respondents, Lincoln Rug & Carpet Mart, Inc., a corporation, and Dorothy Gordon and Joseph Gordon, individually and as officers of said corporation shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents, setting forth in detail the manner and form of their compliance with the order to cease and desist.

IN THE MATTER OF

CARPET AND RUG MILLS, INC., ET AL.

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

Docket 8694. Complaint, July 18, 1966—Decision, Dec. 1, 1966

Consent order requiring a Marietta, Ga., corporate distributor of rugs and carpets to cease using the term "Mills" in its company name, and making false pricing, guarantee, savings and time limitation claims in selling its merchandise.

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 Carpet and Rug Mills, Inc., a corporation, and C. Edward Green, 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 Carpet and Rug Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 106 Fair Ground Street in the city of Marietta, State of Georgia.

Respondent C. Edward Green 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 rugs and carpeting including installation.

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

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their products and services respondents make numerous statements and representations in advertisements respecting their business status, the price of their merchandise, the savings available to purchasers and the time limitation on products being offered for sale.

Among and typical, but not all inclusive, of the statements and representations appearing in said advertisements are the following:

CARPET
DIRECT FROM
DALTON MILLS
CARPET CENTER OF AMERICA

* * * * * * *

CARPET & RUG MILLS, INC.
DALTON, GA.
CARPET SALE

For a LIMITED TIME Carpet & Rug Mills have agreed to present merchandise directly to you, the consumer. This unusual presentation is being made in order to promote one of Georgia's largest industries.

* * * * * * *

DUPONT NYLON
CUT PILE TWIST OR
HI-LO PATTERN

* * * * * * *

Reg.
$12.95 (or 10.95 or 9.95) $6.95 (or 6.49 or $5.95) Sq. Yd.
Complete
TEN YEAR GUARANTEE ON CARPET

* * * * * * *

TEN YEAR WEAR GUARANTEE
OFFER LIMITED
ACT NOW

PAR. 5. Through the use of the above quoted statements, and others of similar import not specifically set out herein, respondents have represented, directly or by implication:

1. Through the use of the word "Mills" as part of respondents' trade name, separately or in conjunction with the foregoing statements and representations, that they are manufacturers and that they own, operate or control a mill or factory in which the carpets, rugs and other products sold by them are manufactured.

2. That the aforestated prices designated by the abbreviation "Reg.," for regular, are the actual, bona fide prices per square yard at which said carpets have been openly and actively offered for sale in good faith for a reasonably substantial period of time in the recent regular course of their business.

3. That purchasers save the difference between the respondents' advertised selling prices and the corresponding higher price amounts.

4. That said carpets are unconditionally guaranteed for a period of ten years by respondents.

5. That respondents' offer to sell said carpets on the terms and conditions therein stated is limited in point of time.

PAR. 6. In truth and in fact:

1. Respondents are not manufacturers nor do they own, operate or control a mill or factory in which the carpets, rugs and other products sold by them are manufactured but buy from manufacturers for resale to the purchasing public.

2. The aforestated prices designated by the abbreviation

"Reg.," for regular, are not the actual, bona fide prices per square yard at which said carpets have been openly and actively offered for sale in good faith for a reasonably substantial period of time in the recent regular course of respondents' business.

3. Purchasers do not have the difference between the respondents' advertised selling prices and the corresponding higher price amounts because, as stated in subparagraph 2 hereof, said higher price amounts are fictitious and the savings based thereon are likewise fictitious.

4. Said carpets are not unconditionally guaranteed for a period of ten years and they are not guaranteed by respondents. Such guarantee as is provided is a pro-rated wear guarantee of the manufacturer subject to numerous conditions and limitations.

5. Respondents offer to sell said carpets on the terms and conditions therein stated is not limited in point of time but constitutes respondents' usual and customary terms and conditions of sale.

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

PAR. 7. There is a preference on the part of many members of the purchasing public for dealing directly with manufacturers of products, rather than with outlets, distributors, jobbers or other intermediaries, such preference being due in part to a belief that by dealing directly with the manufacturer lower prices and other advantages may be obtained, a fact of which the Commission takes official notice.

PAR. 8. In the conduct of their business, at all times mentioned herein, respondents have been and are, engaged in substantial competition, in commerce, with corporations, firms and individuals in the sale of rugs and carpets and services of the same general kind and nature as those sold by respondents.

PAR. 9. 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. 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 Commission having issued its complaint on July 18, 1966, charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, and the respondents having been served with a copy of that complaint; and

The Commission having duly determined upon a motion certified to the Commission that, in the circumstances presented, the public interest would be served by waiver here of the provision of §2.4(d) of its Rules that the consent order procedure shall not be available after issuance of complaint; and

The respondents and counsel for the Commission having executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint, 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 aforesaid agreement and having determined that it provides an adequate basis for appropriate disposition of this proceeding, the agreement is hereby accepted, the following jurisdictional findings are made, and the following order is entered:

1. Respondent Carpet and Rug Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at 106 Fairground Street, in the city of Marietta, State of Georgia.

Respondent C. Edward Green is an officer of the corporate respondent 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 respondents Carpet and Rug Mills, Inc., a corporation, and its officers and C. Edward Green, individually and as an officer 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 carpets, rugs, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

1. Using the word "Mills" or any other word of similar import or meaning in or as a part of respondents' corporate or trade name, or representing in any other manner that respondents are the manufacturers of the carpets, rugs or other products sold by them unless and until respondents own and operate, or directly and absolutely control the manufacturing plant wherein such carpets, rugs or other products are made.

2. Misrepresenting, in any manner, the nature or character of respondents' business operations.

3. Using the expression "Reg." or the word "regular" or any other word, term or expression of similar import or meaning to refer to any amount which is in excess of the price at which such merchandise has been sold or offered for sale in good faith by the respondents for a reasonably substantial period of time in the recent, regular course of their business; or otherwise misrepresenting the price at which such merchandise has been sold or offered for sale by the respondents.

4. Representing in any manner that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and any other price used for comparison with that price,

(a) Unless respondents have offered such merchandise for sale at the compared price in good faith for a reasonably substantial period of time in the recent regular course of their business; or

(b) Unless substantial sales of said merchandise are being made in the trade area at the compared price, or a higher price; or

(c) Unless a substantial number of the principal retail outlets in the trade area regularly offered the merchandise for sale at the offered price or some higher price; or

(d) When a value comparison representation with comparable merchandise is used, unless substantial sales of merchandise of like grade and quality are being made in the trade area at the compared price or a higher price and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

5. Misrepresenting, in any manner, the savings available to purchasers or prospective purchasers of respondents' merchandise at retail.

6. Representing, directly or by implication, that respondents' products are guaranteed unless the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder and the name and address of the guarantor are clearly and conspicuously disclosed.

7. Representing, directly or by implication, that any offer is limited in time or in any manner: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented limitation or restriction was actually imposed and in good faith adhered to.

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

ABRAHAM FEDER TRADING AS AL FEDER FURS

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

Docket C-1143. Complaint, Dec. 6, 1966—Decision, Dec. 6, 1966

Consent order requiring a New York City manufacturing furrier to cease misbranding, falsely invoicing, and advertising its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and by virtue of the au-

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

PARAGRAPH 1. Respondent Abraham Feder is an individual trading as Al Feder Furs.

Respondent is a manufacturer of fur products with his office and principal place of business located at 150 West 28th Street, New York, New York.

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 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 has manufactured for sale, sold, advertised, offered for sale, transported and distributed fur products which have been made in whole or in part of furs which have been shipped and received in commerce, as the 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 fur products with labels which failed to show that the fur product contained or was composed of used fur, 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:

(a) The term "natural" was not used on labels to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) The disclosure "secondhand," where required, was not set

forth on labels, in violation of Rule 23 of said Rules and Regulations.

(c) 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 they were not invoiced as rquired 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 fur products covered by invoices which failed:

1. To show the true animal name of the fur used in any such fur product.

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

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

4. To show the country of origin of imported furs used in fur products.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced in that respondent set forth on invoices pertaining to fur products the name of an animal other than the name of the animal that produced the fur from which the said fur products had been manufactured, in violation of Section 5(b) (2) of the Fur Products Labeling Act.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, 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 fur products which were invoiced as "Dyed Spotted Lamb Leopard" when in truth and in fact the fur contained in such products was Rabbit.

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 the following respects:

(a) The term "Persian Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 8 of said Rules and Regulations.

(b) The term "Dyed Mouton Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 9 of said Rules and Regulations.

(c) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

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

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

PAR. 9. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements, but not limited thereto, were printed circulars mailed by the respondent from his location within the State of New York to customers, actual and potential, outside of the State of New York.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed:

1. To show the true animal name of the fur used in the fur product.

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

3. To show that the fur contained in the fur product was bleached, dyed, or otherwise artificially colored, when such was the fact.

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

PAR. 10. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that certain of said fur products were falsely or deceptively identified with respect to the name or designation of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto,

were fur products advertised as "Beaverette Dyed Coney Coat" when the fur contained in such fur products was, in fact, Rabbit.

PAR. 11. By means of the aforesaid advertisements and others of similar import and meaning, not specifically referred to herein, respondent falsely and deceptively advertised fur products in that certain of said advertisements contained the name of an animal other than the name or names of the animal or animals that produced the fur from which the said fur products had been manufactured, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

PAR. 12. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that the said fur products were not advertised in accordance with the the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "Persian Lamb" was not set forth in the manner required, in violation of Rule 8 of the said Rules and Regulations.

(b) Trade names, coined names, and other names or words descriptive of furs as being the fur of animals which were in fact fictitious or non-existent were used in advertising fur products, in violation of Rule 11 of said Rules and Regulations.

Among such fur products, but not limited thereto were fur products advertised through the use of names of such fictitious or non-existent animals as "Minkelette," and "Sealine."

(c) The term "blended" was used as part of the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, to describe the pointing, bleaching, dyeing, tip-dyeing, or otherwise artificial coloring of furs contained in fur products, in violation of Rule 19(f) of the said Rules and Regulations.

(d) The term "natural" was not used to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of the said Rules and Regulations.

(e) The disclosure that 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, was not set forth in advertisements in violation of Rule 20 of the said Rules and Regulations.

(f) The term "assembled" was used to describe fur products

composed of pieces in lieu of the required terms, in violation of Rule 20 of the said Rules and Regulations.

(g) The disclosure "second-hand," where required, was not set forth, in violation of Rule 23 of the said Rules and Regulations.

PAR. 13. By means of the aforesaid advertisements and others of similar import and meaning not specificially referred to herein, respondent falsely and deceptively advertised fur products in that said advertisements represented, directly or by implication, the fur products were guaranteed without disclosing the nature and extent of the guarantee and the manner and form in which the guarantor would perform thereunder, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

PAR. 14. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that said advertisements represented, directly or by implication, that a refund of the purchase price would be given under certain stated conditions when in truth and in fact a refund of the purchase price was refused under the stated conditions, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

PAR. 15. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that said advertisemennts represented, directly or by implication, that fur products would be exchanged under certain conditions when in truth and in fact an exchange of such fur products was refused under the stated conditions, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

PAR. 16. The aforesaid acts and practices of respondent, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulation 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 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 Textiles and Furs 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 Fur Products Labeling 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 said Acts, 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 Abraham Feder is an individual trading as Al Feder Furs, with his office and principal place of business located at 150 West 28th Street, New York 1, New York.

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

ORDER

It is ordered, That respondent Abraham Feder, an individual trading as Al Feder Furs, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction into commerce, or the sale, 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:

A. Misbranding fur products by:

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

2. Failing to set forth the term "natural" as part of

the information required to be disclosed on labels under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip–dyed, or otherwise artificially colored.

3. Failing to disclose that fur products contain or are composed of second-hand used fur.

4. Failing to set forth on labels the item number or mark assigned to each such fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed in each of the subsections of Section 5(b) (1) of the Fur Products Labeling Act.

2. Setting forth on invoices pertaining to any such fur products any false or deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

3. Setting forth on the invoices pertaining to fur products the name or names of any animal or animals other than the name of the animal producing the fur contained in the fur product as specified in the Fur Products Name Guide, and as prescribed by the Rules and Regulations.

4. Failing to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

5. Failing to set forth the term "Dyed Mouton Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

6. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

7. Failing to disclose that fur products contain or are composed of second-hand used fur.

8. Failing to set forth on invoices the item number or mark assigned to fur products.

C. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public an-

nouncement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of any fur product, and which:

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

2. Falsely or deceptively identifies any such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Sets forth the name or names of any animal or animals other than the name of the animal producing the furs contained in the fur product as specified in the Fur Products Name Guide, and as prescribed by the Rules and Regulations.

4. Fails to set forth the term "Persian Lamb" in the manner required where an election is made to use that term instead of the word "Lamb."

5. Sets forth any trade name, coined name or other name or words descriptive of a fur as being the fur of an animal which is in fact fictitious or non-existent.

6. Sets forth the term "blended" or any term of like import as part of the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe the pointing, bleaching, dyeing, tip-dyeing, or otherwise artificial coloring of furs contained in fur products.

7. Fails to set forth the term "Natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

8. Fails 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.

9. Sets forth the term "assembled" or any term of like import as part of the information required under Section 5(a) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to de-

scribe fur products composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

10. Fails to disclose that fur products contain or are composed of second-hand used fur.

11. Represents, directly or by implication, that fur products are guaranteed without disclosing the nature and extent of the guarantee and the manner and form in which the guarantor would perform thereunder.

12. Represents, directly or by implication, that a refund of the purchase price of any fur product will be given under stated conditions unless a refund of the purchase price of such fur product is given under the stated conditions.

13. Represents, directly or by implication, that an exchange of any fur product will be given under stated conditions unless an exchange of such fur product is given under the stated conditions.

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

SILVER STAR CHINCHILLA, INC., ET AL.

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

Docket C-1144. Complaint, Dec. 6, 1966—Decision, Dec. 6, 1966

Consent order requiring an Alexandria, Minn., seller of chinchilla breeding stock to cease using several improper and deceptive representations to induce prospective customers to buy its chinchilla breeding stock.

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 Silver Star Chinchilla, Inc., a corporation, and William O. Jaeger and Edward W. Schulke, individually and as officers of said corpora-

tion, 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 Silver Star Chinchilla, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its principal office and place of business located at Route 22, Alexandria, Minnesota.

Respondents William O. Jaeger and Edward W. Schulke, are individuals and officers of Silver Star Chinchilla, Inc., and its sole stockholders. 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 chinchilla breeding stock to the public.

PAR. 3. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused, their said chinchillas, when sold, to be shipped from their place of business in the State of Minnesota 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 commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of obtaining the names of prospective purchasers and inducing the purchase of said chinchillas, the respondents make numerous statements and representations by means of television broadcasts, newspaper advertisements, in direct mail advertising and through the oral statements, and display of promotional material to prospective purchasers by their salesmen, with respect to the breeding of chinchillas for profit without previous experience, the rate of reproduction of said animals, the expected return from the sale of their pelts, the market value of said animal as breeding stock, their quality, their hardiness and freedom from disease, their development, the training assistance and inspection services to be made available to purchasers of respondents' chinchillas and the limitation of the number of producers in an area.

Typical and illustrative, but not all inclusive of the said statements and representations made in respondents' direct mailing advertising and promotional literature are the following:

There is no experience needed in order to succeed.

Financial Independence.

YOU CAN BE YOUR OWN BOSS—by starting with three (3) mated pair of top quality CHINCHILLAS on our warranted plan, and it would not be unnormal for them in 4 years to produce approximately 50 mated pair of top quality breeding stock.

So 50 producing females can produce 200 or more animals each year thereafter for the pelting market. If you'll multiply this by $25 per pelt it will amount to quite a comfortable annual income.

THESE ARE CONSERVATIVE FACTS THAT ARE ACTUALLY HAPPENING EVERY DAY!

To purchasers of our breeding stock we offer a complete advisory service, housing, diets, etc., and the benefits of our experience throughout the years.

Without Obligation your FREE illustrated Booklet explaining the facts of the CHINCHILLA industry.

PAR. 5. By and through the use of said statements and representations, and others of similar import and meaning but not specifically set forth herein, made by respondents in advertising and promotional literature and in the oral presentations made by their salesmen, respondents represent, directly or by implication, that:

1. The breeding of chinchillas for profit requires no previous experience.

2. Chinchillas sold by respondents are top quality breeding stock and have a market value ranging from $200 to $350 each.

3. Three pairs of chinchillas purchased from respondents will within three years produce at least 40 mated pairs of top quality breeding stock; three pairs of chinchillas purchased from respondents will within four years produce at least 50 mated pairs of top quality breeding stock; and that such 50 pairs of chinchillas will produce 200 or more chinchillas with top quality pelts for the pelting market each year thereafter.

4. Pelts from the offspring of respondents' breeding stock generally sell for $20 to $80 per pelt.

5. Fifty pairs of chinchillas raised from breeding stock purchased from respondents will produce an annual net income of $5,000 within four years and of $10,000 within five years.

6. Purchasers were receiving chinchilla breeding stock especially bred and developed by respondents.

7. It is practicable to raise chinchillas in the home and large profits can be made in this manner.

8. Chinchillas are free from disease and are not affected by high temperature and humidity.

9. Respondents will buy offspring from chinchillas purchased from them for pelting purposes.

10. That the Willard H. George Grading System used by respondents is an accepted standard in the chincilla industry for determining the quality of chinchilla breeding stock; and that score sheets recording the grading of animals under that system are generally accepted by the chinchilla industry as proof of the quality of the chinchillas purchased from respondents.

11. Respondents' chinchilla breeding stock is sold only to a limited number of persons in each locality.

12. Specialized training in the breeding and care of chinchillas would be given to purchasers of respondents' chinchilla breeding stock.

13. Purchasers of respondents' breeding stock would have their chinchillas inspected by respondents twice each year or as required.

14. Purchasers of respondents' breeding stock would receive the benefit of respondents' experience in breeding chinchillas acquired over the years.

PAR. 6. In truth and in fact:

1. The breeding of chinchillas for profit requires specialized knowledge in the feeding, care and breeding of said animals much of which must be acquired through actual experience.

2. Chinchillas sold by respondents are not top quality breeding stock and do not have a market value ranging from $200 to $350 each but substantially less than those amounts.

3. In most cases three pairs of chinchillas purchased from respondents will not produce 40 mated pairs of top quality chinchilla breeding stock within three years; three pairs of chinchillas purchased from respondents will not, in most cases, produce 50 mated pairs of top quality chinchilla breeding stock within four years; and said 50 pairs of offspring will rarely, if ever, produce as many as 200 top quality pelts each year.

4. A purchaser of respondents' chinchillas could not expect to receive from $20 to $80 for each pelt produced since some pelts are not marketable at all and others would not sell for $20, but for substantially less than that amount.

5. Fifty pairs of chinchillas raised from respondents' breeding

stock will not produce a net annual income of $5,000 within four years and of $10,000 within five years but substantially less than those amounts.

6. Purchasers of respondents' chinchillas seldom, if ever, received chinchilla breeding stock bred and developed by respondents.

7. It is not practicable to raise chinchillas in the home and large profits cannot be made by raising chinchillas in such manner.

8. Domesticated chinchillas are susceptible to pneumonia and other diseases and they do not tolerate high temperature and humidity.

9. Respondents will not buy offspring from chinchillas purchased from them for pelting purposes.

10. The Willard H. George Grading System is not an accepted standard in the chinchilla industry for determining the quality of chinchilla breeding stock and score sheets recording the grading of animals under that system are not generally accepted by the chinchilla industry as proof of the quality of chinchillas purchased from respondents.

11. Respondents do not limit the sale of chinchilla breeding stock in each locality.

12. Purchasers of respondents' breeding stock are not given training in the care and breeding of chinchillas.

13. Purchasers of respondents' breeding stock do not receive inspection services from respondents twice a year or as required.

14. Purchasers of respondents' breeding stock do not receive the benefit of respondents' experience in breeding chinchillas.

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

PAR. 7. 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 chinchilla breeding stock.

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

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 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 Silver Star Chinchilla, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its office and principal place of business located at Route 22, Alexandria, Minnesota.

Respondents William O. Jaeger and Edward W. Schulke 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 Silver Star Chinchilla, Inc., a corporation, and its officers, and William O. Jaeger and Edward W. Schulke, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of chinchilla breeding stock in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Breeding chinchillas for profit can be undertaken without previous knowledge or experience in the feeding, care and breeding of such animals.

2. Chinchillas sold by respondents are top quality stock or that they have a market value of from $200 to $350 each; or misrepresenting in any manner the quality or market value of chinchillas sold by respondents.

3. Any given number of mated pairs of chinchillas purchased from the respondents or the offspring of said chinchillas will produce during a stated period of time breeding stock or pelts in any number in excess of or of a quality better than that usually and customarily produced by chinchillas sold by respondents, or the offspring of said chinchillas.

4. Chinchilla pelts produced from respondents' breeding stock will be worth any amount in excess of that usually received for pelts by other purchasers of respondents' breeding stock.

5. Fifty pairs of chinchillas will produce an annual net income of $5,000 within four years or $10,000 within five years; or that the net earnings or profits which may be derived from raising chinchillas is any amount in excess of the amount usually and customarily earned by purchasers of respondents' breeding stock.

6. Respondents breed and develop the chinchillas they sell.

7. It is practicable to raise chinchillas in the home or that large profits can be made in this manner.

8. Chinchillas are free from disease or that they are not adversely affected by high temperature and humidity.

9. Respondents will buy for pelting purposes, offspring from chinchillas purchased from them.

10. The Willard H. George Grading System is an accepted standard in the chinchilla industry for determining the qual-

ity of chinchilla breeding stock; or that score sheets recording the grading of animals under that system are generally accepted by the chinchilla industry as proof of the quality of the chinchillas purchased from respondents.

11. Sales by respondents of their chinchilla breeding stock are limited to a few persons in each locality.

12. Purchasers of respondents' chinchilla breeding stock are given training in the care and breeding of chinchillas or are furnished advice by respondents as to the breeding of chinchillas: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented training or advice is actually furnished.

13. Purchasers of respondents' chinchilla breeding stock will be furnished with inspection services by respondents twice each year or as often as such services may be required by the purchaser: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented inspection services are actually furnished.

14. Misrepresenting in any manner the assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

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

JAMES R. BOARMAN TRADING AS R & B SEWING MACHINE & VACUUM CLEANER CO., ETC.

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

Docket 8706. Complaint, Aug. 25, 1966—Decision, Dec. 7, 1966

Order requiring a Washington, D.C., retailer of sewing machines and vacuum cleaners to cease using deceptive savings and guarantee claims, using bait and switch sales tactics, and disparaging competitors' products.

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 James R. Boarman, an individual, trading as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., 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 James R. Boarman is an individual who trades as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., with his office and principal place of business located at 4326½ Georgia Avenue, NW., Washington, D.C. 20011.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of sewing machines and vacuum cleaners at retail to the public.

PAR. 3. In the course and conduct of his business, repondent maintains his principal place of business within the geographical confines of the District of Columbia and now causes and for some time last past has caused, his said products, when sold, to be shipped from his said place of business in the District of Columbia to purchasers thereof located within the District of Columbia and in various 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 his business and for the purpose of inducing the purchase of his products, respondent now makes, and has made, certain statements and representations in advertisements in newspapers of general circulation respecting the kind, quality, price and the guarantee of his products. Among and typical, but not all inclusive of such statements and representations are the following:

SEWING MACHINES—Singer Console left in lay away; zig-zag attach.; bal. $26. Portables $19.95. Terms. Will deliver. RA 3-6181. Dealer
VACUUMS—Recond. Electrolux GE. Hoovers, $9.95 guar., will del., RA 3-6181.

PAR. 5. By and through the use of the aforesaid statements and

representations, and others of similar import and meaning but not specifically set out herein, and by the oral representations of respondent and his salesman, respondent represents, and has represented, directly or by implication:

1. Through use of the statement "left in lay-away-bal. $26" and statements of similar import, that sewing machines partially paid for by previous purchaser have been left in lay-away and are being offered for the unpaid balance of the purchase price, affording savings in the amount paid on the merchandise by the previous purchaser.

2. That respondent is making a bona fide offer to sell the advertised sewing machines and vacuum cleaners.

3. That the advertised machines are guaranteed without limitation or condition.

PAR. 6. In truth and in fact:

1. Said sewing machines had neither been partially paid for by previous purchasers left in lay-away nor were they being offered for the unpaid balance of the purchase price, and the represented savings were not afforded to purchasers.

2. Respondent's offers were not bona fide offers to sell the advertised machines as represented and on the terms and conditions stated but were made for the purpose of obtaining leads as to persons interested in the purchase of sewing machines and vacuum cleaners. After response to said advertisements respondent called upon such interested persons at their homes but made no effort to sell the advertised machines. Instead, he exhibited what he represented to be the advertised machine but which because of its poor appearance and condition was on sight rejected by the prospective purchaser. Concurrently respondent presented a new or reconditioned high priced machine whose superior appearance and condition by comparison disparaged and demeaned the advertised product; besides he used other tactics to discourage the purchase of the advertised machine, and attempted to sell and often did sell, the higher priced machine.

3. Said advertised machines are not guaranteed without limitation or condition. Such guarantee as may be furnished in connection therewith is subject to numerous terms, conditions, and limitations not disclosed in said advertisements.

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

PAR. 7. In the course and conduct of his business, and at all

times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of sewing machines and vacuum cleaners of the same general kind and nature as those sold by respondent.

PAR. 8. The use by the 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 products by reason of said erroneous and mistaken belief.

PAR. 9. 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.

Mr. Charles W. O'Connell and *Mr. Edward F. X. Ryan* supporting the complaint.

No appearance entered for respondent.

INITIAL DECISION BY DONALD R. MOORE, HEARING EXAMINER

OCTOBER 21, 1966

The complaint in this case, charging respondent with misrepresentation in the sale of sewing machines and vacuum cleaners in violation of Section 5 of the Federal Trade Commission Act, was issued on August 25, 1966, and was duly served upon respondent by registered mail on September 8, 1966. Under Rule 3.5(a) of the Commission's Rules of Practice for Adjudicative Proceedings, respondent was allowed thirty days thereafter within which to file answer, or until October 10, 1966 (see Rule 4.3(a)). Respondent failed to answer or otherwise respond within the specified time.

The Notice attached to the complaint set the hearing for 10 o'clock a.m. on October 11, 1966, in the Federal Trade Commission Offices, 1101 Building, 11th Street at Pennsylvania Avenue, NW., Washington, D.C. However, on motion of counsel supporting the complaint, the hearing examiner cancelled the hearing (subject to being rescheduled on ten days' notice) and substituted therefor a prehearing conference at the same time and place. Pursuant to notice, the prehearing conference was duly convened as

scheduled in Room 7314 of the 1101 Building, but respondent failed to appear, either in person, by counsel, or by other representative (Tr. 2–6). Accordingly, counsel supporting the complaint moved that respondent be found in default under the provisions of Rule 3.5(c) (Tr. 3–4). That Rule reads as follows:

> Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the hearing examiner, without further notice to the respondent, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

Having failed to answer, to appear, or to otherwise respond, respondent is in default and is deemed to have waived his right to appear and contest the allegations of the complaint. Accordingly, this proceeding is now before the examiner for final consideration on the basis of the complaint and the proposed order attached thereto.

The examiner finds that the complaint states a cause of action; that this proceeding is in the public interest; and that the Federal Trade Commission has jurisdiction over respondent and the subject matter of the complaint. Therefore, in accordance with Rule 3.5(c), the examiner further finds the facts to be as alleged in the complaint and issues this initial decision containing such findings, together with appropriate conclusions and the order to cease and desist that the Commission determined should issue on the basis of such findings.

FINDINGS OF FACT

1. Respondent James R. Boarman is an individual who trades as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., with his office and principal place of business located at 4326½ Georgia Avenue, NW., Washington, D.C. 20011.

2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of sewing machines and vacuum cleaners at retail to the public.

3. In the course and conduct of his business, respondent maintains his principal place of business within the geographical confines of the District of Columbia and now causes and for some time last past has caused, his said products, when sold, to be shipped from his said place of business in the District of Columbia to purchasers thereof located within the District of Columbia and in various 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.

4. In the course and conduct of his business and for the purpose of inducing the purchase of his products, respondent now makes, and has made, certain statements and representations in advertisements in newspapers of general circulation respecting the kind, quality, price and the guarantee of his products. Among and typical, but not all inclusive of such statements and representations are the following:

SEWING MACHINES—Singer Console left in lay away; zig-zag attach.; bal. $26. Portables $19.95. Terms. Will deliver. RA 3-6181. Dealer
VACUUMS—Recond. Electrolux GE. Hoovers, $9.95 guar., will del., RA 3-6181.

5. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not specifically set out herein, and by the oral representations of respondent and his salesman, respondent represents, and has represented, directly or by implication:

1. Through use of the statement "left in lay-away—bal. $26" and statements of similar import, that sewing machines partially paid for by previous purchaser have been left in lay-away and are being offered for the unpaid balance of the purchase price, affording savings in the amount paid on the merchandise by the previous purchaser.

2. That respondent is making a bona fide offer to sell the advertised sewing machines and vacuum cleaners.

3. That the advertised machines are guaranteed without limitation or condition.

6. In truth and in fact:

1. Said sewing machines had neither been partially paid for by previous purchasers left in lay-away nor were they being offered for the unpaid balance of the purchase price, and the represented savings were not afforded to purchasers.

2. Respondent's offers were not bona fide offers to sell the advertised machines as represented and on the terms and conditions stated but were made for the purpose of obtaining leads as to persons interested in the purchase of sewing machines and vacuum cleaners. After response to said advertisements respondent called upon such interested persons at their homes but made no effort to sell the advertised machines. Instead, he exhibited what he represented to be the advertised machine but which because of its poor

appearance and condition was on sight rejected by the prospective purchaser. Concurrently respondent presented a new or reconditioned high priced machine whose superior appearance and condition by comparison disparaged and demeaned the advertised product; besides he used other tactics to discourage the purchase of the advertised machine, and attempted to sell and often did sell, the higher priced machine.

3. Said advertised machines are not guaranteed without limitation or condition. Such guarantee as may be furnished in connection therewith is subject to numerous terms, conditions, and limitations not disclosed in said advertisements.

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

7. In the course and conduct of his business, and at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of sewing machines and vacuum cleaners of the same general kind and nature as those sold by respondent.

8. The use by the 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 products by reason of said erroneous and mistaken belief.

CONCLUSIONS

The aforesaid acts and practices of respondent, as herein set forth, 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.

ORDER

It is ordered, That respondent James R. Boarman, an individual doing business as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., or under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of sew-

ing machines, vacuum cleaners 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 by implication, that merchandise has been left in lay away or that it is being offered for the balance of the purchase price which was unpaid by a previous purchaser; or misrepresenting in any manner the status, kind, quality or price of the merchandise being offered.

2. Representing, directly or by implication, that purchasers save the paid in amount on unclaimed lay away merchandise; or misrepresenting in any manner the savings afforded to purchasers of respondent's products.

3. Disparaging, in any manner, or discouraging the purchase of any product advertised.

4. Representing, directly or by implication, that any products or services are offered for sale when such offer is not a bona fide offer to sell said products or services; or using any advertising, sales plan or procedures involving the use of false, deceptive or misleading statements or representations to obtain leads or prospects for the sale of other merchandise.

5. Representing, directly or by implication, that respondent's products are guaranteed unless the nature, conditions and extent of the guarantee, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 7th day of December, 1966, become the decision of the Commission.

It is further ordered, That James R. Boarman, trading as R & B Sewing Machine & Vacuum Cleaner Co. and R & B Sewing Machine Co., shall, within sixty (60) days after service of this order upon him, file with the Commission a report in writing, setting forth in detail the manner and form of his compliance with the order to cease and desist.

Complaint

IN THE MATTER OF

COLBERT'S

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

Docket C-1145. Complaint, Dec. 9, 1966—Decision, Dec. 9, 1966

Consent order requiring a Dallas, Texas, retail furrier to cease misbranding, deceptively invoicing and falsely advertising its fur products.

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

PARAGRAPH 1. Respondent Colbert's is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas.

Respondent is a retailer of fur products with its office and principal place of business located at 221 Centre Street, city of Dallas, State of Texas.

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 furs which have 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 violation of Section 4(1) of the Fur Products Labeling Act in that they were falsely and deceptively labeled or otherwise falsely and deceptively identified in that labels affixed to fur products, con-

tained representations, either directly or by implication, that the prices of such fur products were reduced from respondent's former prices and the amount of such purported reduction constituted savings to purchasers of respondent's fur products. In truth and in fact, the alleged former prices were fictitious in that they were not actual bona fide prices at which respondent offered the products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and savings were not afforded purchasers of respondent's said fur products, as represented.

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 thereunder, were fur products with labels which failed to show the true animal name of the fur used in any such fur product.

PAR. 5. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder inasmuch as required item numbers were not set forth on labels, in violation of Rule 40 of said Rules and Regulations.

PAR. 6. Certain of said fur products were falsely and deceptively invoiced by the respondent in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

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

1. To show the true animal name of the fur used in any such 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.

3. To show the country of origin of imported furs used in fur products.

PAR. 7. Certain of said fur products were falsely and deceptively invoiced with respect to the name or designation of the animal or animals that produced the fur from which the said fur

products had been manufactured, 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 fur products which were invoiced as "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact the furs contained therein were not entitled to such designation.

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 the following respects:

(a) The term "Dyed Broadtail-processed Lamb" was not set forth on invoices in the manner required by law, in violation of Rule 10 of said Rules and Regulations.

(b) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

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

PAR. 9. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements, but not limited thereto, were advertisements of respondent which appeared in issues of the Valley Evening Monitor, a newspaper published in the city of McAllen, State of Texas.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed to show the true animal name of the fur used in any such fur product.

PAR. 10. By means of the aforesaid advertisements and other of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that certain of said fur products were falsely or deceptively identified with respect to the name or designation of the animal or animals that produced the fur from which said fur products had been manufactured, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

Among such falsely and deceptively advertised fur products, but not limited thereto, were fur products advertised as "Broadtail" thereby implying that the furs contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact they were not entitled to such designation.

PAR. 11. By means of the aforesaid advertisements and other advertisements of similar import and meaning, not specifically referred to herein, respondent falsely and deceptively advertised fur products in that said advertisements represented that the prices of fur products were reduced from respondent's former prices and that the amount of such price reductions afforded savings to the purchasers of respondent's fur products when, in truth and in fact, the alleged former prices were fictitious in that they were not actual bona fide prices at which respondent offered the fur products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and the represented savings were not thereby afforded to the purchasers, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations promulgated under the said Act.

PAR. 12. Respondent falsely and deceptively advertised fur products by affixing labels thereto which represented either directly or by implication that prices of such fur products were reduced from respondent's former prices and the purported reductions constituted savings to purchasers of respondent's fur products. In truth and in fact, the alleged former prices were fictitious in that they were not the actual bona fide prices at which respondent offered the fur products to the public on a regular basis for a reasonably substantial period of time in the recent regular course of business and the said fur products were not reduced in price as represented and the represented savings were not thereby afforded to purchasers, in violation of Section 5(a)(5) of the Fur Products Labeling Act and Rule 44(a) of the Rules and Regulations.

PAR. 13. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that the said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "Dyed Broadtail-processed Lamb" was not set

forth in the manner required, in violation of Rule 10 of the said Rules and Regulations.

(b) The term "natural" was not used to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 14. 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 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 Textiles and Furs 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 Fur Products Labeling 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 said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accept said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Colbert's is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its office and principal place of business located at 221 Centre Street, in the city of Dallas, State of Texas.

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 Colbert's, a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of 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 the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Representing, directly or by implication on labels, that any price whether accompanied or not by descriptive terminology is the respondent's former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondent in the recent regular course of business, or otherwise misrepresenting the price at which such fur products had been sold or offered for sale by respondent.

2. Misrepresenting in any manner on labels or other means of identification the savings available to purchasers of respondent's fur products.

3. Failing to affix labels to fur products showing in words and in 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.

4. Failing to set forth on labels the item number or mark assigned to each such fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, 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.

2. Setting forth on invoices pertaining to any such fur products any false or deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

3. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

4. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

5. Failing to set forth on invoices the item number or mark assigned to each such fur product.

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

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

2. Falsely or deceptively identifies any such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

3. Represents, directly or by implication, that any price whether accompanied or not by descriptive terminology is the respondent's former price of fur products when such price is in excess of the price at which such fur products have been sold or offered for sale in good faith by the respondent in the recent regular course of business, or otherwise misrepresenting the price at which such fur products have been sold or offered for sale by respondent.

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

5. Fails to set forth the terms "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb."

6. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and

Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

GOODMAN BROS. JEWELERS, INC., ET AL.

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

Docket C-1146. Complaint, Dec. 9, 1966—Decision, Dec. 9, 1966

Consent order requiring two affiliated Minnesota jewelry stores to cease using limited availability, false pricing, "free," and deceptive guarantee claims to sell their merchandise.

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 Goodman Bros. Jewelers, Inc., a corporation, Goodman Jewelers, Inc., a corporation, and Stanley B. Goodman and Arthur N. Goodman, individually and as officers of each of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Goodman Bros. Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its main office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal place of business located at 94 East Seventh Street, St. Paul, Minnesota.

Respondent Goodman Jewelers, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota, with its main office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal

place of busines located at 32 South Seventh Street, Minneapolis, Minnesota.

Respondent Stanley B. Goodman is an individual and is the president of each of the corporate respondents. He formulates, directs and controls the acts and practices of each of the corporate respondents, including the acts and practices hereinafter set forth. His address is 518 American National Bank Building, St. Paul, Minnesota.

Respondent Arthur N. Goodman is an individual and is the vice president of each of the corporate respondents. He assists in the formulation, direction and control of the acts and practices of each of the corporate respondents, including the acts and practices hereinafter set forth. His address is 518 American National Bank Building, St. Paul, Minnesota.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the business of advertising, offering for sale, sale and distribution of jewelry, stereophonic equipment, electrical appliances, tape recorders, dinnerware, cookware, radios, typewriters, cameras, bowling balls and other merchandise to the public at retail.

PAR. 3. In the course and conduct of their business, respondents have been and are now engaged in disseminating and in causing to be disseminated, in newspapers of interstate circulation, advertisements designed and intended to induce sales of their merchandise. The amount expended upon such advertising is approximately $80,000 per year.

PAR. 4. Among and typical, but not all inclusive of the representations and statements appearing in the advertisements described in Paragraph Three are the following:

1. One Day Only
Round Bobbin
Sewing Machine
$49.73

* * * * * * *

One Day Only
Stereo Console
4-Speaker System
$88

* * * * * * *

Limited Time Only
Complete 45-piece set
Melmac
Dinnerware
$14.88

2. Short Wave AM/FM
10 Transistor Portable
Comp. at 59.50
$39.88

* * * * * * *

All Transistor Tape Recorder
$13.88
Comp. at 19.95

* * * * * * *

Round Bobbin
Sewing Machine
$49.73
75.00
Value

* * * * * * *

Stereo
Console
$129.95
Value
88.88

3. Bell and Howell
Autoload Projector
Price 84.85
Now $69.95

* * * * * * *

Diamonds
Robert Orr
Price $179
Now $128

4. Remington New 25 Shaver
Lowest Price Ever
$11.88

* * * * * * *

Lowest Price for 7 Transistor
Portable Radio
$6.88

5. Polaroid
Color Pack Camera
Now ½ Price

* * * * * * *

4-Speaker System
Stereo Console
Save $40
88.88

* * * * * * *

Save 30%
45-Pc Break-Resist
Melmac Dinnerware
14.88

* * * * * * *

Save $11
Portable Transistor
Tape Recorder
13.88

* * * * * * *

$1,000,000.00 Diamond Sale
Save 20% to 40%
Full ⅓ Carat Diamond
$98

6. Revere Teflon Coated
9-Piece Festival Set
Special Price
$39.95

* * * * * * *

$1,000,000.00
Diamond Sale
Save 20% to 40%
¼ Carat
Reduced
Sale price $78

* * * * * * *

Class Rings
Special Savings
For Her
14.88
16.88
for Him

7. Teflon Cookware
14 Piece Combination Set
$29.95 complete
Free
3 pc Wood Spatula Set

* * * * * * *

54 Piece Stainless
4-Pc $3.95 Hostess Set
Free
with the purchase
of 50-piece service
54 pieces complete
$11.88

8. Elgin—Bulova—
Waltham—Rivera—
All Guaranteed

* * * * * * *

Round Bobbin
Sewing Machine
25 Year Guarantee

PAR. 5. Through the use of the aforesaid statements and representations and others similar thereto, but not specifically set forth,

as used variously by the respondents in their advertising, respondents have represented, directly or indirectly:

1. That offers of sale, accompanied by the words "Limited Time Only," "One Day Only" are limited in point of time;

2. That the higher price amounts accompanied by the words "Comp. at . . . ," ". . . Value" or words of similar import do not appreciably exceed the price at which substantial sales of the article are being made in the trade area where such representations were made; and the difference between the higher price and the corresponding lower sales price represents a saving to the purchaser;

3. That the higher price amount, accompanied by the words "Price . . . Now" or words of similar import are the prices at which such articles of merchandise were sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business; and the difference between the higher price amount and the corresponding lower sale price represented a saving to the purchaser;

4. By the use of the words "Lowest Price Ever," "Lowest Price" or words of similar import, that respondents' prices for such merchandise are the lowerst prices at which the said merchandise referred to was sold or offered for sale at retail in the trade area or areas where the representations were made;

5. By the use or the words ". . . ½ Price," "Save $40," "Save 30%" or other words of similar import, that the purchasers of such merchandise save the stated or implied percentage or dollar amounts from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

6. By the use of the words "Special Price," "Reduced Sales Price," "Special Savings" or other words of similar import, that the respondents' offering price constitutes a substantial reduction from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

7. By the use of the words "Free," "Free with Purchase" or other words of similar import, that the described merchandise is given free as a gift or gratuity without cost to the purchaser;

8. By the use of the words "All Guaranteed," "25 yr. Guarantee" or other words of similar import, that the merchandise referred to is guaranteed in all respects unconditionally without

any limitation or without any limitation for the stated period of time by the respondents.

PAR. 6. In truth and in fact:

1. The offers for sale of merchandise described as "Limited Time Only," "One Day Only" were not limited in time as represented but said merchandise could be purchased at the same price over an extended period of time;

2. The higher price amounts, set out in connection with the words "Comp. at . . ." and ". . . Value" did exceed the price at which substantial sales of the articles were made in the trade area where the representations were made; and the purchasers of such merchandise did not save an amount equal to the difference between the higher price amount and the corresponding lower sales prices;

3. The higher price amounts, accompanied by the words "Price . . . Now" or words of similar import are not prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by respondents in the recent regular course of their business; and the difference between such higher amount and respondents' corresponding lower sales prices did not represent savings to purchasers;

4. Respondents' prices, accompanied by the words "Lowest Price Ever," "Lowest Price" or words of similar import, are not the lowest prices at which the said merchandise referred to was sold or offered for sale at retail in the trade area or areas where the representations were made;

5. The prices set out in said advertising in connection with the words "1/2 Price," "Save $40," "Save 30%" or other words of similar import, did not represent savings in the stated or implied percentage or dollar amounts from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by respondents in the recent regular course of their business and purchasers or prospective purchasers of such merchandise did not save the stated or implied percentage or dollar amounts as a result thereof;

6. The prices set out in said advertising in connection with the words "Special Price," "Special Savings," "Reduced Sale Price" or other words of similar import did not constitute a substantial reduction from the prices at which such merchandise was sold or offered for sale by the respondents in the recent regular course of their business;

7. Merchandise described as "Free," "Free with purchase" or

other words of similar import is not given free as a gift or gratuity without cost to the purchaser. The price of the "free" item of merchandise is included in the price of the item to be purchased in combination with the "free" item;

8. The items of merchandise described as "All Guaranteed" or "25 yr. Guarantee" are not guaranteed by the respondents unconditionally without any limitation or without any limitation for the stated period of time in the advertisement.

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

PAR. 7. 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 engaged in the sale of merchandise of the same general kind and nature as that sold by respondents.

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

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 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 Goodman Bros. Jewelers, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Minnesota, with its office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal place of business located at 94 East Seventh Street, St. Paul, Minnesota.

Respondent Goodman Jewelers, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Minnesota, with its office located at 518 American National Bank Building, St. Paul, Minnesota, and its principal place of business located at 32 South Seventh Street, Minneapolis, Minnesota.

Respondents Stanley B. Goodman and Arthur N. Goodman are officers of each of said corporations and their address is 518 American National Bank Building, St. Paul, Minnesota.

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 Goodman Bros. Jewelers, Inc., a corporation, Goodman Jewelers, Inc., a corporation, and their officers, and Stanley B. Goodman and Arthur N. Goodman, individually and as officers of each of the said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale and distribution of jewelry or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any offer of sale is limited in time or in any manner: *Provided,*

however, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented limitation or restriction was actually imposed and in good faith adhered to;

2. Using the words "compare at," "value" or any word or words of similar import to refer to any amount which is appreciably in excess of the price at which substantial sales of such merchandise have been made in the recent regular course of business in the trade area where such representations are made; or otherwise misrepresenting the price at which such merchandise has been sold in the trade area where such representations are made;

3. Using the terms "Price $. . . Now $. . ." or any other term or terms of similar import to refer to a comparative price: *Provided, however,* That it shall be a defense in any enforcement proceeding, instituted hereunder, for the respondents to establish that the higher stated price of the comparative is not in excess of the price at which such merchandise has been sold or offered for sale in good faith by respondents for a reasonably substantial period of time in the recent regular course of their business; or otherwise misrepresenting the price at which such merchandise has been sold or offered for sale by respondents;

4. Using the words "Lowest Price," "Lowest Price Ever," or any other word or words of similar import or meaning as descriptive of any price amount: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the price amount so described is the lowest price at which said merchandise is sold in the trade area where the representations are made;

5. Using the words "1/2 Price," "Save $40," "Save 30%" or any other word or words of similar import or meaning as descriptive of any price amount: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the purchasers or prospective purchasers of such merchandise save the stated or implied percentage or dollar amounts from the prices at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

6. Using the words "Special Price," "Special Savings,"

"Reduced Sale Price" or any other word or words of similar import or meaning as descriptive of any price amount: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that such price constitutes a substantial reduction from the price at which such merchandise was sold or offered for sale in good faith for a reasonably substantial period of time by the respondents in the recent regular course of their business;

7. Representing, directly or by implication, that any article of merchandise is being given free or as a gift, or without cost or charge, in connection with the purchase of other merchandise when the price charged includes a price for the so-called free article of merchandise or when the articles of merchandise are usually and regularly sold together for the price charged;

8. Representing that merchandise is guaranteed unless the nature and extent of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed;

9. Misrepresenting, in any manner, that savings are available to purchasers or prospective purchasers of respondents' merchandise at retail; or misrepresenting in any manner the amount of savings available to purchasers, or prospective purchasers of respondents' merchandise at retail.

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

SUPER TEXTILE COMPANY, INC.

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

Docket C-1147. Complaint, Dec. 12, 1966—Decision, Dec. 12, 1966

Consent order requiring a New York City distributor of fabrics to cease importing or selling fabrics so highly flammable as to be dangerous when worn.

COMPLAINT

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

PARAGRAPH 1. Respondent Super Textile Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

The respondent is engaged in the sale and distribution of fabrics, with its office and principal place of business located at 108 West 39th Street, New York, New York.

PAR. 2. Respondent, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, has sold and offered for sale, in commerce; has imported into the United States; and has introduced, delivered for introduction, transported, and caused to be transported, in commerce; and has transported and caused to be transported for the purpose of sale or delivery after sale, in commerce; as "commerce" is defined in the Flammable Fabrics Act, fabric, as that term is defined therein, which fabric was, under Section 4 of the Flammable Fabrics Act, as amended, so highly flammable as to be dangerous when worn by individuals.

PAR. 3. The aforesaid acts and practices of respondent were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning 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 Textiles and Furs 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 Flammable Fabrics 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 said Acts, 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 Super Textile 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 108 West 39th Street, New York, New York.

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

ORDER

It is ordered, That respondent Super Textile Company, Inc., a corporation, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from:

(a) Importing into the United States; or

(b) Selling, offering for sale, introducing, delivering for introduction, transporting, or causing to be transported, in commerce, as "commerce" is defined in the Flammable Fabrics Act; or

(c) Transporting or causing to be transported, for the purpose of sale or delivery after sale in commerce,

any fabric which, under the provisions of Section 4 of the said Flammable Fabrics Act, as amended, is so highly flammable as to be dangerous when worn by individuals.

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

FOX VALLEY FOODS, INC., ET AL.

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

Docket C-1148. Complaint, Dec. 12, 1966—Decision, Dec. 12, 1966

Consent order requiring an Appleton, Wisc., food and freezer distributor to cease falsely advertising its products by using deceptive savings claims, misleading guarantees and false magazine endorsements.

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 Fox Valley Foods, Inc., a corporation, and Harry Schlichting, 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 Fox Valley Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its principal office and place of business located at 1131 East Wisconsin Avenue in the city of Appleton, State of Wisconsin.

Respondent Harry Schlichting 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 freezers and food 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, freezers and food, when sold, to be shipped from their place of business in the State of Wisconsin to purchasers thereof located in various other States of the United States, and maintain, and at all

times mentioned herein have maintained, a 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 respondents have disseminated and caused the dissemination of certain advertisements by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, 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, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of food in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. By means of advertisements disseminated as aforesaid and by oral statements of sales representatives respondents have represented, directly or by implication:

1. That the purchaser of respondents' freezer food plan will save enough money on the purchase of food to pay for a freezer.

2. That the purchaser of respondents' freezer food plan can buy meat and other food products at wholesale or at prices significantly less than what he has been paying for such products.

3. That respondents raise their own cattle and vegetables enabling the freezer food plan purchaser to buy food products without payment of middleman's costs.

4. That the initial food order supplied by respondents will last a specified time period, usually four months.

5. That respondents fully and unconditionally guarantee the food supplied each purchaser and will give full credit or a refund on any food considered unsatisfactory by the purchaser.

6. That respondent corporation is a member of the Appleton, Wisconsin, Chamber of Commerce.

7. That respondents' freezer food plan is recommended by Parents' Magazine.

8. That the terms and conditions of the sale are as agreed upon and as disclosed at the time of the sale, and that a purchaser can sign a contract, note or other instrument in blank, or partly in blank, with assurance that when such an instrument is filled in the terms and conditions and amounts will be the same as agreed upon and disclosed at time of sale.

PAR. 6. In truth and in fact:

1. The purchaser of respondents' freezer food plan does not save enough money on the purchase of food to pay for a freezer.

2. The prices charged for meat and other food products are not always wholesale, if ever, and are not significantly less, if at all, than what the purchaser has been paying for such products.

3. The purchaser of respondents' freezer food plan does not save the middleman's costs as respondents purchase the meat and other food products supplied their purchasers from others.

4. Purchasers do not always receive an initial food order which lasts four months or other time specified. In some instances the initial food order lasts for a substantially shorter period of time than specified.

5. Respondents do not fully or unconditionally guarantee the food supplied their purchasers and will not give full credit or refund on food considered unsatisfactory by such purchasers.

6. Respondent corporation is not, and has not been, a member of the Appleton, Wisconsin, Chamber of Commerce.

7. Respondents' freezer food plan is not, and has not been, recommended by Parents' Magazine.

8. All the terms and conditions are not always disclosed at the time of sale. In some instances, contracts, notes or other instruments are signed in blank, or partly in blank, and thereafter filled in so that the terms, conditions or amounts are not the same as previously agreed upon and disclosed at the time of sale.

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

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 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. 8. The aforesaid acts and practices of the 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 constituted, and now constitute,

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 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 Fox Valley Foods, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with its office and principal place of business located at 1131 East Wisconsin Avenue, in the city of Appleton, State of Wisconsin.

Respondent Harry Schlichting 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

PART I

It is ordered, That respondents Fox Valley Foods, Inc., a corporation, and its officers, and Harry Schlichting, 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 offering for sale, sale or distribution of

freezers, food or freezer food plans in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication that:

1. Purchasers of their freezer food plan will save enough money on the purchase of food to pay for a freezer.

2. Food prices charged by respondents are wholesale or are significantly less than what the purchaser has been paying.

3. Respondents raise their own cattle or vegetables.

4. Purchasers of respondents' freezer food plan save the middleman's costs.

5. Food supplied to a purchaser will be sufficient to last any stated or specified period of time.

6. Any freezer food or food plan is guaranteed unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

7. Respondent corporation is a member of the Appleton, Wisconsin, Chamber of Commerce; or falsely representing in any manner that respondents are affiliated with any organization or person.

8. Respondents' freezer food plan is recommended by Parents' Magazine; or falsely representing in any manner that respondents or any food, freezer or freezer food plan distributed by them are recommended or endorsed by any organization or person.

B. Misrepresenting in any manner the prices or the savings realized by purchasers of respondents' food, freezers or freezer food plans.

C. Obtaining a purchaser's signature on a contract, note, or other instrument which does not at that time contain all the terms and conditions of the transaction and total charges which the purchaser is to pay.

PART II

It is further ordered, That respondents Fox Valley Foods, Inc., a corporation, and its officers, and Harry Schlichting, 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 offering for sale, sale or distribution of 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 United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations or misrepresentations prohibited in Paragraphs A and B of Part I of this order.

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 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 A and B 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

FABULOUS PRODUCTS, INC., ET AL.

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

Docket C-1149. Complaint, Dec. 15, 1966—Decision, Dec. 15, 1966

Consent order requiring a Miami Beach, Fla., retail furrier to cease misbranding, falsely invoicing, and advertising its fur products.

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 Fabulous Products, Inc., a corporation, and Samuel Berger, individually, as an officer of said corporation and as an individual formerly trading as Samuel Berger

Furs, 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 Fabulous Products, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the state of Florida.

Respondent Samuel Berger, individually and as an officer of the said corporate respondent formulates, directs and controls the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Samuel Berger as an individual formerly traded as Samuel Berger Furs, Inc.

Respondents are manufacturers and retailers of fur products with their office and principal place of business located at 546 Arthur Godfrey Road, Miami Beach, Florida.

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

1. To show the true animal name of the fur used in such fur product.

2. To show that such fur product contained or was composed of used fur, when such was the fact.

3. To show that such fur product was composed in whole or in

substantial part of paws, tails, bellies, or used fur, when such was the fact.

4. To show the name, or other identification issued and registered by the Commission, of one or more of the persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale, in commerce, or transported or distributed it in commerce.

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) The term "natural" was not used on labels to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artifically colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) The disclosure "second-hand" was not set forth on labels, as required, in violation of Rule 23 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 Rule 29(b) of said Rules and Regulations.

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

(e) 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 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, was a fur product covered by an invoice which failed:

1. To show the true animal name of the fur used in such fur product.

2. To show that such fur product contained or was composed of used fur, when such was the fact.

3. To show the name of the country of origin of any imported furs contained in such fur product.

PAR. 6. Certain of said fur products were falsely and decep-

tively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

(b) The disclosure "second-hand" was not set forth on invoices, as required, in violation of Rule 23 of said Rules and Regulations.

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

PAR. 7. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements but not limited thereto, were advertisements of respondents which appeared in issues of the Miami News, a newspaper published in the city of Miami, State of Florida and having a wide circulation in Florida and other States of the United States.

Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed:

1. To show the true animal name of the fur used in any such fur product.

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

3. To show the country of origin of any imported furs contained in such fur products.

PAR. 8. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The term "natural" was not used in advertisements to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of the said Rules and Regulations.

(b) The disclosure "second-hand" was not set forth in adver-

tisements as required in violation of Rule 23 of the said Rules and Regulations.

PAR. 9. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised that refunds of purchase prices on fur products would be given under stated conditions when in truth and in fact the respondents refused to make refunds under the stated conditions, in violation of Section 5(a) (5) of the Fur Products Labeling Act.

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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Fur Products Labeling 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 said Acts, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, make the following jurisdictional findings, and enters the following order:

1. Respondent Fabulous Products, Inc., 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 at 546 Arthur Godfrey Road, Miami Beach, Florida.

Respondent Samuel Berger is an officer of the corporate respondent and his address is the same as that of the corporate respondent. Samuel Berger as an individual formerly traded as Samuel Berger Furs.

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 Fabulous Products, Inc., a corporation, and Samuel Berger, individually, as an officer of said corporation and as an individual formerly trading as Samuel Berger Furs, or under any other name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; as the terms "commerce," "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

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

2. Failing to set forth the term "natural" as part of the information required to be disclosed on labels under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to disclose that fur products contain or are composed of second-hand used fur.

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

5. Failing to set forth information required under

Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder on labels in the sequence required by Rule 30 of the aforesaid Rules and Regulations.

6. Failing to set forth on labels the item number or mark assigned to each such fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, 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.

2. Failing to set forth the term "natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Failing to disclose that fur products contain or are composed of second-hand used fur.

4. Failing to set forth on invoices the item number or mark assigned to each such fur product.

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

1. Fails to set forth in words and figures plainly legible all the information required to be disclosed by each of the subsections of Section 5(a) of the Fur Products Labeling Act.

2. Fails to set forth the term "natural" as part of the information required to be disclosed in advertisements under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

3. Fails to disclose that fur products contain or are composed of second-hand used furs.

4. Represents directly or by implication that the respondents will refund the purchase price of a fur product under stated conditions unless the respondents refund

the purchase price of such fur product under the stated conditions.

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

HUMPHREYS MEDICINE COMPANY, INCORPORATED

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

*Docket 8640. Complaint, Aug. 28, 1964—Decision, Dec. 16, 1966**

Order requiring a New York City manufacturer of "Humphreys Ointment" to cease falsely representing in its advertising that its product will shrink, avoid need for surgical treatment on, heal, cure, or remove hemorrhoids or effect any other cure beyond temporary relief.

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 Humphreys Medicine Company, Incorporated, 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 Humphreys Medicine Company, Incorporated, 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 71 West 23rd Street, in the city of New York, State of New York.

PAR. 2. Respondent Humphreys Medicine Company, Incorporated, is now, and for some time last past has been, engaged in the sale and distribution of a preparation offered for the treatment of piles or hemorrhoids and coming within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act.

*Modified on Dec. 15, 1970.

The designation used by respondent Humphreys Medicine Company, Incorporated, for said preparation, the formula thereof and directions for use are as follows:

Designation: "Humphreys Ointment."

Formula: The active ingredients for "Humphreys Ointment" are as follows:

Camphor; pyroligneous Acid; Benzocaine; Lanolin; Witch Hazel Extract; Oil of Rosemary, in a specially prepared base.

Directions: Remove the Cap and screw Rectal Tip in its place. Lubricate tip by spreading Humphreys Ointment on it. Insert tip into rectum and squeeze the tube. Also apply Ointment to the External parts. Repeat as desired.

In case of continued bleeding discontinue treatment and see a Doctor, since this may indicate a serious condition.

PAR. 3. Respondent Humphreys Medicine Company, Incorporated, causes the said preparation, when sold, to be transported from Newark, New Jersey, to purchasers thereof located in various other States of the United States and in the District of Columbia. This respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

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

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

WHY SUFFER! . . . . WHY TORTURE YOURSELF! . . . . WHEN THE PAINFUL AGONY OF HEMORRHOIDS CAN BE HELPED

QUICKLY AND SIMPLY . . . . WITH NEW IMPROVED HUMPHREYS OINTMENT . . . . THAT WORKS SIMPLY AND EFFECTIVELY 3 WAYS:—

1) ANESTHETIC ACTION EASES PAIN. 2) ASTRINGENT ACTION SHRINKS SWOLLEN MEMBRANES. 3) SOOTHING ACTION RELIEVES DISCOMFORT . . . . SO, WHY SUFFER . . . . WHY TORTURE YOURSELF, WHEN THIS HELPFUL MEDICATION IS AS NEAR AS YOUR DRUG STORE.

PAR. 6. Through the use of said advertisements, and others similar thereto not specifically set out herein, respondent has represented and is now representing, directly and by implication that the use of "Humphreys Ointment" will:

1. Shrink piles;
2. Relieve all pain attributed to or caused by piles;

PAR. 7. In truth and in fact the use of "Humphreys Ointment" will not:

1. Shrink piles;
2. Relieve all pain attributed to or caused by piles;
3. Afford any relief or have any therapeutic effect upon the condition known as piles or upon any of the symptoms or manifestations thereof in excess of affording temporary relief of minor pain or minor itching associated with piles.

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

PAR. 8. The dissemination by the respondent 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.

OPINION OF THE COMMISSION

DECEMBER 16, 1966

BY JONES, *Commissioner:*

I

The complaint in this matter, issued on August 28, 1964, charged that respondent violated Sections 5 and 12 of the Federal Trade Commission Act by making false representations in advertising its ointment, sold under the name of "Humphreys Oint-

ment," for the treatment of hemorrhoids or piles.[1] The complaint alleged, and respondent in its answer admitted, that it maintained a course of trade in said preparation in commerce within the meaning of the Federal Trade Commission Act.

Paragraph Five of the complaint charged that the following were typical of the statements made by respondent in its advertising:

WHY SUFFER! . . . . WHY TORTURE YOURSELF! . . . . WHEN THE PAINFUL AGONY OF HEMORRHOIDS CAN BE HELPED QUICKLY AND SIMPLY . . . . WITH NEW IMPROVED HUMPHREYS OINTMENT . . . . THAT WORKS SIMPLY AND EFFECTIVELY 3 WAYS:—

1) ANESTHETIC ACTION EASES PAIN. 2) ASTRINGENT ACTION SHRINKS SWOLLEN MEMBRANES. 3) SOOTHING ACTION RELIEVES DISCOMFORT . . . . SO, WHY SUFFER . . . . WHY TORTURE YOURSELF, WHEN THIS HELPFUL MEDICATION IS AS NEAR AS YOUR DRUG STORE.

This charge was admitted by respondent in its answer.

Paragraph Six of the complaint charged that through the use of these advertisements and others respondent had represented that use of Humphreys Ointment will: (1) shrink piles and (2) relieve all pain attributed to or caused by piles.

In Paragraph Seven these representations are alleged to be false and it is further alleged that Humphreys Ointment will not "[a]fford any relief or have any therapeutic effect upon the condition known as piles or upon any of the symptoms or manifestations thereof in excess of affording temporary relief of minor pain or minor itching associated with piles." Therefore, the complaint concludes that respondent's advertisements were misleading in material respects and constituted "false advertisements" within the meaning of the Federal Trade Commission Act.

Respondent denied the allegations in both Paragraphs Six and Seven.

The complaint in this matter was issued simultaneously with four other complaints also charging misrepresentations in the advertising of hemorrhoidal preparations, namely: *American Home Products Corporation,* Docket No. 8641 [p. 1524 herein], *E. C. DeWitt & Co., Inc.,* Docket No. 8642 [p. 1647 herein], *Grove Laboratories, Incorporated,* Docket No. 8643 [71 F.T.C. 822] and *The Mentholatum Company,* Docket No. 8644 [p. 1671 here-

[1] The terms "hemorrhoids" and "piles" are synonymous (Finding of Fact 11) and will be used interchangeably herein. Hereinafter the paragraphs of the Findings of Fact in this case will be referred to as "F.——."

in]. Hearings in the *Americam Home Products* case took place in April and May 1965, and the initial decision in that case was rendered on October 22, 1965. Complaint counsel appealed. On January 12, 1966, before argument of his appeal, complaint counsel moved in each of the other four cases to suspend hearings pending the issuance of the Commission's decision in *American Home Products.* This motion was denied by the Commission on March 16, 1966, and respondents in each of these four cases moved for reconsideration. On April 26, 1966 [69 F.T.C. 1179], the Commission entered an order directing the examiner to proceed with the hearings in each of these cases unless the parties desired to enter into a stipulation providing essentially that their cases may be disposed of on the basis of the record and findings in the *American Home Products* case. On May 24, 1966, respondent and complaint counsel filed a stipulation in accordance with the provisions of the Commission's order of April 26, 1966.[2] The stipulation provided that the Commission may issue such order as it deems necessary in the public interest on the basis of the facts stipulated by the parties and that the respondent waived any intervening steps before the hearing examiner. The parties further stipulated that the advertisements in the case had no significantly different effect upon readers or hearers from the effect of the advertisements in *American Home Products;* that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparation; and that, to the extent that respondent's advertisements differ significantly from those in *American Home Products,* the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences.

Attached to the stipulation are five advertisements, stated in the stipulation to be "representative of respondent's advertising claims," consisting of radio announcements, two of which are Spanish translations of two of the remaining three advertisements. Among the statements made in these advertisements are the following:

Humphreys Ointment relieves almost immediately the pain of simple piles, reducing the swelling and soothing its hotness.

Live free of the troubles of piles with Humphreys Ointment.

For over 100 years, Humphreys Ointment has helped people suffering with piles, to relieve its pain.

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[2] The terms of this stipulation (hereinafter referred to as "Stip.") are set forth in full in F.5.

YOU MUST GET RELIEF FROM PAINFUL DISCOMFORTS OR YOUR MONEY IS REFUNDED PROMPTLY.

On the basis of the pleadings, the stipulation of the parties and the attached advertisements, together with such portions of the record in *American Home Products* as are specified in the attached findings, we conclude that we have jurisdiction over respondent and the subject matter and that respondent was engaged in commerce and accordingly are entering our Findings of Fact and Conclusions in the matter.

II

DISCUSSION OF ISSUES

A. *Representations Made by Respondents in Its Advertisements*

Respondent is charged with representing that its product will (1) shrink hemorrhoids and (2) relieve all pain attributed to or caused by hemorrhoids.

In *American Home Products* we found that respondent had represented that its preparation would "reduce or shrink hemorrhoids" and "relieve all pain attributed to or caused by hemorrhoids" (F.8(a) and (d)). In Paragraph 2(a) of the stipulation executed by the parties, it is provided that the advertisements in the instant case "had no significantly different effect upon the readers or hearers from the effect of the advertisements in *American Home Products.*" Accordingly, on the basis of this provision of the parties' stipulation alone, we could conclude that respondent's advertisements represent that its ointment will shrink hemorrhoids and relieve all pain. However, there is no need to rely exclusively on parties' stipulation for this conclusion since the advertisements speak for themselves and our own independent examination of them enables us to determine whether the complaint allegations as to the representations made in these advertisements may be sustained.

(1) Respondent's claims respecting shrinkage

Respondent's advertising claims that respondent's product "relieves almost immediately the pains of simple piles, *reducing the swelling,* and soothing its hotness" and that its "*astringent action shrinks swollen membranes*" (emphasis added).

We believe that the effect of repondent's representation that its ointment will reduce and will shrink swollen membranes is to create the impression in the minds of the hemorrhoid sufferer that his hemorrhoids will be shrunk. Respondent's use of the

word "astringent" underscores the importance which respondent places upon the claimed efficacy of its ointment to shrink hemorrhoids.[3] In our opinion any member of the public who reads a representation that a product whose "astringent action shrinks swollen membranes" is unlikely to make any technical distinctions between this representation and the representation that the product will shrink hemorrhoids. Thus we conclude that respondent's claims in its advertising are the equivalent to direct representations that its product will shrink hemorrhoids.

(2) Respondent's claims respecting pain

Respondent states in its advertisements that its ointment "relieves almost immediately the pains of simple piles * * *"; and it "has helped people suffering with piles, to relieve its pain"; that its "anesthetic action eases pain"; that "you must get relief from painful discomforts or your money is refunded promptly"; and finally that one may "live free of the trouble of piles, with Humphreys Ointment." In our opinion these statements represent to the hemorrhoid sufferer that any and all pain which he suffers as a result of his hormorrhoids will be relieved. It would obviously be impossible for one to "live free of the trouble of piles" if *any* pain attributable to hemorrhoids persisted after use of Humphreys Ointment. Respondent's claims are unequivocal and do not permit even an inference that the relief actually afforded may be only partial or temporary. The obvious implication of the word "anesthetic," which is defined as an agent "capable of producing anesthesia" or the "entire or partial loss or absence of feeling sensation; a state of paralysis of the sensory apparatus" (Webster's New International Dictionary, Second Edition), is that all pain or other sensation resulting from hemorrhoids will be relieved by Humphreys Ointment. Accordingly, we conclude that the statements in respondent's advertisements constitute representations that its product will relieve all pain attributed to or caused by hemorrhoids.

B. *Deceptive Nature of Respondent's Claims*

The parties have stipulated that the facts applicable to this case support the stipulation that the effect of the use of respondent's preparation is not significantly different from the effect of American Home Products' preparations (Stip., Par. 2(b)). Ac-

[3] An "astringent" is defined as a "medicine or other substance that astringes, or contracts, the soft organic textures, and checks discharges of blood, mucus, etc." (Webster's New International Dictionary, Second Edition).

cordingly, the findings of fact and conclusions reached in *American Home Products* with respect to the efficacy of Preparation H, drawn from the record and Findings of Fact in that case, are equally applicable to Humphreys Ointment. It is in the light of these findings and conclusions, therefore, that the allegations in Paragraph Seven must be analyzed.

(1) Ability of Humphreys Ointment to shrink hemorrhoids

Paragraph Seven (1) of the complaint alleged that, contrary to respondent's representations, Humphreys Ointment will not shrink piles.

Respondent's advertising representations are to the effect that Humphrey's Ointment will "reduce swelling" and shrink "swollen membranes." We have concluded that these representations amount to a claim, and will be understood by the hemorrhoidal sufferer as a claim, that his hemorrhoids will be reduced in size. Hemorrhoids are by definition veins located underneath the mucous membrane of the rectum and the skin of the anal canal (F.10). The evidence in the record is that hemorrhoidal preparations such as Humphreys Ointment may have some effect upon edema or swelling in the tissue overlying hemorrhoids (F.25(c), 26), but that it cannot reduce the size of the hemorrhoidal veins (F.25(b), 26). The record also demonstrates, however, that this product can have no beneficial effect when the swelling is due to thrombosis (F.25(c), 26). Thus, even if we were to assume that some reduction of swelling is effected by respondent's preparation, not all types of swelling will be affected in this way, and furthermore the reduction which will occur will not be of the hemorrhoid itself but only of the surrounding area and thus will not be of the type implicitly promised by respondent's advertising. Accordingly, we find that respondent's representations with respect to shrinkage of hemorrhoids are in all respects false and misleading.

(2) Ability of Humphreys Ointment to relieve all pain

It is alleged in Paragraph Seven (2) of the complaint that, in contrast to respondent's claims in its advertising, respondent's products will not "relieve all pain attributed to or caused by piles." The record applicable to this case demonstrates that Humphreys Ointment cannot in fact eliminate all pain of hemorrhoids (F.25(d), 26). Pain may occur in infrequent cases of severe, complicated internal hemorrhoids as the result of spasm or strangulation caused by prolapse or as the result of the involvement of

tissues beyond the pectinate line (F.16). Pain in external hemorrhoids is frequently caused by an external thrombotic hemorrhoid or by inflammation, swelling, ulceration or infection (F. 17). Through the lubricants which it contains, Humphreys Ointment may protect inflamed surface areas against the passage of hard, dry stool and thereby temporarily relieve some pain caused by ulceration or from edema or swelling resulting from such inflammation (F.25(d), 26). Humphreys Ointment can, however, have no effect upon pain due to thrombosis or due to spasm or strangulation caused by prolapsing internal hemorrhoids (F.25(d), 26). Thus we conclude that respondent's claim that its ointment will relieve all pain is false. The most that can be concluded is that Humphreys Ointment may in some cases afford some temporary relief against some types of pain associated with hemorrhoids (F.25(d), 26).

C. *Alleged Absence of Other Therapeutic Benefits of Humphreys Ointment*

In addition to the allegations that respondent's affirmative representations with respect to its product are false, the complaint also alleged that Humphreys Ointment will not "[a]fford any relief or have any therapeutic effect upon any of the symptoms or manifestations thereof in excess of affording temporary relief of minor pain or minor itching associated with piles" (Complaint, Paragraph Seven (3)).

The record demonstrates that surgical removal is the only means by which hemorrhoids can be permanently cured (F.22) and that Humphreys Ointment will not heal, cure or remove hemorrhoids or cause them to cease to be a problem (F.25(a), 26). The record also demonstrates that while Humphreys Ointment may in some cases provide some temporary relief from two symptoms of hemorrhoids, namely pain and itching (F.25(d) and (e), 26), it will not afford any other type of relief or have any other therapeutic effect upon hemorrhoids or its symptoms or manifestations (F.25(f), 26).

Accordingly, we conclude that the allegation in Paragraph Seven (3) of the complaint must be sustained.

III

THE ORDER

The parties have stipulated that the Commission may issue such order as it deems necessary in the public interest, taking into con-

sideration any significant differences between respondent's advertising and those of *American Home Products* (Stip. Par. 3 and 6).

In determining what order is necessary to ensure that respondent's misrepresentations respecting the efficacy of its drug preparation will not occur again, it is of primary importance to consider the segment of the public which is most likely to be particularly affected by these representations.

Our mandate under the law was graphically expressed by Judge Clark when he emphasized that "the law is not 'made for the protection of experts, but for the public—that vast multitude which includes the ignorant, the unthinking and the credulous.'" *Charles of the Ritz Distributing Corporation* v. *Federal Trade Commission*, 143 F. 2d 676, 679 (2nd Cir. 1944).

The need for protection of the public becomes particularly acute where misrepresentations are made with respect to health claims and the efficacy of drugs since the appeal of such representations falls most poignantly on those persons who are in distress, frequently the aged and the infirm. Moreover, today, with Medicare a reality, many people may be consulting doctors for the first time in their lives. They will be learning that aches and pains and discomforts of all kinds may be symptoms of diseases which they had never heard of before or never before associated with their own distress. Consequently, advertised claims of drug efficacy will have increasing relevance to this segment of our population and will offer hope of relief to millions in our population who may have previously ignored such advertising not realizing their possible application to their own conditions. Accordingly, it becomes of even greater importance today to make sure that representations respecting health claims and relief of distress are absolutely accurate and do not contain promises, impressions, or even highly veiled suggestions of efficacy which are in any sense false or misleading. It is with these basic principles in mind that we must fashion the type of prohibitive provisions which are necessary to be included in the order in this case.

A. *Product Application of the Order*

The order proposed by complaint counsel provided that it was to be applicable to Humphreys Ointment "or any other preparation *of substantially similar composition or possessing substantially similar properties*" (emphasis added). As we noted in our Opinion in *American Home Products* with respect to Preparation H, under such an order the respondent could easily replace the in-

gredients in its product with those that are not "substantially similar" or which did not possess "substantially similar properties" and be exempt from the order even though such substitute product may be equally ineffective in relieving symptoms of hemorrhoids (*American Home Products,* Opinion, pp. 1623–1625).[4] And, as we further pointed out in *American Home Products,* determination of whether or not the new ingredients were "substantially similar" or possessed "substantially similar properties" "would be difficult of enforcement and would only be productive of controversy and probably litigation" (*American Home Products,* Opinion, p. 1623). Consequently, we are entering an order in the instant case, comparable to that entered in *American Home Products,* which is applicable to all preparations which may be sold by respondent for relief or treatment of hemorrhoids or its symptoms regardless of whether they contain the same or different ingredients from those contained in Humphreys Ointment. Finally, as we pointed out in detail in our opinion in *American Home Products* case, this provision in no way hinders respondent from developing a truly efficacious remedy for hemorrhoids which might enable it to make some of the claims which this order now prohibits it from making. In this situation respondent need only apply to the Commission for a modification of the order as specifically provided for in the order which we are entering.

B. *Respondent's Representations Respecting the Efficacy of Humphreys Ointment*

The order which we are entering prohibits respondent from continuing to represent directly or by implication that its product will shrink piles or relieve all pain attributed to or caused by piles. In addition, we are specifically prohibiting respondent from using the word "astringent" in its advertising. Since this word implies shrinkage of hemorrhoids, its continued use would have the effect of negating the prohibition on claims of shrinkage and therefore must be disallowed. We have similarly specifically prohibited respondent from referring in its advertisements to the word "anesthetic" which respondent uses to emphasize the purported pain-relieving qualities of its medication. As we noted above, the term anesthetic is synonymous with total elimination

[4] It is apparent from the nature of the ingredients in respondent's preparation (F. 3) that they in all likelihood are replaceable by other ingredients which might have no different effect on hemorrhoids and yet be wholly outside the order if it applied only to Humphreys Ointment or other preparations containing similar ingredients.

of all pain. In view of our findings and conclusions that Humphreys Ointment will not relieve all pain, any use of the term "anesthetic" would therefore be wholly false and misleading. While we do not know whether or not respondent's product in fact contains any anesthetic ingredient,[5] even if we assume that it does, we have found that respondent's product will at best only afford some temporary relief in some cases of pain associated with some types of hemorrhoids. If this temporary relief is due to an anesthetizing ingredient in respondent's product it would be redundant to permit respondent to single this ingredient out for special mention in its advertisement in addition to making the permitted disclosure respecting temporary relief for some cases of pain and would serve only to confuse and mislead the reader or hearer. To the extent singling such an ingredient out for special emphasis conveyed an impression different from this disclosure, it would be false and misleading. Accordingly, we have prohibited use of this word.

We have furthermore provided that respondents may not refer to any other ingredient either singly or in combination unless each such ingredient is effective in the treatment or relief of hemorrhoids or any of its symptoms and unless the specific effect thereof is expressly and truthfully set forth. While respondent has not in its advertisements stressed any particular ingredient it has referred to anesthetic action and astringent action thus implying efficacy of its product which typically is generated by particular ingredients having these properties. Moreover, under established case law, the Commission need not "confine its road block to the narrow lane the trangressor has traveled; it must be allowed effectively to close all roads to the prohibited goal, so that its order may not be by-passed with impunity." *Federal Trade Commission* v. *Ruberoid Co.*, 343 U.S. 470 (1952). It is particularly vital in the discharge of our responsibilities to prevent misrepresentations of the efficacy of drugs, to prohibit a respondent from singling out an ingredient in a medication, and thereby convey the impression that such ingredient is of therapeutic importance, when in fact such ingredient has no value or is of such nominal value as to be virtually worthless.

Respondent's advertisements promise that use of its ointment will enable the hemorrhoid sufferer "to live free of the troubles

[5] It may be noted that we found in *American Home Products* that Preparation H does not contain an anesthetic (A.H.P. 30). Respondent has stipulated that the facts applicable to this case support the stipulation that the effect of the use of its product is not significantly different from use of Preparation H but the facts themselves have not been stipulated.

of piles." The record applicable to this case indicates that the only cure for hemorrhoids is their removal by surgery (F.22) and that using Humphreys Ointment cannot effect a cure nor heal or remove hemorrhoids (F.25(a), 26). While respondent has made no specific claim for itching we find that the broad claims in its advertisements of overall efficacy encompass the representation that all itching will be eliminated.

Accordingly, the order which we are entering against respondent prohibits it from making any specific or generalized efficacy claims for its product which would include the specific claims mentioned above or any other of like effect. Respondent is specifically permitted to claim that in some cases of hemorrhoids its preparation may afford temporary relief of pain and itching.

FINDINGS OF FACT, CONCLUSIONS AND ORDER

FINDINGS OF FACT

A. *Respondent and Its Product*

1. Respondent Humphreys Medicine Company, Incorporated, 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 71 West 23rd Street, in the city of New York, State of New York (Complaint, Par. 1; Answer, Par. 1).

2. Respondent Humphreys Medicine Company, Incorporated, is now, and for some time last past has been, engaged in the sale and distribution of a preparation offered for the treatment of piles or hemorrhoids and coming within the classification of drugs as the term "drug" is defined in the Federal Trade Commission Act (Complaint, Par. 2; Answer, Par. 2).

3. The designation used by respondent Humphreys Medicine Company, Incorporated, for said preparation, the formula thereof and directions for use are as follows:

Designation: "Humphreys Ointment."

Formula: The active ingredients for "Humphreys Ointment" are as follows:

Camphor; Pyroligneous Acid; Benzocaine; Lanolin; Witch Hazel Extract; Oil of Rosemary, in a specially prepared base.

Directions: Remove the Cap and screw Rectal Tip in its place. Lubricate tip by spreading Humphreys Ointment on it. Insert tip into rectum and squeeze the tube. Also apply Ointment to the External parts. Repeat as desired. In case of continued bleeding discontinue treatment and see a Doctor,

since this may indicate a serious condition.
(Complaint, Par. 2; Answer, Par. 2.)

4. Respondent Humphreys Medicine Company, Incorporated, causes the said preparation, when sold, to be transported from Rutherford, New Jersey, to purchasers thereof located in various other States of the United States and in the District of Columbia. Thus respondent maintains, and at all times mentioned herein has maintained, a course of trade in said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial (Complaint, Par. 3; Answer, Par. 3).

B. *Stipulation Entered Into By Parties Hereto*

5. The parties hereto entered into a Stipulation, filed on May 24, 1966, providing as follows:

1. The above entitled case will be submitted to the Commission on the record in Docket No. 8641, *AMERICAN HOME PRODUCTS CORPORATION*, and such other facts and records as provided for below;

2. (a) The facts applicable to this case support the stipulation that advertisements in the case had no significantly different effect upon the readers or hearers from the effect of the advertisements in American Home Products.

(b) The facts applicable to this case support the stipulation that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparations.

3. To the extent that respondent's advertisements differ significantly from those in American Home Products, the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences;

4. The advertisements attached to this stipulation are representative of respondent's advertising claims and are to be included in the record of this proceeding;

5. Respondent waives any intervening steps before the Hearing Examiner;

6. The Commission may, on the basis of this stipulation, the attached advertisements and the record in American Home Products, issue such order as it deems necessary in the public interest;

7. The Commission is to issue its order disposing of this proceeding concurrently with the order setting forth its final action in American Home Products; and

8. The record on which the Commission is to make its disposition of this proceeding and for the purpose of judicial review is limited to the record at the time this stipulation is filed, this stipulation with the attached advertisements and the record in American Home Products.

Attached to this stipulation (hereinafter referred to as "Stip.") are copies of five advertisements, two of which are translations of two of the other two advertisements.

C. *Representations Made*

6. In the course and conduct of its business, respondent has disseminated, and caused the dissemination of, certain advertisements concerning said preparation by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements disseminated by means of radio broadcasts transmitted by stations located in various States of the United States, having sufficient power to carry such broadcasts across State lines for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation; and has disseminated, and caused the dissemination of, advertisements concerning said preparation by various means, including but not limited to the aforesaid media for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said preparation in commerce, as "commerce" is defined in the Federal Trade Commission Act (Complaint, Par. 4; Answer, Par. 4).

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

WHY SUFFER! . . . . WHY TORTURE YOURSELF! . . . . WHEN THE PAINFUL AGONY OF HEMORRHOIDS CAN BE HELPED QUICKLY AND SIMPLY . . . . WITH NEW IMPROVED HUMPHREYS OINTMENT . . . . THAT WORKS SIMPLY AND EFFECTIVELY 3 WAYS:—

1) ANESTHETIC ACTION EASES PAIN. 2) ASTRINGENT ACTION SHRINKS SWOLLEN MEMBRANES. 3) SOOTHING ACTION RELIEVES DISCOMFORT . . . SO, WHY SUFFER. . . . WHY TORTURE YOURSELF, WHEN THIS HELPFUL MEDICATION IS AS NEAR AS YOUR DRUG STORE.

Humphreys Ointment relieves almost immediately the pain of simple piles, reducing the swelling and soothing its hotness.

Live free of the troubles of piles, with Humphreys Ointment.

For over 100 years, Humphreys Ointment has helped people suffering with piles, to relieve its pain.

YOU MUST GET RELIEF FROM PAINFUL DISCOMFORTS OR YOUR MONEY IS REFUNDED PROMPTLY (Complaint, Par. 5; Answer, Par. 5; Stip. [attachments]).

D. *Meaning of Respondent's Representations*

8. In *American Home Products Corporation,* Docket 8641 [p. 1524 herein], we found that through the use of American Home Products Corporation's advertisement, said respondent has represented and is now representing, directly and by implication, that

the use of Preparation H Ointment and Suppositories, and each of them, will:

(a) Reduce or shrink hemorrhoids; [1]

(b) Avoid the need for surgery as a treatment for hemorrhoids;

(c) Eliminate all itch due to or ascribed to hemorrhoids;

(d) Relieve all pain attributed to or caused by hemorrhoids;

(e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

(*American Home Products Corporation,* Docket 8641, Finding of Fact 7 [p. 1633 herein].[2])

9. Through the use of the advertisements set forth in paragraph 7 hereof, and others similar thereto not specifically set out therein, respondent has represented and is now representing, directly and by implication, that the use of Humphreys Ointment will:

(a) Reduce or shrink hemorrhoids;

(b) Avoid the need for surgery as a treatment for hemorrhoids;

(c) Eliminate all itch due to or ascribed to hemorrhoids;

(d) Relieve all pain attributed to or caused by hemorrhoids;

(e) Heal, cure or remove hemorrhoids, and cause hemorrhoids to cease to be a problem.

(Stip. Par. 2(a).)

E. *General Medical Facts Pertaining to Hemorrhoids and Their Treatment*

10. "Hemorrhoids" are masses of dilated weak-walled veins located underneath the mucous membrane of the lower portions of the rectum and under the skin of the anal canal and the peri-anal area (A.H.P. Tr. 193, 255, 340, 413–414, 478, 543, 606, 709, 817, 838, 867, 892 [3]).

11. The terms "hemorrhoids" and "piles" are synonymous (A.H.P.Tr. 117, 193, 255, 340, 414, 478–479, 543, 607 and 709).

12. "Internal hemorrhoids" are hemorrhoids occurring above the pectinate line and are covered by mucosa. "External hemorrhoids" are hemorrhoids occurring below the pectinate line and

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[1] The words "hemorrhoids" and "piles" are synonymous (See Finding 11, *infra*) and will be used interchangeably herein.

[2] The paragraphs of the Findings of Fact in *American Home Products* are hereinafter referred to as as "A.H.P.——."

[3] The references herein are to the transcript in *American Home Products.*

are covered by skin (A.H.P. Tr. 193, 199, 232, 236, 255–257, 262, 342, 420, 421, 486, 548, 549, 608, 609, 817, 838, 867 and 892).

13. An "external thrombotic hemorrhoid" is a blood clot under the surface of the skin located in the immediate vicinity of the anal opening (A.H.P. Tr. 117). It is also referred to as an "anal hematoma" (A.H.P. Tr. 719) or a "perianal thrombosis" (A.H.P. Tr. 549).

14. A "prolapse" or "prolapsing hemorrhoid" is an internal hemorrhoid which, due to laxity of the rectum is enabled to fall outside the anal canal and protrudes to the surface (A.H.P. Tr. 199).

15. Hemorrhoids develop in a human being largely because of the fact that he stands in an upright position. In such a position a column of blood is formed from the splenic to the superior hemorrhoidal vein. The hemorrhoidal veins do not have valves to support the weight of this column of blood. The resulting pressure causes the hemorrhoidal veins to dilate (A.H.P. Tr. 594, 231). Hemorrhoids tend to be hereditary (A.H.P. Tr. 144, 231). Other factors leading to the development of hemorrhoids are abnormally long periods of standing, straining, difficulty with bowel movement, impacted stool, pregnancy and cirrhosis of the liver (A.H.P. Tr. 231–232, 144).

16. The most common symptom of internal hemorrhoids is bleeding (A.H.P. Tr. 256, 393, 479). The other principal symptom of internal hemorrhoids is prolapse (A.H.P. Tr. 256). Pain rarely occurs in internal hemorrhoids since the sympathetic nervous system which services the region above the pectinate line where hemorrhoids are located does not contain sensory nerve fibers (A.H.P. 266, 294, 342–343). Pain, however, may occur in infrequent cases of severe complicated internal hemorrhoids as the result of spasm or strangulation caused by prolapse or as the result of the involvement of tissues beyond the pectinate line (A.H.P. Tr. 342, 415, 631–632, 723).

17. The most common symptoms of external hemorrhoids are pain and swelling (A.H.P. Tr. 256, 742). Pain in external hemorrhoids is frequently caused by an external thrombotic hemorrhoid (A.H.P. Tr. 503). Other causes of pain in external hemorrhoids are inflammation, swelling and ulceration (A.H.P. Tr. 174, 267, 358, 519). Pain may also result from infection. However, this cause of pain is a relatively infrequent occurrence since the rectal and anal area is relatively highly resistant to infection (A.H.P. Tr. 520) and thus infection occurs very rarely as a symptom of hemorrhoids (A.H.P. Tr. 315).

18. Swelling, as distinguished from the dilation of the hemorrhoidal veins, may be a symptom of hemorrhoids as well as a possible cause of pain in external hemorrhoids. Swelling usually results either from a blood clot or thrombosis, which causes distension in the tissue overlying the hemorrhoid, or from edema, which is the accumulation of serous fluid in the interfibrillar spaces in such tissue (A.H.P. Tr. 144, 550).

19. Itching is not a common symptom of internal or external hemorrhoids (A.H.P. Tr. 129, 265, 618–619, 727). The itching thought to be caused by hemorrhoids is usually the result of some other condition such as fungus infection or idiopathic pruritis (A.H.P. Tr. 326, 502, 504, 347, 618–619, 727). The itching which is caused by hemorrhoids is usually the result of discharge from a prolapsed internal hemorrhoid (A.H.P. Tr. 318, 425, 618–619), or healing of an external hemorrhoid (A.H.P. Tr. 265, 502).

20. The symptoms of hemorrhoids can be confused with other conditions such as fissure, fistula, peri-anal or peri-rectal abcess, hypertrophic papillae, papillitus, cryptitis, polyps, proctitis, ulcerative colitis, pruritis ani and carcinoma (cancer). Any of these conditions can co-exist with hemorrhoids and it is not uncommon to find such a situation (A.H.P. Tr. 114–115, 196–197, 205, 259–260, 347–349, 483–484, 545–546, 612–613, 714–715).

21. The symptoms of hemorrhoids often disappear spontaneously within short periods of time, which may range from several days to two weeks (A.H.P. Tr. 119, 264, 324, 355, 361, 424, 875, 1613). However, the underlying pathology, namely, the vascular dilation, will persist unless corrected and will be subject to recurring episodes of symptoms (A.H.P.Tr. 516, 214).

22. Surgical removal is the only means by which hemorrhoids can be permanently cured (A.H.P. Tr. 118–119, 195, 200–202, 262–263, 352, 422, 487, 550, 554, 623, 719–723, 830). However, surgery does not effect a complete cure in every case (A.H.P. Tr. 150). Surgery may not be advisable or necessary in every case. Surgery may be contra-indicated in cases in which the patient's general medical condition is such that the danger of anesthesia and surgery outweigh the possible benefits to be derived (A.H.P. Tr. 226). Surgery is also not advisable for a simple, uncomplicated hemorrhoid (A.H.P. Tr. 169). Although hemorrhoids may be uncomfortable they are rarely a very serious medical problem, so that a patient, if he chooses to avoid surgery or should avoid it for medical reasons, can go through life without having his hemorrhoids removed (A.H.P. Tr. 135).

23. The symptoms of simple, uncomplicated, internal hemorrhoids of small size can frequently be ameliorated by injectional therapy. This consists of the injection of a schlerosing solution into the hemorrhoid itself which causes scar tissue to form which cuts off the blood vessel feeding the hemorrhoid (A.H.P. Tr. 145, 200, 262–263, 353). A further treatment which has been used within the last several years is the baron ligation method whereby a ligature of rubber is placed around internal hemorrhoids as another means of cutting off blood circulation to the hemorrhoid (A.H.P. Tr. 200–201, 488).

24. In cases on which surgery, injectional therapy or the baron ligation method are not used, a so-called "conservative" course of treatment may be prescribed. The measures used in such a course of treatment include cleanliness, altering of the diet to eliminate irritative foodstuffs, control of the bowels to ensure a smooth, soft stool, warm baths, witch hazel, boric acid, local anesthetic, ointments, suppositories, avoidance of standing and manual reinsertion of prolapse (A.H.P. Tr. 120, 202, 306, 356–357, 684–686). Ointments and suppositories contain lubricants which may protect the anal and rectal canal against the passage of hard, dry stool. Such lubricants may also serve to relieve dryness and soften the skin as well as provide a psychological advantage; many people derive mental relief from the fact that some sort of treatment is applied (A.H.P. Tr. 203–204, 279, 313, 355, 358, 362–363, 525, 555, 557).

F. *Conclusions re Effect of Humphreys Ointment*

25. In *American Home Products* we reached the following conclusions with respect to the effect of Preparation H Ointment and Suppositories on hemorrhoids and its symptoms based on citations set forth below:

(a) Preparation H will not avoid the need for surgery where it is indicated, or heal, cure or remove hemorrhoids, or cause hemorrhoids to cease to be a problem (A.H.P. 25, 26, 28, 29; A.H.P. Initial Decision, p. 124; conceded by respondent on appeal) (A.H.P. 31).

(b) Preparation H cannot reduce the size of hemorrhoidal veins (A.H.P. Tr. 128–129, 173–174, 212–213, 276, 369–370, 436–437, 500, 563–564, 629–630, 740, 1497, 1668) (A.H.P. 32).

(c) Preparation H may possibly, through the lubricants which it contains, temporarily protect inflamed surface areas from the passage of hard, dry stool and thereby have some effect upon

edema or swelling in the tissue overlying hemorrhoids (A.H.P Tr. 202, 1471, 1570, 1668. But *cf.* Tr. 128–129, 463, 684, 742–743). However, where swelling is due to thrombosis (A.H.P. Tr. 264), it will have no beneficial effect (A.H.P. Tr. 503) (A.H.P. 33).

(d) Preparation H may in some cases afford some temporary relief against some types of pain associated with hemorrhoids (A.H.P. Tr. 131, 207, 279, 372–373, 439–440, 503, 566, 632–633, 744). Through the lubricants which it contains, this medication may protect inflamed surface areas against the passage of hard, dry stool and thereby temporarily relieve some pain caused by ulceration or from edema or swelling resulting from such inflammation (A.H.P. Tr. 174, 212–213, 358, 493, 525. But cf. Tr. 128–129, 463, 684, 742–743). Preparation H can, however, have no effect upon pain due to thrombosis (A.H.P. Tr. 295, 358, 503) or due to spasm or strangulation caused by prolapsing internal hemorrhoids (A.H.P. Tr. 631–632) (A.H.P. 34).

(e) Through the lubricants which it contains, Preparation H may possibly relieve dryness and surface irritation and thereby provide some temporary relief from some types of itching associated with hemorrhoids (A.H.P. Tr. 131, 215, 279–280, 373–374, 439–440, 503–504, 566, 633–634, 741) (A.H.P. 35).

(f) Except for the effects set forth in A.H.P. 33, 34, 35, as well as possible psychological effects (see A.H.P. 28), Preparation H will not have any beneficial effect in the treatment or relief of hemorrhoids or any of its symptoms (A.H.P. Tr. 131, 215, 279, 315–316, 372–373, 424, 439–440, 503–504, 566, 632–633, 682–683, 744; Answer, Par. 3) (A.H.P. 36).

26. We hereby enter findings with respect to the effect of Humphreys Ointment on hemorrhoids and its symptoms and manifestations identical to the findings with respect to Preparation H set forth in paragraph 25 hereof (Stip., Par. 2(b)).

CONCLUSIONS RE ALLEGATIONS IN COMPLAINT

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

2. Through the use of the advertisements set forth in paragraph 7 hereof and others similar thereto not specifically set out therein, respondent has represented and is now representing, directly and by implication, that the use of Humphreys Ointment will:

(a) Shrink hemorrhoids;

(b) Relieve all pain attributed to or caused by hemorrhoids.

3. Humphreys Ointment will not:

(a) Shrink hemorrhoids;

(b) Eliminate all pain due to or ascribed to hemorrhoids; or

(c) Afford any relief or have any therapeutic effect upon hemorrhoids or upon any of the symptoms or manifestations thereof, in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids.

4. Therefore, the advertisements referred to in paragraph 7 hereof 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 dissemination of said false advertisements constituted, and now constitutes, unfair and deceptive practices in commerce, in violation of Sections 5 and 12 of the Federal Trade Commission Act.

ORDER

I. *It is ordered,* That respondent Humphreys Medicine Company, Incorporated, a corporation, and its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing the dissemination of 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:

A. In connection with the offering for sale, sale or distribution of Humphreys Ointment or any other product offered for sale for the treatment or relief of hemorrhoids or piles or any of its symptoms which:

1. Represents directly or by implication that the use of such product will:

(a) Reduce or shrink hemorrhoids or hemorrhoidal tissue or membranes or reduce or shrink swelling associated with hemorrhoids;

(b) Avoid the need for surgery as a treatment for hemorrhoids or hemorrhoidal symptoms;

(c) Heal, cure or remove hemorrhoids, eliminate the problem of hemorrhoids, or enable one to live free of the troubles of hemorrhoids;

(d) Afford any relief from pain or itching attributed to or caused by hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids;

(e) Afford any other type of relief or have any other therapeutic effect upon the condition known as hemorrhoids or upon any of the symptoms or manifestations thereof.

2. Contains any reference (a) to any word such as "astringent" which implies that said product will shrink hemorrhoids; or (b) to any word such as "anesthetic" which implies that said product will provide relief from pain or itching associated with hemorrhoids in excess of affording some temporary relief in some cases of pain and itching associated with some types of hemorrhoids.

3. Contains any reference to any other ingredient either singly or in combination unless each such ingredient is effective in the treatment or relief of hemorrhoids or any of its symptoms and unless the specific effect thereof is expressly and truthfully set forth.

B. Disseminating, or causing to be disseminated, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondent's preparation or preparations, in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement which contains any of the representations prohibited in Paragraph I(A) hereof.

II. In the event that respondent at any time in the future markets any preparation for the treatment or relief of hemorrhoids or any of its symptoms for which it desires to make any of the representations now prohibited under Paragraph I(A) of this order, it may petition the Commission for a modification of the order. Such petition shall be accompanied by a showing that the representation is not false or misleading within the meaning of the Federal Trade Commission Act, and, if such has been the case, that the specific representation has been approved by the Secretary of the Department of Health, Education and Welfare under the provisions of the Federal Food, Drug and Cosmetic Act as it is presently constituted or as it may hereafter be amended.

It is further ordered, That respondent 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 to cease and desist.

FINAL ORDER

The parties having entered into a stipulation filed on May 27, 1966, providing, *inter alia,* that: the case would be submitted to the Commission on the record in Docket 8641, *American Home Products Corporation* (p. 1524 herein] and such other facts and records as provided for in said stipulation; that the facts applicable to the case support the stipulation that the advertisements in the case had no significantly different effect upon readers or hearers from the effect of the advertisements in *American Home Products* and that the effect of the use of respondent's preparation is not significantly different from the use of American Home Products' preparations; that to the extent that respondent's advertisements differ significantly from those in *American Home Products,* the Commission may, in its order disposing of this proceeding, include appropriate provisions to take into consideration such differences; that respondent waives any intervening steps before the hearing examiner; that the Commission may, on the basis of this stipulation, the advertisements attached thereto and the record in *American Home Products,* issue such order as it deems necessary in the public interest and that the record on which the Commission is to make its disposition of this proceeding is limited to the record at the time this stipulation is filed; and the Commission having rendered its decision and issued its Opinion herein;

Now therefore, on the basis of said stipulation and attachments, the pleadings herein and the record in Docket 8641, *American Home Products Corporation* [p. 1524 herein], it is hereby

Ordered, That the attached Findings of Fact, Conclusions and Order be and they hereby are entered and issued by the Commission in final disposition of this proceeding.

IN THE MATTER OF

AMERICAN HOME PRODUCTS CORPORATION

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

*Docket 8641. Complaint, Aug. 28, 1964—Decision, Dec. 16, 1966**

Order requiring a New York City manufacturer of "Preparation H" ointment to cease falsely representing in its advertising that its product will

*Modified on July 15, 1969 and June 9, 1970.