FINAL ORDER

This matter having been heard by the Commission upon respondent's appeal from the initial decision; and the Commission, for the reasons stated in the accompanying opinion, having denied the appeal, and having modified the initial decision in part:

It is ordered, That the initial decision of the hearing examiner, as so modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That 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 the order to cease and desist.

Commissioner Elman dissented and has filed a dissenting opinion.

IN THE MATTER OF

PHILLIPS PETROLEUM CO. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket C–1088. Complaint, Aug. 2, 1966—Decision, Aug. 2, 1966

Consent order requiring the dissolution of major joint ventures in the polyolefin plastics field between Phillips Petroleum Co. of Oklahoma and National Distillers and Chemical Corp. of New York City, and requiring divestiture of a resin plant and three acquisitions made by one of these joint ventures, and requiring the construction of two new resin plants by Phillips and banning future acquisitions and joint ventures by Phillips or National.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated the provisions of Section 7 of the Clayton Act and Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. §§ 18 and 45(a) (1), and that a proceeding in respect thereof would be to the interest of the public, issues this complaint, stating its charges as follows:

I. Definitions

1. For purposes of this complaint the following definitions shall apply:

(a) "Resins" are a class of solid or semi-solid organic products generally of high molecular weight with no definite melting point.

(b) "Polyolefins" are resins formed by the polymerization (*i.e.*, linking together) of molecules of unsaturated hydrocarbons such as ethylene or propylene. The most important polyolefins are polypropylene and low and high density polyethylene.

(c) "Low density [sometimes called "conventional"] polyethylene" is a resin formed by the polymerization of purified ethylene and having a density of 0.940 or lower.

(d) "High density [sometimes called "linear"] polyethylene" is a resin formed by the polymerization of purified ethylene and having a density greater than 0.940.

(e) "Polypropylene" is a resin formed by the polymerization of purified propylene.

(f) "Fiber grade [sometimes called "filament grade"] polypropylene resin" is that grade of polypropylene resin suitable for commercial use in the production of filaments and fibers.

II. The Respondents

a. *Phillips Petroleum Company*

2. Respondent Phillips Petroleum Company ("Phillips") is a corporation organized and existing under the laws of the State of Delaware, with its principal office and principal place of business at Bartlesville, Oklahoma.

3. Phillips, together with its consolidated subsidiaries, is a fully integrated company which distributes petroleum products in almost every state of the United States. Its operations include exploration for and production of crude oil and natural gas; the refining, transporting, and marketing of petroleum; and the manufacture and marketing of petrochemical products.

4. Phillips is the 34th largest industrial corporation in the United States in terms of sales and the 19th largest in terms of assets. Phillips' total sales in 1964 exceeded $1.3 billion. Its assets, as of December 31, 1964, were nearly $2 billion, and its retained earnings exceeded $859 million. Phillips has for many years enjoyed a substantial cash flow and ready access to institutional funds and other sources of capital. During 1964, Phillips' cash flow amounted to $240 million.

5. Phillips derives a substantial portion of its revenue from the manufacture and sale of petrochemicals. It is a major producer of propylene and ethylene, the raw materials for the production of polyolefin resins. Phillips is also a major producer of polyolefin resins—it is one of the nation's leading producers of high density polyethylene resin, and through joint ventures with National Distillers and Chemical Corporation ("National") which are described more fully below in paragraphs 13 through 19, Phillips is a substantial producer of low density polyethylene resin and polypropylene resin. Finally, Phillips is extensively engaged in the fabrication and sale of end products manufactured from polyolefin resins—polyethylene film and sheet, polyethylene-coated milk cartons and other polyethylene-coated products, injection-molded plastic products, and pipe, hose and fittings made from polyethylene or polypropylene.

6. Phillips has long been a leader in research and development, ranking eighth among all industrial companies in U.S. patents issued in 1963. It derives substantial revenue from the licensing of its patents and from technical services provided in connection with such licensing. In the area of polyolefin technology, it holds the patent on the process most widely used in this country for the production of high density polyethylene; licensees of this process for producing high density polyethylene include Union Carbide Corporation and Celanese Corporation of America. It is also one of the claimants for the basic patent on polypropylene.

7. Phillips is and for many years has been extensively engaged in the purchase, sale and shipment across state lines of petroleum, polyolefins and other products. Phillips is engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

B. *National Distillers and Chemical Corporation*

8. Respondent National Distillers and Chemical Corporation ("National") is a corporation organized and existing under the laws of the State of Virginia, with its principal office and principal place of business at 99 Park Avenue, New York, New York.

9. National is a leading manufacturer of liquor and industrial alcohol. It also produces and markets non-ferrous metal products, aircraft and missile components and a wide variety of chemicals.

10. National is the 123rd largest United States industrial corporation in terms of sales and the 78th largest in terms of assets. National's total sales in 1964, excluding excise taxes, were ap-

proximately $500 million; its assets, as of December 31, 1964, exceeded $600 million, and its retained earnings exceeded $225 million.

11. National is one of the largest plastics producers in the world. It is also one of the principal suppliers of products made of hydrocarbons extracted from natural gas. National, both independently and through joint ventures, is extensively engaged in the manufacture and sale of polyolefin resins. It was the nation's third ranking producer of low density polyethylene resin in 1962. Through National Petro Chemicals Corporation, a joint venture with Owens-Illinois, Inc., it is a substantial producer and marketer of high density polyethylene resin. Through joint ventures with Phillips, described more fully below in paragraphs 13 through 19, National produces low density polyethylene and polypropylene resins.

12. National is and for many years has been extensively engaged in the purchase, sale and shipment across state lines of alcoholic beverages, polyolefins and other products. National is engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

C. *Alamo Industries, Inc.*

13. Respondent Alamo Industries, Inc. ("Alamo"), formerly named Alamo Polymer Corporation, is a corporation organized and existing under the laws of the State of Delaware, with its principal office and principal place of business at 4037 East Independence Boulevard, Charlotte, North Carolina.

14. Alamo is a joint venture equally owned by National and Phillips and was organized in July, 1962 for the production of polypropylene resin and film. It started production of polypropylene in 1964 in a new plant. In 1965 construction was started on an expansion of this plant which will double its capacity. Upon the completion of this expansion in 1966 Alamo will have an annual production capacity for polypropylene resin of 32 million pounds. Alamo anticipates that its sales of polypropylene resin in 1966 will exceed 36 million pounds.

15. Alamo has consummated a number of partial or complete acquisition of companies engaged in the production of products which use or are potential users of polypropylene. Through such acquisitions Alamo has become a leading company in the production and development of polypropylene filaments, fibers and other

polypropylene products. The acquisitions are discussed in more detail in paragraph 39, below.

16. Alamo was organized for and is engaged in the sale and shipment of polypropylene resin, polypropylene film and polypropylene end products across state lines. Alamo is engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

D. *A–B Chemical Corporation*

17. Respondent A–B Chemical Corporation ("A–B") is a corporation organized and existing under the laws of the State of Texas, with its principal office and principal place of business at Deer Park, Harris County, Texas.

18. A–B is a joint venture equally owned by National and Phillips and was organized in 1962 for the production of low density polyethylene resin. The only product it produces is low density polyethylene resin. In 1964 it accounted for 7% of total U.S. production. Expansion has been authorized which will double the capacity of A–B and probably result in it having the third largest capacity of any company in the industry.

19. A–B was organized for and is engaged in the sale and shipment of low density polyethylene resin across state lines. A–B is engaged in "commerce" within the meaning of the Clayton and Federal Trade Commission Acts.

III. The Nature of Trade and Commerce

A. *Generally*

20. The manufacture of plastics is an imporant and rapidly growing industry. The production of plastics in the United States has risen from a volume of 1 billion pounds in 1946 to 10.1 billion pounds in 1964. The total value of shipments of plastics in 1963 exceeded $2 billion, and the value of shipments of plastics products exceeded $3 billion.

21. The growth in production of polyolefins has been rapid. In 1964, production exceeded 2.8 billion pounds, more than double the amount produced in 1960. Furthermore, in 1964 polyolefin production represented 29% of all plastics production. The value of polyolefin shipments in 1963 exceeded $500 million.

22. The raw materials for the production of polyolefins are derived from natural gas and petroleum. The primary source is the "cracking" of petroleum gases such as ethane, propane, or light-

naphtha hydrocarbons. The ethylene and propylene derived from the "cracking" process are polymerized into resin. Small amounts of fillers, plasticizers and colorants may be added to the resin. The resin is then fabricated into intermediate or end products.

23. There are a number of major uses for polyolefin resins, with film and sheet constituting the largest use and molded articles the next largest. Molded articles include blow-molded containers such as bleach and detergent bottles and injection-molded articles such as housewares, toys and components for home appliances. Pipe and the extrusion coating of paper or paperboard (*e.g.*, milk cartons) represent other major polyolefin end uses.

24. Though the three polyolefin resins overlap, each resin has characteristics that suit it for particular purposes. Because low density polyethylene resin is the most flexible, has the least tensile strength, and has the lowest softening point, it is the predominant resin in the production of film and sheet, in wire and cable coating, and in extrusion coating. High density polyethylene resin, with its greater rigidity and strength, predominates in the manufacture of blow-molded containers. Polypropylene is the stiffest, has the greatest tensile strength and the highest melting point. It accounts for practically all polyolefin resin consumed in the manufacture of filament and fiber. A few companies produce all three resins, however, most produce only one or two of the three.

B. *Low Density Polyethylene Resin*

25. Low density polyethylene was developed and patented by Imperial Chemical Industries, Ltd., of Great Britain ("I.C.I.") before World War II. Production has risen steadily from 8 million pounds in 1943 to 1.9 billion pounds in 1964.

26. Low density polyethylene resin is now being produced by 10 companies. In 1962 the four largest producers accounted for 70% of total production and the eight largest for 95%.

27. Barriers to entry into the production of low density polyethylene are relatively high. Purchase of a license and technical know-how to undertake production may cost several million dollars. A relatively large plant is required for entry. The average sized plant has a capacity of approximately 130 million pounds a year, and the smallest has a capacity of about 50 million pounds. At the present time A–B has authorized the construction of two new plants each having 70 million pounds annual capacity. The

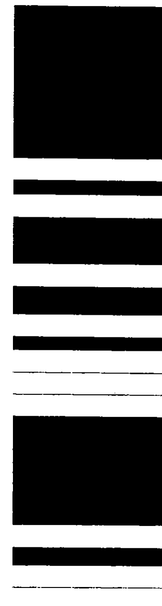
construction costs for a plant of such size are approximately $14 million.

28. Forward vertical integration into fabrication by resin manufacturers also presents a major barrier to entry into the manufacture of low density polyethylene resin. The leading end use of low density resin is in the manufacture of film and sheet. Until 1955, manufacture of film and sheet was primarily a small business operation, and only one polyolefin resin producer was engaged in its manufacture. By the end of 1962, largely through acquisitions, twelve polyolefin producers had obtained facilities for the manufacture of polyethylene film or sheet. Production by such manufacturers accounted for over one-half of total shipments of film and sheet in 1962.

29. Considerable vertical integration, largely through acquisition, has also occurred in other end-use markets for low density polyethylene resin. In extrusion coating, Phillips, in October, 1964, acquired Sealright-Oswego Falls Corporation, which in 1963 accounted for 8% of U.S. value of shipments of paper milk cartons. Milk cartons constitute the largest single use for extrusion coated paper and paperboard. Additional integration occurred in other extrusion coating uses with the acquisition by Phillips, in December, 1962, of the H. P. Smith Paper Company, a producer of polyethlene coated paper and paperboard. There have also been a number of acquisitions in the last few years of companies producing pipe from low density polyethylene.

C. *Polypropylene*

30. Polypropylene resin was developed in 1954 in Italy. Product and process patents have been issued in the United States and other countries to Montecatini Mining and Chemical Company, a large Italian chemical company. However, the patent situation in the United States is still unsettled. An interference proceeding is presently before the Patent Office involving the composition-of-matter patent. Phillips is among the claimants which also include Standard Oil of Indiana, du Pont and Montecatini. Commercial production of polypropylene resin began in this country in 1957 and reached 270 million pounds in 1964. Rapid growth of consumption has been forecast. During the first six months of 1965 production was 42% greater than in the corresponding period of 1964.



31. Including Alamo, there are nine companies now engaged in production of polypropylene resin in the United States. In 1962,

the four largest producers accounted for 85% of total U.S. production of polypropylene resin.

32. Barriers to entry into the production of polypropylene resin are relatively high. Based on the Alamo experience, a plant of 15 million pounds annual capacity would require a total investment of approximately $4 to $5 million. Most polypropylene plants have a capacity somewhat larger than this. Additional funds would be required to obtain the use of necessary patents and know how.

33. Further barriers to entry into the production of polypropylene resin arise from the substantial degree of vertical integration in the processing and fabrication of the resin. One of the principal uses for polypropylene resin is the manufacture of filament and fiber. Beginning in 1962 polypropylene producers have made six partial or complete acquisitions of companies in the fiber field. Alamo is responsible for four of these acquisitions.

34. Fiber grade polypropylene resin differs substantially in composition and characteristics from polypropylene resin produced for other uses. Specialized and costly additives must be blended into the resin to produce the necessary stability, color and other unique characteristics necessary for the manufacture of fibers. Polypropylene resin for fiber usage sells at substantially higher prices than polypropylene resin for other uses.

IV. Alamo Industries: Background and Violations Charged

A. *Background*

35. Both National and Phillips had been working for several years on the development of polypropylene production on a commercial scale prior to their organization of the Alamo joint venture. Both had extensive technical and marketing skills developed from their experience with low and high density polyethylene, and, in addition, had pilot plants in operation for the production of polypropylene prior to the organization of the joint venture.

36. At the time of the organization of the joint venture, National was a leader in the development of polypropylene film. Phillips at this time had developed a process for producing polypropylene, based on a patented process for producing high density polyethylene, and had initiated the designing of a commercial polypropylene plant. Phillips also had a surplus supply of the raw materials necessary for the production of polypropylene. In 1964 it produced 16% of all propane produced for chemical conversion purposes.

37. In March 1962 the President of Phillips, Stanley Learned, wrote to John Bierwirth, Chairman of the Board of National, that Phillips had "proceeded far enough with the pilot plant work on polypropylene that we authorized the start of the designing of a commercial plant about a week or ten days ago," and then suggested the possibility of a joint venture. National Board Chairman Bierwirth replied, "We definitely feel that we must be basic in the manufacture of polypropylene resins and I would certainly like to discuss working out some arrangement with you."

38. In July 1962, Phillips and National agreed to organize Alamo as a joint venture to engage in the manufacture of polypropylene resin and film products. Phillips and National each agreed to purchase one half of the capital stock for $1,750,000 and each agreed to provide an additional $4.5 million in funds. Phillips agreed to build and operate a polypropylene plant of 15 million pounds annual capacity for Alamo. In addition, Phillips agreed to license Alamo under its polypropylene process patent and National agreed to license to Alamo its polypropylene film know-how. The polypropylene resin that is not used internally by Alamo is sold to Phillips and National for their use or for sale by their respective sales staffs.

39. Subsequent to its organization Alamo acquired five operations which are consumers or potential consumers of polypropylene.

(a) In February 1964 Alamo acquired Wall Industries, Inc., from Phillips. Phillips had acquired this company in August 1963 in exchange for Phillips stock having a value of approximately $11 million. Wall is a major producer of rope, particularly synthetic rope, with sales in excess of $28 million during the year preceding its acquisition by Phillips.

(b) In May 1964 Alamo acquired, for approximately $4 million, a plant which National had erected at Stratford, Connecticut, for the manufacturer of polyolefin film.

(c) In March 1965 Alamo acquired the assets of Gerfil Corporation. Gerfil makes polypropylene yarns for hosiery, lingerie, swim wear, sweaters and other knit fabrics. Gerfil Corporation had been organized in February 1964 as a joint venture between Alamo and G. F. Chemical Corporation, Alamo owning 31.4% of the capital stock and G. F. Chemical the remainder. The total assets of Gerfil Corporation at the time of its organization were in excess of $6 million.

(d) In September 1964 Alamo acquired, for approximately

$5 million, from Reeves Brothers, Inc., that company's synthetic fiber and filament production facilities at Spartanburg, South Carolina and related marketing facilities.

(e) In September 1964 Alamo acquired for $10 million a 50% interest in Beacon Manufacturing Company, a substantial blanket producer, which is developing the use of polypropylene in blanket manufacture. During the year preceding its acquisition Beacon had sales in excess of $35 million.

B. *Violations Charged*

40. The effect of National's and Phillips' joint formation of Alamo, their respective acquisitions of the stock of Alamo, and of their continuing use of their stock interests to control the operations of Alamo, including the acquisitions made by Alamo as described in paragraph 39, may be substantially to lessen competition or to tend to create a monopoly in the production and sale of polypropylene and/or fiber-grade polypropylene in violation of Section 7 of the Clayton Act, and in violation of Section 5 of the Federal Trade Commission Act, in that:

(a) Potential competition in the production of polypropylene has been eliminated; but for the Alamo joint venture there is a reasonable probability that both National and Phillips would have separately entered into the production of polypropylene; at the least, there is a reasonable probability that one would have entered into the production of polypropylene while the other would have remained a significant potential competitor and thus acted as a restraining influence on anticompetitive behavior;

(b) Already high concentration levels in polypropylene production and/or sales may be substantially increased and the possibility of deconcentration lessened;

(c) The joint interest of National and Phillips in Alamo has created inducements and incentives for avoidance of competition between them in the manufacture and sale of propylene-based and ethylene-based products including polypropylene and low density polyethylene resins as well as end products;

(d) The vertical acquisitions by Alamo of concerns using polypropylene may tend to foreclose actual or potential competition in the production and sale of polypropylene in general and fiber-grade polypropylene in particular by reason of the barriers to entry which may result from such acquisitions; and

(e) Already high concentration levels in the production of polyolefins and in the petrochemical industry generally may be

substantially increased and the possibility of deconcentration lessened.

V. A–B Chemical Corporation: Background and Violations Charged

A. *Background*

41. National entered into production of low density polyethylene resin in 1955 through a joint venture with Panhandle Eastern Pipeline Company at Tuscola, Illinois. National subsequently acquired complete ownership of the Tuscola plant. In 1958 National built another low density polyethylene plant at Houston, Texas. In 1962 National was the third largest producer of low density polyethylene in the nation.

42. Phillips had been engaged in the sale of low density polyethylene resin for several years prior to the organization of the A–B joint venture. It is one of the leading United States producers of ethylene, the raw material for low density polyethylene, and was the supplier of ethylene to National's Houston plant at the time of the organization of the A–B joint venture.

43. On or about November 20, 1962, National and Phillips each purchased 50% of the capital stock of A–B, each contributing $5 million for its respective interest. As part of the agreement, National agreed to sell its Houston low density polyethylene plant to A–B for $34,123,206, said purchase to be financed by bank loans. It was also agreed that National would manage and operate the plant for A–B.

44. Substantially all of the low density polyethylene resin produced by A–B is sold to Phillips and National for their use or for marketing by their respective sales staffs. Under a long term contract, all of A–B's requirements for ethylene are purchased from Phillips.

45. At present two new low density polyethylene plants, each having a capacity of 70 million pounds, have been authorized by the Board of Directors of A–B. Neither Phillips nor National has any plants under construction for its own independent production of this resin. National, however, still operates its plant at Tuscola, Illinois, besides managing and operating A–B's plant.

B. *Violations Charged*

46. The effect of National's and Phillips' respective acquisitions of the stock of A–B, and their continuing use of their stock inter-

ests to control the operation of A–B, may be substantially to lessen competition or to tend to create a monopoly in the production and sale of low density polyethylene, in violation of Section 7 of the Clayton Act, and in violation of Section 5 of the Federal Trade Commission Act, in that:

(a) Potential competition in the production of low density polyethylene has been eliminated; but for the A–B joint venture there is a reasonable probability that Phillips would have entered into the production of low density polyethylene on its own; at the least, Phillips would have remained a significant potential competitor and thus acted as a restraining influence on anticompetitive behavior;

(b) Already high levels of concentration in the production and/or sale of low density polyethylene may be substantially increased and the possibility of deconcentration decreased;

(c) The joint interest of National and Phillips in A–B has created inducements and incentives for the avoidance of actual and potential competition between them in the manufacture and sale of propylene-based and ethylene-based products including polypropylene and low density polyethylene resins as well as end products;

(d) Already high concentration levels in the production of polyolefins and in the petrochemical industry generally may be substantially increased and the possibility of deconcentration lessened.

VI. Additional Actions and Agreements By and Between Respondents: Background and Violations Charged

A. *Background*

47. Phillips and National are actual or potential competitors of one another in many product areas, except to the extent that such competition is restrained or prevented by the conspiracy, combination or common course of action hereafter alleged. This restraint arises out of agreements to limit production, agreements to allocate markets, agreements to investigate and exploit jointly new product opportunities, and other explicit and implicit agreements, as set forth in more detail below.

48. Substantial restraints on trade and elimination of competition have occurred and are continuing to occur because of various unlawful agreements and understandings existing between Phillips and National. Both companies produce and market high den-

sity polyethylene, Phillips through a wholly-owned plant and National through its joint venture with Owens-Illinois, Inc. Both companies market low density polyethylene. National markets low density polyethelene resin produced at its wholly owned plant in Tuscola, Illinois. Thus, National markets low density polyethylene resin produced by both its wholly-owned plant and by the A–B joint venture. Phillips markets low density polyethylene resin produced by the A–B joint venture. Both companies have entered, or considered entering, a variety of polyolefin end-product markets, including plastic milk bottles, bags, fiber, and film. Each company has an extensive research staff and each for many years has regularly reviewed the feasibility of entering into the production and sale of many different ethylene-based and propylene-based products.

49. All sales, whether made by Phillips or National, of the products of Alamo and A–B tend to increase the profitability of the joint ventures. Thus, there exist economic and business inducements for Phillips and National to cooperate in achieving the maximum possible return for the joint venture and for each of the partners, in such ways as not competing for the same customers or not competing in the same end-product markets.

50. Prior to the formation of the A–B joint venture, Phillips considered the feasibility of entering into the production of low density polyethylene resin independently. Since the formation of the joint venture, however, Phillips has abandoned independent efforts to enter into such production. National, by the same token, has agreed with Phillips to refrain from undertaking any major expansion of the National-owned Tuscola plant; it has agreed, instead, to channel funds for growth into the jointly-owned A–B plant.

51. National urged that Phillips should acquire one or more substantial users of low density polyethylene resin, in order to insure that Phillips would absorb its share of the low density polyethylene resin produced by the A–B joint venture. Shortly thereafter, Phillips acquired the Mehl Company and the H. P. Smith Paper Company which together consumed over 20 million pounds of low density polyethylene resin.

52. Rather than enter separately into end-product markets for polypropylene, Phillips and National have cooperated to secure captive markets for the resin production of Alamo. They agreed on several occasions to advance additional funds to Alamo to finance such acquisitions. Moreover, prior to arranging the acqui-

sition of an interest in Gerfil Corporation by Alamo, Phillips had considered acquiring that interest independently. In the case of Wall Industries, Phillips sold to Alamo a company which it had itself previously acquired. National, for its part, sold to Alamo a film plant which it had built at Stratford, Connecticut.

53. In November 1962 Phillips and National agreed to conduct a series of joint market studies and to consult concerning the possible expansion of A–B into other products or the possibility of new joint ventures. Those joint market studies were carried out and when they indicated that polyvinyl chloride was the product market most suitable for new entry, Phillips and National agreed to enter that market jointly, in conjunction with Renolit, a German company with important patents and know-how in the polyvinyl chloride area.

B. *Violations*

54.The above-described explicit and implicit agreements among respondents constitute a conspiracy or combination to limit production, allocate markets, and avoid competition between them in the production or sale of the various polyolefin resins, their end-products, or other ethylene-based or propylene-based products, in violation of Section 5 of the Federal Trade Commission Act.

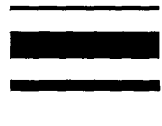
55. The continuing course of action by respondents, including the joint ventures, acquisitions, related agreements, and other actions taken by either to avoid competition with each other has substantially lessened, and has created economic inducements to the further substantial lessening of, actual and potential competition between Phillips and National in the United States in the production and/or sale of the various polyolefin resins, their end products, and other ethylene-based or propylene-based products, in violation of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

The joint ventures, acquisitions, agreements and course of conduct described above thus constitute violations of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act.

Decision and Order

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act and Section 7 of the Clayton Act, as amended, and the respondents having been served with notice of said determination and with a

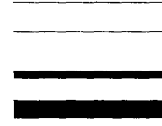
copy of the complaint the Commission intended to issue, together with a proposed form of order; and



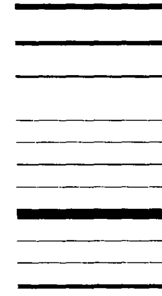
The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only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

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

1. Respondent Phillips Petroleum Company is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business at Bartlesville, Oklahoma.



Respondent National Distillers and Chemical Corporation is a corporation organized and existing under the laws of the State of Virginia, with its principal office and place of business at 99 Park Avenue, New York, New York.



Respondent Alamo Industries, Inc., formerly named Alamo Polymer Corporation, is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business at 4037 East Independence Boulevard, Charlotte, North Carolina.

Respondent A-B Chemical Corporation is a corporation organized and existing under the laws of the State of Texas, with its principal office and place of business at Deer Park, Harris County, Texas.

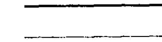
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

A. *Dissolution of Alamo Industries, Inc., Joint Venture*

I

It is ordered, That, within ninety (90) days from the effective date of this Order, National Distillers and Chemical Corporation (hereinafter referred to as "National") shall sell to Phillips Pe-



troleum Company (hereinafter referred to as "Phillips"), and Phillips shall purchase from National, capital stock, bonds, debentures, and other securities and interests held by National in Alamo Industries, Inc. (hereinafter referred to as "Alamo"), in accordance with Exhibit A.* After such purchase has been completed, Phillips shall comply with the terms of this Order which are applicable to Alamo.

II

It is further ordered, That, within two (2) years from the effective date of this Order, Alamo and/or Phillips shall divest absolutely and in good faith, to a purchaser or purchasers approved by the Federal Trade Commission, the facilities for the production of polypropylene resin known as the Monument Plant and located at Houston, Texas, including, but not limited to, all properties, machinery, equipment, raw material reserves, if any, and all contract rights pertaining to the operation of said facilities to the end that such divested facilities be established as a going concern and effective competitor in the manufacture and sale of polypropylene resins; that Phillips shall grant to the purchaser or purchasers of the aforesaid Monument Plant a license of polypropylene patents and know-how providing for a minimum annual royalty of $200,000 for the first five (5) years, and otherwise at such royalty and upon such terms as were originally provided by Phillips' present license to Alamo; that Phillips shall continue to supply propylene feedstock to the Monument Plant for a term of three (3) years from the sale of the Monument Plant, or for such longer term as, with the approval of the Federal Trade Commission, the purchaser or purchasers may reasonably require, at prices not to exceed the current market price as determined from time to time and under a contract the same in form and substance as Phillips' present propylene supply contract with Alamo, except that the minimum annual quantity shall be 15 million pounds and the maximum annual quantity shall be 40 million pounds; and that Phillips or Alamo shall, at the option of such purchaser or purchasers, agree to manage and operate the aforesaid Monument Plant for such purchaser or purchasers upon such terms as provided by the management agreement now in effect between Phillips and Alamo, but in no event shall such management agreement be for a term of more than five (5) years; and that Phillips may require such purchaser or purchasers to enter into a contract

*Exhibit A omitted in printing.

with Phillips, upon reasonable terms and conditions, for the supply of polypropylene resin to cover the requirements of Alamo until Phillips has constructed, in accordance with paragraph III of this Order, a new polypropylene plant and until such new plant is in commercial production, or until Alamo has made other arrangements for its polypropylene supply, but in no event shall such contract be for a term of more than five (5) years.

III

It is further ordered, That, within three (3) years from the date of divestiture of the Monument Plant as ordered by paragraph II of this Order (if such divestiture is accomplished within the two (2) year period therein specified), Phillips shall construct, or cause one of its subsidiaries to construct, facilities for the production of polypropylene resin with a minimum annual rated capacity of 35 million pounds.

IV

It is further ordered, That, within two (2) years from the effective date of this Order, Alamo and/or Phillips shall divest absolutely and in good faith, to a purchaser or purchasers approved by the Federal Trade Commission, the synthetic film production and manufacturing facilities at Stratford, Connecticut heretofore purchased by Alamo from National, including, but not limited to, all properties, plants, machinery, equipment, raw material reserves, if any, and all contract rights pertaining to the operation of said facilities to the end that such divested facilities be established as a going concern and effective competitor in the manufacture and sale of synthetic film; and that National, to the extent that it is legally free to do so, shall grant to such purchaser or purchasers a license of the patents and know-how relating to synthetic film heretofore licensed to Alamo.

V

It is further ordered, That, within two (2) years from the effective date of this Order, Alamo and/or Phillips shall divest absolutely and in good faith, to a purchaser or purchasers approved by the Federal Trade Commission, the rope business of Alamo's subsidiary, Wall Industries, Inc. (hereinafter referred to as "Wall"), including, but not limited to, the plant located at Beverly, New Jersey, all machinery and equipment located in said plant, related marketing facilities, and all other properties, plants, machinery, equipment, trade names, contract rights,

trademarks and good will relating to said rope business, together with all improvements relating to said rope business, to the end that such business be established as a going concern and effective competitor in the manufacture and sale of rope; and that if, after two (2) years from the effective date of this Order, Alamo and/or Phillips have been unable to divest Wall's rope business as aforesaid despite *bona fide* efforts to do so, Alamo and/or Phillips shall divest such other assets of Wall as shall be necessary to effectuate the divestiture of such rope business.

VI

It is further ordered, That, within ninety (90) days from the effective date of this Order, Alamo shall sell to National, and National shall purchase from Alamo, all capital stock, bonds, debentures, other securities and all other interests held by Alamo in Beacon Manufacturing Company, in accordance with Exhibit A.*

VII

It is further ordered, That Phillips shall grant to National, at National's request made within five (5) years of the date of the aforesaid sale of Alamo's stock by National to Phillips, licenses to Phillips' and/or Alamo's polypropylene process and licenses under United States patents or know-how relating to products using polypropylene in accordance with Exhibit A,* to the end that National have available to it all necessary know-how and licenses under patents to enter, if it so desires, the polypropylene field.

B. *Dissolution of A–B Chemical Corporation Joint Venture*

VIII

It is further ordered, That, within ninety (90) days from the effective date of this Order, Phillips shall sell to National, and National shall purchase from Phillips, all the capital stock, bonds, debentures, other securities and all other interests held by Phillips in A–B Chemical Corporation (hereinafter referred to as "A–B"), in accordance with Exhibit B.*

IX

It is further ordered, That, within five (5) years from the effective date of this Order, Phillips shall enter independently into the production of low density polyethylene resin at a newly constructed plant with a minimum annual rated capacity of 140 mil-

*Exhibits A and B omitted in printing.

lion pounds. Phillips shall promptly initiate the steps necessary for construction of said plant, and shall continue to use its best efforts to construct such plant and to bring it into production at the earliest possible date.

X

It is further ordered, That National shall grant to Phillips, at Phillips' request made within five (5) years from the date of the aforesaid sale of A–B's stock by Phillips, and in connection with its construction of the low density polyethylene plant referred to in the preceding paragraph, a license to National's high pressure polyethylene process, in accordance with Exhibit B,* to the end that Phillips may utilize National's process, if it so desires, in its independent entry into the production of low density polyethylene resin.

XI

It is further ordered, That National shall take certain steps to establish in the low density polyethylene resin business any two firms or companies approved and/or chosen by the Federal Trade Commission, on terms and conditions set forth in the form of agreement annexed hereto as Exhibit C,* to the end that competition in low density polyethylene resin be fostered by entry of new producers: *Provided, however,* That if National shall have then granted a license to anyone covering National's high-pressure polyethylene process in the United States, its territories, possessions or Puerto Rico (other than to a licensee who is either already in the high-pressure polyethylene resin business using a process not directly or indirectly obtained from National or is a company at least 50% of whose voting stock is owned by National) upon more favorable scope, terms and conditions than those set forth in Exhibit C, then Exhibit C shall be amended to be not less favorable to the licensee than the most favorable license granted to such other licensee.

C. *Dissolution of Atlantic Polymers, N.V. Joint Venture*

XII

It is further ordered, That, within ninety (90) days from the effective date of this Order, Phillips shall sell to National, and National shall purchase from Phillips, all capital stock, bonds, debentures, other securities and all other interests held by Phillips

*Exhibits B and C omitted in printing.

in Atlantic Polymers, N.V. (a Belgian corporation now engaged in the construction of a plant for the production of polyethylene resin in Belgium), in accordance with Exhibit D.*

D. *Divestiture of National's Interest in American Renolit Corporation*

XIII

It is further ordered, That, within ninety (90) days from the effective date of this Order, National shall sell to Phillips, and Phillips shall purchase from National, all capital stock, bonds, debentures, other securities and all other interests held by National in American Renolit Corporation (a Delaware corporation engaged in the production of polyvinyl chloride), in accordance with Exhibit E.*

E. *Ban on Future Acquisitions and Joint Ventures*

XIV

It is further ordered, That: (1) for a period of ten (10) years from the effective date of this Order, Phillips shall not acquire, directly or indirectly, through subsidiaries, joint ventures or otherwise, the whole or any part of the stock, share capital or assets (other than products sold in the course of business and patents, licenses or know-how) of any domestic concern theretofore engaged principally or as one of its major commodity lines in the manufacture, processing, conversion or sale of any polypropylene or low density polyethylene resin or fabricated product (except a concern the business activities of which in polypropylene or low density polyethylene are limited to processing, conversion or fabrication and which in the year prior to Phillips' acquisition accounted for total sales of polypropylene and high and low density polyethylene products not exceeding one million dollars ($1,000,000)), without the prior approval of the Federal Trade Commission; and

(2) for a period of five (5) years from the effective date of this Order, Phillips shall not acquire, directly or indirectly, through subsidiaries, joint ventures or otherwise, the whole or any part of the stock, share capital or assets (other than products sold in the course of business and patents, licenses or know-how) of any domestic concern theretofore engaged principally or as one of its major commodity lines in the manufacture, process-

*Exhibits D and E omitted in printing.

ing, conversion or sale of any high density polyethylene resin or fabricated product (except a concern the business activities of which in high density polyethylene are limited to processing, conversion or fabrication and which in the year prior to Phillips' acquisition accounted for total sales of polypropylene and polyethylene products not exceeding one million dollars ($1,000,000), without the prior approval of the Federal Trade Commission.

XV

It is further ordered, That: (1) for a period of ten (10) years from the effective date of this Order, National shall not acquire, directly or indirectly, through subsidiaries, joint ventures, or otherwise, the whole or any part of the stock, share capital or assets used in the manufacture or sale of high or low density polyethylene resin (other than products sold in the course of business and patents, licenses or know-how) of any domestic concern engaged (and in the case of joint ventures, to be engaged) principally or as one of its major commodity lines in the manufacture or sale of high or low density polyethylene resin, without the prior approval of the Federal Trade Commission;

(2) for a period of five (5) years from the effective date of this Order, National shall not acquire, directly or indirectly, through subsidiaries, joint ventures or otherwise, the whole or any part of the stock, share capital or assets (other than products sold in the course of business and patents, licenses or know-how) of any domestic concern theretofore engaged in the conversion, fabrication or sale of any high or low density polyethylene product where such concern, in the year prior to National's acquisition had total sales of polypropylene and high and low density polyethylene products in excess of five million dollars ($5,000,000), without the prior approval of the Federal Trade Commission;

(3) for a period of five years (5) from the effective date of this Order, National shall not acquire, directly or indirectly, through subsidiaries, joint ventures or otherwise, the whole or any part of the stock, share captial or assets used in the manufacture or sale of polypropylene resin (other than products sold in the course of business and patents, licenses or know-how) of any domestic concern then or at any time in the past engaged principally or as one of its major commodity lines in the manufacture or sale of polypropylene resin, without the prior approval of the Federal Trade Commission; and

(4) for a period of five (5) years from the effective date of this

Order, National, if it shall have authorized entry into the business of producing polypropylene resin, shall not acquire, directly or indirectly, through subsidiaries, joint ventures or otherwise, the whole or any part of the stock, share capital or assets (other than products sold in the course of business and patents, licenses or know-how) of any domestic concern theretofore engaged in the conversion, fabrication or sale of polypropylene products where such concern, in the year prior to National's acquisition, had total sales of polypropylene and high and low density polyethylene products in excess of five million dollars ($5,000,000) without the prior approval of the Federal Trade Commission.

XVI

It is further ordered, That, for a period of twenty (20) years from the effective date of this Order, Phillips and National shall cease and desist from engaging together, directly or indirectly, in any future joint ventures involving the manufacture, processing, conversion, fabrication or sale of any polyolefin or polyolefin product, without the prior approval of the Federal Trade Commission.

F. *General Provisions*

XVII

It is further ordered, That, pending divestiture or sale, respondents shall not make or permit any deterioration in any of the plants, machinery, building, equipment or other property or assets of the companies and plants described in this Order which may impair their present capacity or market value, unless such capacity or value is restored prior to divestiture or sale.

XVIII

It is further ordered, That in the event that respondents, despite *bona fide* efforts to do so, are unable to divest any or all of the facilities required to be divested by this Order or are unable to construct new plants in accord with this Order within the specified time, respondents may apply to the Federal Trade Commission at such time for relief from such obligations; and the Federal Trade Commission may issue such orders as it deems appropriate regarding such obligations and the disposition of facilities not yet divested.

XIX

It is further ordered, That: (1) within ninety (90) days from the effective date of this Order, Phillips, National and Alamo

shall report in writing to the Federal Trade Commission their compliance with paragraphs I, VI, VIII, XII and XIII of this Order;

(2) within ninety (90) days from the effective date of this Order, and every ninety (90) days thereafter until the divestitures required by paragraphs II, IV and V of this Order have been completed, Phillips and Alamo shall report in writing to the Federal Trade Commission their plans for effecting such divestitures and the actions they have taken in implementation thereof, including, in addition to such other information as may be required, (a) the name, address and official capacity of the individual or individuals designated to carry out each divestiture and to negotiate with interested parties, (b) a brochure, presentation or other writing containing all of the essential information necessary to permit an interested party to evaluate each of the businesses to be divested, including a description and listing of its assets, (c) the efforts made and to be made in advertising and affirmatively announcing the availability of each of the businesses to be divested, (d) the particular efforts made to locate and interest prospective purchasers not previously engaged in the industry, (e) a summary of contacts and negotiations relating to the sale of facilities ordered to be divested, including the identities of all parties expressing interest in the acquisition of any of the businesses to be divested and, subject to any legally recognized privilege, copies of all written communications pertaining to negotiations, offers to buy or indications of interest in the acquisitions of the whole or any part of any of the businesses to be divested, and (f) copies of all agreements and forms of agreement relating directly or indirectly to proposed sale of the whole or any part of the businesses to be divested.

(3) within ninety (90) days from the effective date of this Order, and every ninety (90) days thereafter until the terms of paragraphs III and IX of this Order have been complied with, Phillips shall report in writing to the Federal Trade Commission the steps it has taken to construct plants in compliance with such paragraphs.

IN THE MATTER OF

THOMAS F. LUKENS METAL COMPANY ET AL.

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

Docket C-1089. Complaint, August 2, 1966—Decision, August 2, 1966

Consent order requiring a Philadelphia distributor of commercial solders to cease misrepresenting the tin content 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 Thomas F. Lukens Metal Company, a corporation, and Mitchell Steinberg, 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:

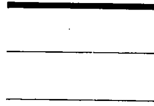
PARAGRAPH 1. Respondent Thomas F. Lukens Metal Company is a corporation organized, existing and doing business under and by virture of the laws of the State of Pennsylvania, with its principal office and place of business located at 2915 East Hedley Street, in the city of Philadelphia, State of Pennsylvania.

Respondent Mitchell Steinberg 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 offering for sale, sale and distribution of commercial solders including wire solders designated "50/50 by volume" and "40/60 by volume." Said solders are sold to retailers for ultimate resale to the public.

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

times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

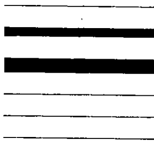


PAR. 4. In the course and conduct of their business, and for the purpose of inducing the purchase of their commercial wire solders, respondents have engaged in the practice of labeling and describing certain of said solders as "50/50 by volume" and "40/60 by volume."

PAR. 5. By and through the use of the aforesaid manner of labeling and describing said wire solders, the respondents represented:

(1) That their wire solder designated "50/50 by volume" is a 50/50 solder which is known in the trade as a solder containing 50% tin and 50% lead by weight.

(2) That their wire solder designated "40/60 by volume" is a 40/60 solder which is known in the trade as a solder containing 40% tin and 60% lead by weight.

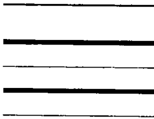


PAR. 6. In truth and in fact:

(1) Their wire solder designated "50/50 by volume" is not a 50/50 solder as known in the trade as it contains less than 50% tin and more than 50% lead by weight.

(2) Their wire solder designated "40/60 by volume" is not a 40/60 solder as known in the trade as it contains less than 40% tin and more than 60% lead by weight.

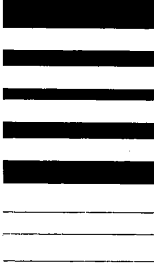
Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.



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

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

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the



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

DECISION AND ORDER

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

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

The Commission, having considered the agreements, 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 Thomas F. Lukens Metal Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 2915 East Hedley Street, in the city of Philadelphia, State of Pennsylvania.

Respondent Mitchell Steinberg is an officer of the corporate respondent and his address is the same as that of the corporate respondent.

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

ORDER

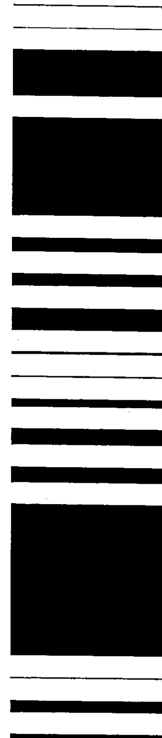
It is ordered, That respondents Thomas F. Lukens Metal Company, a corporation, and its officers, and Mitchell Steinberg, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any

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

(1) Using the designation 50/50 alone or in conjunction with the words "by volume" to designate, describe or refer to a commercial solder which does not contain 50% tin by weight: *Provided, however,* That it shall be a defense in any enforcement proceeding hereunder for respondents to establish that the tin content of a solder is within the permissible variations in composition allowed in the sampling procedures set forth in the then existing Specifications for Solder Metal as published by the American Society for Testing and Materials.

(2) Using the designation 40/60 alone or in conjunction with the words "by volume" to designate, describe or refer to a commercial solder which does not contain 40% tin by weight: *Provided, however,* That it shall be a defense in any enforcement proceeding hereunder for respondents to establish that the tin content of a solder is within the permissible variations in composition allowed in the sampling procedures set forth in the then existing Specifications for Solder Metal as published by the American Society for Testing and Materials.

(3) Misrepresenting by any numerical designation or in any other manner the tin content of any of their solders: *Provided, however,* That it shall be a defense in any enforcement proceeding hereunder for respondents to establish that the tin content of a solder is within the permissible variations in composition allowed in the sampling procedures set forth in the then existing Specifications for Solder Metal as published by the American Society for Testing and Materials.



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

BEATRICE FOODS CO.

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

Docket C–1090. Complaint, Aug. 2, 1966—Decision, Aug. 2, 1966

Consent order requiring a Chicago, Ill., wholesale food processor to cease discriminating among its competing customers in paying promotional allowances for its oriental food products, in violation of Section 2(d) of the Clayton Act.

COMPLAINT

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

PARAGRAPH 1. Respondent named herein is Beatrice Foods Co. Respondent is a corporation organized and existing under the laws of the State of Delaware, with its principal office and place of business located at 120 South LaSalle Street, Chicago, Illinois.

PAR. 2. Respondent, through its La Choy Food Products Division, for many years has been and is now extensively engaged in the business of manufacturing, processing, distributing and selling oriental food products including, chow mein, chop suey, soy sauce, bean sprouts, bamboo shoots, water chestnuts, chow mein noodles, chop suey vegetables, mixed Chinese vegetables, and sweet and sour sauce, throughout the United States and in the District of Columbia through the services of more than sixty brokers. Respondent's La Choy Food Products Division manufactures and processes its oriental food products at its plant in Archbold, Ohio. Respondent's total sales for all products for the year 1965 exceeded $600 million. Respondent's total sales of its La Choy Food Products Division exceeded $10 million in 1965.

PAR. 3. In the course and conduct of its business in commerce, respondent is now and for many years past has been, engaged in commerce, as "commerce" is defined in the Clayton Act, in that it

has sold and distributed and is now selling and distributing, its products to purchasers thereof located in States other than the State of origin of shipments and has, either directly or indirectly, caused such products, when sold, to be shipped and transported from the State of origin to purchasers located in other States. Thus, there is now, and has been, a constant course and flow of trade and commerce in such oriental food products between said respondent in the State of origin and purchasers thereof located in other States and the District of Columbia.

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

Included among such payments are the following: In 1962 La Choy paid to a large California retail grocery chain customer a promotional allowance of $30 per store for installing the La Choy line in 41 retail outlets in the San Diego area, a total of $1,230, and a promotion or display allowance of $1,875 for maintaining a shelf display of La Choy products for a six month period of time.

In January 1962 and 1963 La Choy made various promotional payments to a large wholesaler in the San Francisco Bay area in consideration for the promotional services rendered by the wholesaler's salesmen in promoting La Choy's products for a two week period of time. The payments exceeded $2,200 each year.

In 1964 La Choy paid a promotional allowance of $9,325 to a retail grocery chain located in the San Francisco Bay area in consideration for installing La Choy oriental food products on the shelves of its retail stores.

In 1965 La Choy paid a large retail grocery chain with retail outlets in a number of Western States a $4,000 promotional allowance in consideration for installing La Choy oriental food products on the shelves of eight retail stores located in seven Utah communities.

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

DECISION AND ORDER

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

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

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

1. Respondent Beatrice Foods Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 120 South LaSalle Street, Chicago, Illinois.

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

ORDER

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

> Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation or in consideration for any services or facilities furnished by or through such customer in connection with

the offering for sale, sale or distribution of respondent's oriental food products, unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products.

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

IN THE MATTER OF

STEINBERGER BROS., INC., ET AL.

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

Docket C-1091. Complaint, Aug. 2, 1966—Decision, Aug. 2, 1966

Consent order requiring a New York City clothing importer and wholesaler, to cease misbranding and falsely invoicing its wool products and furnishing false guarantees for them.

COMPLAINT

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

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

Individual respondents Franklin Steinberger and Howard Steinberger are officers of said corporate respondent and participate in

the formulation, direction and control of the acts, policies and practices of said corporation, including the acts and practices hereinafter referred to.

Respondents are importers and wholesalers of wool products with their office and principal place of business located at 1160 Broadway, New York, New York.

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

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

Among such misbranded wool products, but not limited thereto, were certain yarns stamped, tagged or labeled as containing "100% Mohair" whereas, in truth and in fact, said yarns contained a substantial amount of other woolen fibers.

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

Among such misbranded wool products, but not limited thereto, were certain yarns with labels on or affixed thereto which failed to disclose the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight of (1) woolen fibers; (2) each fiber other than wool if said percentage by weight of such fiber is 5 per centum or more; and (3) the aggregate of all other fibers.

PAR. 5. Certain of said wool products were misbranded in violation of the Wool Products Labeling Act of 1939, in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder, in that the term "mohair" was used in lieu of the word "wool" in setting forth the required fiber content information on labels affixed to wool products when certain of the fibers described as "mohair" were not entitled to such designa-

tion, in violation of Rule 19 of the Rule and Regulations under the Wool Products Labeling Act of 1939.

PAR. 6. Respondents furnished false guaranties that certain of their wool products were not falsely or deceptively stamped, tagged, labeled, or otherwise identified when respondents in furnishing such guaranties had reason to believe that wool products so falsely guaranteed would be introduced, sold, transported or distributed in commerce, in violation of Section 9(b) of the Wool Products Labeling Act of 1939.

Respondents furnished false guaranties that certain of their wool products were not falsely or deceptively stamped, tagged, labeled, or otherwise identified in that they have set forth a separate guaranty that wool products listed on such invoices are properly labeled under the provisions of the Wool Products Labeling Act of 1939 and are not misbranded.

PAR. 7. The acts and practices of the respondents as set forth above were, and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 8. In the course and conduct of their business, respondents now cause and for some time last past, have caused their said products, when sold, to be shipped from their place of business in the State of New York to purchasers located in various other States of the United States, and maintained a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. Respondents in the course and conduct of their business, as aforesaid, have made statements on invoices and shipping memoranda to their customers misrepresenting the fiber content of certain of their said products.

Among such misrepresentations, but not limited thereto, were statements representing the fiber content thereof as "Mohair" whereas, in truth and in fact, said yarns contained substantially different fibers and amounts of fibers than represented.

PAR. 10. The acts and practices set out in Paragraph Nine have had and now have the tendency and capacity to mislead and deceive the purchasers of said products as to the true content thereof and to cause them to misbrand products sold by them in which said materials were used.

PAR. 11. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and of respondent's competitors and constituted, and now constitute 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 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 Wool Products Labeling Act of 1939; and

The respondents and counsel for the Commission having there after 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 Steinberger Bros., 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 1160 Broadway, in the city of New York, State of New York.

Respondents Franklin Steinberger and Howard Steinberger 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 Steinberger Bros., Inc., a corpo-

ration, and its officers, and Franklin Steinberger and Howard Steinberger, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, or offering for sale, selling, transporting, distributing or delivering for shipment in commerce wool yarn or any other wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939:

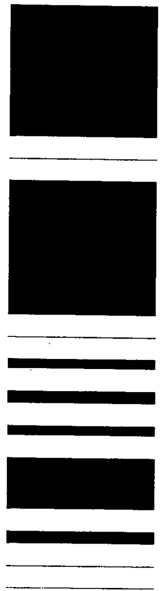
1. Which are falsely and deceptively stamped, tagged, labeled or otherwise identified as to the character or amount of the constituent fibers contained therein.

2. Unless each such product has securely affixed thereto or placed thereon a stamp, tag, label or other means of identification correctly showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a) (2) of the Wool Products Labeling Act of 1939;

3. To which is affixed a label wherein the term "mohair" is used in lieu of the word "wool" in setting forth the required information on labels affixed to such wool products unless the fibers described as mohair are entitled to such designation and are present in at least the amount stated.

It is further ordered, That respondents Steinberger Bros., Inc., a corporation, and its officers, and Franklin Steinberger and Howard Steinberger, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any wool product is not falsely or deceptively stamped, tagged, labeled, or otherwise identified when respondents have reason to believe that such wool product may be introduced, sold, transported, or distributed in commerce.

It is further ordered, That respondents Steinberger Bros., Inc., a corporation, and its officers, and Franklin Steinberger and Howard Steinberger, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of yarn or any other textile products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers con-



tained in yarn or any other textile products on invoices or shipping memoranda applicable thereto or in any other manner.

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

BROWN SHOE COMPANY

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

Docket 7606. Complaint, Oct. 13, 1959—Decision, Aug. 3, 1966

Order modifying cease and desist order of February 20, 1963, 62 F.T.C. 679, pursuant to a decision of the United States Supreme Court, 384 U.S. 316 (8 S.&D. 171), which reversed a decision of the Court of Appeals, Eighth Circuit, 339 F. 2d 45 (7 S.&D. 1047), by deleting language dealing with resale price maintenance but directing enforcement of the exclusive dealing prohibition of the original order.

MODIFIED ORDER TO CEASE AND DESIST

Respondent, having filed in the United States Court of Appeals for the Eighth Circuit a petition to review and set aside the order to cease and desist issued herein on February 20, 1963 [62 F.T.C. 679]; and that court on December 8, 1964 [7 S.&D. 1047], having issued its opinion and entered its judgment setting aside this order and dismissing the complaint; and the United States Supreme Court on June 6, 1966 [8 S.&D. 171], having issued its opinion reversing in part the judgment of the court of appeals; and the court of appeals on July 22, 1966, in accordance with the opinion and judgment of the Supreme Court, having issued its final decree modifying the Commission's order and directing enforcement of the order, as modified;

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified, in accordance with the said final decree of the court of appeals to read as follows:

It is ordered, That respondent Brown Shoe Company, Inc., its officers, representatives, agents, employees, subsidiaries, successors, and assigns, directly or through any corporate or other device, in or in connection with the offering for sale, sale and distribution of shoes, in interstate commerce, do forthwith cease and desist from:

Entering into, continuing in operation or effect, or enforcing any agreement or understanding with any customer or prospective customer or imposing any condition upon any customer or prospective customer, which has the purpose or effect of precluding such customer or prospective customer from independently determining whether shoes will be purchased by such customer or prospective customer from any competitor of respondent or from independently determining the volume of such shoes to be purchased.

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

IN THE MATTER OF

WILLIAM SMARZ TRADING AS MERCANTILE AND MEDICAL CREDIT ADJUSTERS

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

Docket C–1092. Complaint, Aug. 3, 1966—Decision, Aug. 3, 1966

Consent order requiring a Jersey City, N.J., collection agency to cease using deceptive means to collect delinquent accounts or implying that the information it solicits is for some official government purpose.

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 William Smarz, an individual, trading and doing business as Mercantile

and Medical Credit Adjusters, 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 William Smarz is an individual trading and doing business as Mercantile and Medical Credit Adjusters, with his office and principal place of business located at 26 Journal Square, Jersey City, New Jersey.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the operation of a collection agency and in collecting debts owed to others, upon a commission basis, contingent upon collection.

PAR. 3. In the course and conduct of his business, respondent now, and for some time last past has been, receiving accounts for collection from persons, firms and corporations located outside the State of New Jersey and has been referring accounts which he has received for collection to persons, firms and corporations in States other than the State of New Jersey and has been collecting accounts owed by persons, firms and corporations who are located outside the State of New Jersey. In addition thereto respondent has caused certain forms hereinafter referred to, to be transported from his place of business in the State of New Jersey to addresses in other States of the United States and has sent and received, by means of the United States mail, letters, checks and documents to and from States other than the State of New Jersey and maintains, and at all times herein mentioned has maintained, a substantial course of trade in said business in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, respondent frequently desires to obtain information as to the current addresses, places of employment and other pertinent information as to persons whose delinquent accounts the respondent is seeking to collect. For this purpose he uses, and has used, certain printed forms.

Typical and illustrative, but not all inclusive, of said forms is the following:

CURRENT STATUS REQUEST

CLAIMANTS REIMBURSEMENT PAYMENT AUTHORIZATION

BUREAU OF ACCOUNTING AUDITS
N.T.B. Division
Dept. 68—"L" Section
1029 Vermont Ave.
N.W.
Washington, D.C. 20003

Certificate No.

Applicants Must Answer All Questions on Reverse Side in Order to Have This Form Validated.

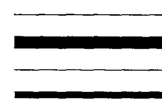
Return This Form Completed Within 5 Days in the Envelope Enclosed.

The Claimants, through their Distribution and Disbursement Agent
WILL PAY AND TRANSMIT TO ADDRESSEE
the sum of money authorized herein, as a
Refund—Reimbursement

Please Do Not Staple, Fold or Mutilate or Attach Paper Clips to This Form. This Card Will Be Processed Through a Filing System.

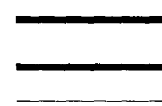
For This Purpose Claimant Has Established a Verification Fund Having At All Times a Minimum of

ALLOW NINETY DAYS FOR RECEIPT OF CHECK



If Your Name Above Is Incorrect — Correct
for actual disbursement made in affirmatively replying to this query
No Stamps Necessary

FIFTY FIVE DOLLARS

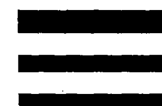


READ CAREFULLY

The Federal Trade Commission, an agency of the U. S. Government, has ordered that full truth and disclosure be given the recipient of this locate form, as to the purpose and intent of same. Such disclosure is indicated herein.

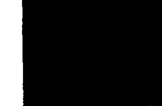
Present Home Address:

Street Address City State Zip# Apt. # Tel. #



Your social security number | If married, husband or wife social security number

TO BE COMPLETED BY YOU	IF MARRIED, HUSBAND OR WIFE TO COMPLETE
Name of Employer: ______	Name of Employer: ______
Address: ______	Address: ______
City: ______ State: ______	City: ______ State: ______
Your Signature: ______	Your Signature: ______
Date: ______	Date: ______



This request from an agency, acting for its principals, none of whom are government facilities in order to elicit current data which will enable its principal to correct, and up-date pertinent records, and where necessary, permit proper initiation of measures for recovery or adjudication of claims it has outstanding with addressee. Compliance and/or acknowledgment of his query, is neither mandatory, or fixed by statute.

DO NOT WRITE HERE
Series Control ______
Index ______
By ______
Number ______
Dated ______

Said form is approximately 7″ x 3″ in size, of pink color and is mailed in a brown official appearing window envelope with a return address of "N.T.B. Division, Department 88—'L' SECTION, 1029 VERMONT AVE. N.W., WASHINGTON, D.C. 20005." Also enclosed is a return business reply envelope addressed the same as the return address on the envelope previously referred to.

Each of these forms is enclosed with a return envelope, sealed and addressed, and, mailed in bulk to the said return address from where it is mailed to the respective addressees, postage having been placed thereon by a postage machine with a Washington, D.C. postmark.

If any of the above forms are returned by the addressee in the return envelope they are mailed in bulk by some person at the Washington, D.C. address to the respondent without being opened.

PAR. 5. Through the use of the name "Bureau of Accounting Audits, N.T.B. Division, Dept. 88—'L' Section" and the Washington, D.C. address and postmark, and the imprinting of the words "Fifty Five Dollars" and by other words on said forms, and the general format and appearance of said forms, respondent represents, directly or by implication, to those to whom the form is mailed:

(1) That a substantial sum of money is being held for the addressee;

(2) That the sender is communicating with the addressee in some official governmental capacity; and

(3) That the information is required for official governmental purposes.

PAR. 6. In truth and in fact:

(1) No substantial sum of money is being held for the addressee by the respondent or by any other person or agency;

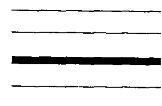
(2) The sender is not acting in any official capacity but respondent desires the information solely for the purpose of locating the person to whom the form is addressed; and

(3) The information is not required for official purposes.

The sole purpose of said form is to locate delinquent debtors by subterfuge. This practice constitutes a scheme to mislead and conceal the purpose for which the information is sought.

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

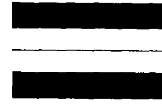
PAR. 7. The use by respondent, as hereinbefore set forth, of said form has had, and now has, the tendency and capacity to mislead and deceive persons to whom said forms are sent into the erroneous and mistaken belief that said representations and implications were, and are, true and to induce the recipients thereof to supply information which they otherwise would not have supplied.



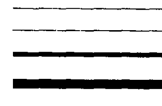
PAR. 8. The aforesaid acts and practices of the respondent as herein alleged, were, and are, all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

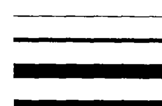
The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to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



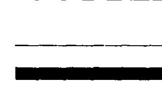
The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does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



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



1. Respondent William Smarz is an individual trading and doing business as Mercantile and Medical Credit Adjusters, with



his office and principal place of business located at 26 Journal Square, Jersey City, New Jersey.

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 the respondent William Smarz, trading and doing business as Mercantile and Medical Credit Adjusters, or any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, or the offering for sale, sale or distribution of forms, or other material, for use in obtaining information concerning delinquent debtors, or in the collection of, or attempt to collect, delinquent accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, or placing in the hands of others for use, any form, questionnaire or other material, printed or written, which does not clearly and conspicuously reveal that the purpose for which the information is requested is that of obtaining information concerning alleged delinquent debtors.

2. Representing, or placing in the hands of others any means by which they may represent, directly or by implication, that money or a free gift or any other thing of value, is being held for the person from whom information is sought.

3. Using the name "Bureau of Accounting Audits, N.T.B. Division, Department 88 'L' Section" or any other name or words of similar import to designate, describe or refer to respondent's business; or representing, directly or by implication, that any private inquiries, forms or communications emanate from or are connected with an official or governmental agency or are used to solicit information for official or governmental purposes.

4. Misrepresenting, in any manner, the identity of the sender or origin of any inquiry, the purpose for which information is sought, or the nature or status of respondent's business.

5. Placing in the hands of others the means and instrumentalities whereby they may misrepresent in any manner the

purpose for which information is sought by them or the nature or status of their business.

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

BENJAMIN D. KALIN TRADING AS KALIN'S FURS AND FASHIONS, ETC.

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

Docket C-1093. Complaint, Aug. 3, 1966—Decision, Aug. 3, 1966

Consent order requiring a Sioux City, Iowa, retail furrier to cease misbranding, falsely invoicing, and deceptively 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 Benjamin D. Kalin, an individual trading as Kalin's Furs and Fashions, and Kalin's, 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 Benjamin D. Kalin is an individual trading as Kalin's Furs and Fashions, and Kalin's.

Respondent is a retailer of fur products with his office and principal place of business located at 522 Nebraska Street, Sioux City, Iowa.

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

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

1. To show 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.

3. To show that the fur product was composed in whole or in substantial part of paws, tails, bellies, or waste 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 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) Labels affixed to fur products did not comply with the minimum size requirements of one and three-fourths inches by two and three-fourths inches, in violation of Rule 27 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 completely set out on one side of labels, in violation of Rule 29(a) of said Rules and Regulations.

(e) Information required under Section 4(2) of the Fur Prod-

ucts Labeling Act and the Rules and Regulations promulgated thereunder was not set forth legibly on labels, in violation of Rule 29(a) of said Rules and Regulations.

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

(g) 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.

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

(i) 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 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 show the country of origin of imported furs used in fur products.

PAR. 6. 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 "Broadtail" thereby implying that the fur products contained therein were entitled to the designation "Broadtail Lamb" when in truth and in fact they were not entitled to such designation.

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

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

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

(b) 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.

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

PAR 8. 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 Sioux City Sunday Journal, a newspaper published in Sioux City, Iowa.

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 the fur product.

PAR. 9. 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.

(c) All parts of the information required under Section 5(a)

of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder were not set forth in type of equal size and conspicuousness and in close proximity with each other, in violation of Rule 38(a) of the aforesaid Rules and Regulations.

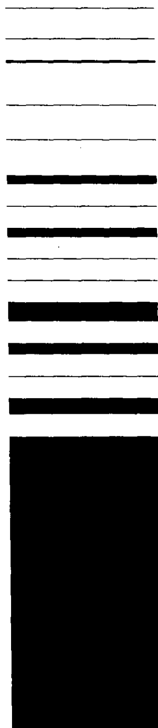
PAR. 10. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondent falsely and deceptively advertised fur products in that certain of said fur products were falsely or deceptively identified with respect to the name or designation 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 falsely and deceptively advertised fur products, but not limited thereto, were fur products advertised as "Dyed Broadtail Lamb" when the fur contained in such product was, in fact, "Dyed Broadtail-processed Lamb."

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 or names of the animal or animals other than those producing the fur contained in the fur product, in violation of Section 5(a)(5) of the Fur Products Labeling Act.

PAR. 12. In advertising fur products for sale as aforesaid, respondent made pricing claims and representations of the types covered by subsections (a), (b), (c), and (d) of Rule 44 of the Regulations under the Fur Products Labeling Act. Respondent in making such claims and representations failed to maintain full and adequate records disclosing the facts upon which such claims and representations were based, in violation of Rule 44(e) of said Rules and Regulations.

PAR. 13. 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 there-

after 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 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 Benjamin D. Kalin is an individual trading as Kalin's Furs and Fashions, and Kalin's, with his office and principal place of business located at 522 Nebraska Street, Sioux City, Iowa.

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 Benjamin D. Kalin, an individual trading as Kalin's Furs and Fashions, and Kalin's, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing into commerce, selling, advertising or offering for sale in commerce, or transporting or distributing in commerce, any fur product; or from selling, advertising, offering for sale, transporting or distributing, 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:

A. Unless there is securely affixed to each such product a label 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.

B. To which fur product is affixed a label required by Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder:

1. Which fails to set forth the term "natural" as part of the information required to be disclosed on such label under the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, to describe a fur product which is not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Which fails to disclose that such fur product is composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

3. That does not comply with the minimum size requirements of one and three-fourths inches by two and three-fourths inches.

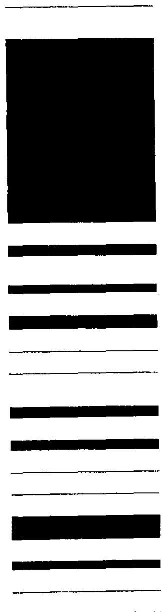
4. Which fails to completely set out information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder on one side of such label.

5. Which fails to set forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations thereunder in a legible manner in letters of equal size and conspicuousness.

6. Which sets forth information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in handwriting.

7. Which fails to set forth information under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in the sequence required by Rule 30 of the aforesaid Rules and Regulations.

8. Which fails to set forth separately on a label attached to any such fur product composed of two or more sections containing different animal fur the information required under Section 4(2) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder with respect to the fur comprising each section.



9. Which fails to set forth the item number or mark assigned to each such fur product.

It is further ordered, That respondent Benjamin D. Kalin, an individual trading as Kalin's Furs and Fashions, and Kalin's, 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, into commerce, or the sale, advertising, or offering for sale 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. 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 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 information required under Section 5(b) (1) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder in abbreviated form.

4. 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."

5. 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.

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

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

5. 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.

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

C. Failing to maintain full and adequate records disclosing the facts upon which pricing claims and representations of the types described in subsections (a), (b), (c), and (d) of Rule 44 of the Rules and Regulations promulgated under the Fur Products Labeling Act, are based.

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

THOMAS HARRIS McDONALD TRADING AS McDONALD & SON GOLF COMPANY

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

Docket C-1094. Complaint, Aug. 3, 1966—Decision, Aug. 3, 1966

Consent order requiring a Batavia, Ill., reconditioner of used golf balls, to cease failing to disclose on the golf balls themselves or on the wrappers or boxes that they are previously used golf balls which have been rewashed or repainted.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by the said Act, the Federal Trade Commission, having reason to believe that Thomas Harris McDonald, an individual trading as McDonald & Son Golf Company, hereinafter referred to as respondent, has violated the provisions of the 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 Thomas Harris McDonald is an individual trading as McDonald & Son Golf Company with his office and principal place of business at 103 Island Avenue, Batavia, Illinois.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the offering for sale, sale and distribution of previously used, rewashed and repainted golf balls to retailers and dealers for resale to the public.

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

PAR. 4. In the course and conduct of his business, respondent rewashes and repaints, or causes to be rewashed and repainted, golf balls which have been previously used.

Respondent does not disclose either on the ball itself, on the wrapper or on the box in which the balls are packed, or in any other manner, that said golf balls are previously used balls which have been rewashed or repainted.

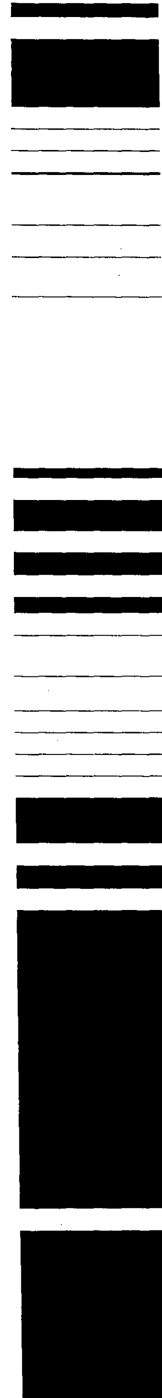
When such previously used golf balls are rewashed or repainted, in the absence of any disclosure to the contrary, or in the absence of an adequate disclosure, such golf balls are understood to be and are readily accepted by the public as new balls, a fact of which the Commission takes official notice.

PAR. 5. By failing to disclose the fact as set forth in Paragraph Four, respondent places in the hands of uninformed, unwary, and unscrupulous dealers means and instrumentalities whereby they may mislead and deceive the public as to the nature and condition of the said golf balls.

PAR. 6. In the conduct of his business, at all times mentioned herein, respondent has 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 respondent.

PAR. 7. The failure of the respondent to disclose on the golf ball itself, on the wrapper or on the box in which they are packed or in any other manner, that they are previously used balls which have been rewashed or repainted has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said golf balls were, and are, new in their entirety and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

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



DECISION AND ORDER

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

charge respondent with violation of the Federal Trade Commission Act; and

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

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

1. Respondent Thomas Harris McDonald is an individual trading as McDonald & Son Golf Company with his office and principal place of business at 103 Island Avenue, Batavia, Illinois.

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

ORDER

It is ordered, That the respondent, Thomas Harris McDonald, an individual trading and doing business as McDonald & Son Golf Company, or under any other trade name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of used, rewashed or repainted golf balls in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing clearly to disclose on the boxes in which respondent's rewashed or repainted golf balls are packaged, on the wrapper and on said golf balls themselves, that they are previously used balls which have been rewashed or repainted: *Provided, however,* That disclosure need not be made on the golf balls themselves if respondent establishes that the disclosure on the boxes and/or wrappers is such that retail customers, at the point of sale, are informed that the golf balls are previously used and have been rewashed or repainted.

2. Placing any means of instrumentality in the hands of others whereby they may mislead the public as to the prior use and rewashed or repainted nature of their golf balls.

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

M. HAT SHOPPE, INC., DOING BUSINESS AS MURIEL HATS ET AL.

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

Docket C–1095. Complaint, Aug. 4, 1966—Decision, Aug. 4, 1966

Consent order requiring a New York City manufacturing and retailing furrier to cease misbranding and falsely invoicing 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 M. Hat Shoppe, Inc., a corporation, doing business as Muriel Hats, and Jacob Hirsch and Sadie Hirsch, individually, and as officers of said corporation, hereinafter referred to as respondents, have violated 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 M. Hat Shoppe, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondents Jacob Hirsch and Sadie Hirsch are individuals and officers of the corporate respondent. They formulate, direct

and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth.

Respondents are manufacturers and retailers of fur products with their principal place of business located at 30 East 60th Street, city of New York, State of New York.

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

PAR. 3. Certain of said fur products were misbranded in that they were falsely and deceptively labeled or otherwise falsely 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 have been manufactured, in violation of Section 4(1) of the Fur Products Labeling Act.

Among such misbranded fur products, but not limited thereto, was a fur product which was represented as French Rabbit Chinchilla, thereby implying that all or some of the furs contained therein were entitled to the designation Chinchilla, when, in fact, the fur contained in such product was Rabbit.

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

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

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

2. To show the name, or other identification issued and registered by the Commission, of one or more of the persons who manufactured such fur products for introduction into commerce, introduced them into commerce, sold them in commerce, advertised

or offered them for sale, in commerce, or transported or distributed them in commerce.

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

PAR. 5. Certain of said fur products were misbranded in that labels attached thereto, set forth 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 4(3) of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder.

PAR. 6. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

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

2. 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.

3. Labels affixed to fur products did not comply with the minimum size requirements of one and three-quarters inches by two and three-quarters inches, in violation of Rule 27 of said Rules and Regulations.

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

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

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

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

PAR. 8. 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 inasmuch as required item numbers were not set forth on invoices, in violation of Rule 40 of said Rules and Regulations.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition 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, makes the following jurisdictional findings, and enters the following order:

1. Respondent M. Hat Shoppe, Inc., doing business as Muriel Hats, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 30 East 60th Street, New York, New York.

Respondents Jacob Hirsch and Sadie Hirsch are officers of the

corporate respondent and their 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 M. Hat Shoppe, Inc., a corporation, doing business as Muriel Hats or under any other name, and its officers, and Jacob Hirsch and Sadie Hirsch, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; as 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. Falsely or deceptively labeling or otherwise identifying any such fur product as to the name or designation of the animal or animals that produced the fur contained in the fur product.

2. 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.

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

5. 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.

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

7. 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.

8. 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.

9. 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 on invoices the item number or mark assigned to each fur product.

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

ARLEN TROPHY COMPANY, INC., ET AL.

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

Docket C–1096. Complaint, Aug. 4, 1966—Decision, Aug. 4, 1966

Consent order requiring a North Plainfield, N.J., manufacturer of trophies and awards to cease misrepresenting the composition of its products, specifically using the word "marble" or similar term to describe the alabaster in 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 Arlen Trophy Company, Inc., a corporation, and David Greenhouse and Irving Greenhouse, 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 Arlen Trophy 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 principal office and place of business located at 68 Brook Avenue, North Plainfield, New Jersey.

Respondents, David Greenhouse and Irving Greenhouse are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacturing, advertising, offering for sale, sale and distribution of, among other things, trophies and awards to distributors and retailers for resale 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 and transported from their place of business in the State of New Jersey to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the 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 that sold by respondents.

PAR. 5. In the course and conduct of their business, and for the purpose of inducing the sale of their trophies, awards and other products, respondents have made certain statements and repre-

sentations in catalogs and other advertising media, distributed to their customers and the trade, concerning the type of materials used in manufacturing said products. Among and typical, but not all inclusive of such statements and representations are the following:

Genuine Marble and Walnut Individual Colorful Awards
Genuine Individual Marble Awards
Genuine Marble Team Awards

PAR. 6. Through the use of the aforesaid statements and representations, and others similar thereto but not specifically set out herein, respondents have represented, and are now representing, directly or by implication, that the stone portions of their trophies, awards and other products were made entirely of marble.

PAR. 7. In truth and in fact, the stone portions of respondents' trophies, awards and other products were not made entirely of marble but were made of alabaster, a stone which is not marble and is much less durable than marble.

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

PAR. 8. By the aforesaid practice, respondents place in the hands of retailers and others means and instrumentalities by and through which they may mislead the public as to the nature and character of the stone portions of said products.

PAR. 9. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead 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 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 there-

after 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 Arlen Trophy 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 principal office and place of business located at 68 Brook Avenue, North Plainfield, New Jersey.

Respondents David Greenhouse and Irving Greenhouse are officers of the said corporation and their business address is the same as that of the said corporation.

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

ORDER

It is ordered, That Arlen Trophy Company, Inc., a corporation, and its officers, and David Greenhouse and Irving Greenhouse, individually and as officers of the said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the manufacture, advertising, offering for sale, sale or distribution of trophies or awards, or any other product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do herewith cease and desist from:

1. Using the words "marble," "genuine marble," or any

other term of similar import or meaning, to designate, describe, or refer to, the alabaster contained in any product; or misrepresenting in any manner the composition of any product.

2. Placing in the hands of retailers and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out in Paragraph One above.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order and shall submit copies of all catalogs annually to the Commission for the five years next succeeding the effective date of this order and shall thereafter file such reports as the Commission may require.

IN THE MATTER OF

TIMES SQUARE STORES CORPORATION ET AL.

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

Docket C-1097. Complaint, Aug. 15, 1966—Decision, Aug. 15, 1966

Consent order requiring a wholesaler and a retailer of general merchandise both located in Brooklyn, N.Y., to cease knowingly inducing and receiving discriminatory promotional allowances from their suppliers.

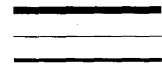
COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the respondents, Times Square Stores Corporation, and The Seedman Company, Inc., have violated and are now violating the provisions of Section 5 of the Federal Trade Commission Act (15 U.S.C., Section 45), and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, issues its complaint charging as follows:

PARAGRAPH 1. Respondent, Times Square Stores Corporation,

hereinafter sometimes referred to as Times Square, is a corporation organized, existing, and doing business under the laws of the State of New York, with its principal place of business located at 314 Scholes Street, Brooklyn, New York.

Respondent is now and has been for many years engaged in the sale at retail, directly and through subsidiaries, a line of general merchandise (hereinafter referred to as merchandise) which includes automotive supplies and accessories, hardware, house furnishings, sporting goods, major appliances, among other things. Respondent's sales are substantial, exceeding $13,700,000 annually.



PAR. 2. Respondent, The Seedman Company, Inc., hereinafter sometimes referred to as Seedman, is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 314 Scholes Street, Brooklyn, New York.

Respondent is now and has been for many years engaged in the sale at wholesale of a general line of merchandise including automobile supplies and accessories, housewares, house paints, radios, batteries, electrical appliances and supplies, toys and sporting goods, among other things. Respondent's sales are substantial, totaling more than $1,400,000 annually.

PAR. 3. In the course and conduct of their business respondents have engaged in, and are presently engaged in commerce, as "commerce" in defined in the Federal Trade Commission Act. Respondents purchase the merchandise from suppliers throughout the United States and cause such merchandise to be shipped from the states from which it is purchased for the purpose of reselling said merchandise through its retail stores in the New York metropolitan area.

PAR. 4. In the course and conduct of their business as aforesaid, respondents have been for many years, and are now, in substantial competiton in the sale and distribution of merchandise, as described above, with other corporations, persons, firms and partnerships.

PAR. 5. In the course and conduct of their business as aforesaid, respondents have induced or received from their suppliers so engaged in commerce, payments of value which accrued to respondents' benefit, for services or facilities furnished by or through respondents in connection with the handling, sale and offering for sale of the said products of such seller suppliers which respondents knew, or had reason to know, were not offered or made

available on proportionally equal terms to respondents' competitors also purchasing from such same seller suppliers and that such same seller suppliers were in violation of subsection (d) of Section 2 of the Clayton Act, as amended.

PAR. 6. In the course and conduct of their business in commerce respondents have initiated several promotional campaigns in which they solicited and received from some of their seller suppliers payments for participation in these promotional campaigns.

For example, in 1961 the respondents notified a number of their suppliers that in order to give their products adequate representation in an advertising campaign connected with the opening of a new store, a participation contribution would be appreciated. The amount of the contribution solicited varied from $25 to $200, with the total amount solicited being in excess of $28,000. As a result of this solicitation the respondents received from their suppliers contributions in excess of $5,000.

And, in 1962 the respondents notified a number of their suppliers that they were planning a saturation advertising program and invited manufacturers to be part of their aggressive sales promotional program and to cooperate toward expanding the program. A promotional contribution of from $25 to $200 was again solicited, and this time the amount requested was in excess of $27,000. As a result of this solicitation the respondents received approximately $4,600.

The money received from these solicitations was included in their general fund and was often used for purposes other than those for which the solicitations were made.

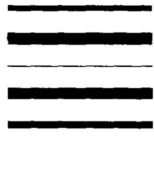
PAR. 7. The acts and practices, as alleged above, are all to the prejudice of the public and constitute unfair methods of competition and unfair acts and practices within the intent and meaning of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

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

The respondents and counsel for the Commission having thereafter executed an agreemnt 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:

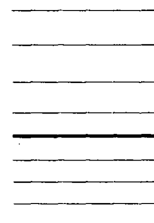
1. Respondent Times Square Stores Corporation is a corporation organized, existing and doing business under the laws of the State of New York, with its principal place of business located at 314 Scholes Street, Brooklyn, New York.

Respondent The Seedman Company, Inc., is a corporation organized, existing and doing business under the laws of the State of New York, with its principal office and place of business located at 314 Scholes Street, Brooklyn, New York.

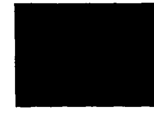
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents, Times Square Stores Corporation, a corporation, its officers, employees, agents and representatives; The Seedman Company, Inc., a corporation, its officers, employees, agents and representatives; jointly or severally, directly or through any corporate or other device, in or in connection with the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of any product for resale by any respondent do forthwith cease and desist from:



Inducing, receiving, inducing and receiving, or contracting for the receipt of, anything of value for the benefit of any respondent or corporation, from any supplier as compensation or in consideration for any display or any promotional services or facilities furnished by or through such respondent in connection with the handling, sale, or offering for sale of products purchased from such suppliers, when any respondent knows or should know that such compensation or consideration is not made available by such suppliers on proportionally equal terms to all other customers competing with the benefitted respondent in the sale and distribution of such suppliers' 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.

IN THE MATTER OF

CAST-O-BRICK, INC., ET AL.

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

Docket C-1098. Complaint, Aug. 16, 1966—Decision, Aug. 16, 1966

Consent order requiring a St. Louis, Mo., home improvement company to cease using false pricing, and deceptive savings claims, and misrepresenting the physical qualities 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 Cast-O-Brick, Inc., a corporation, and Chester E. Swindel, 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. Cast-O-Brick, 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 4525 Riverview Boulevard, in the city of St. Louis, State of Missouri.

Chester E. Swindel 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 various items of home improvements, including residential siding 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 represent, and have represented, directly or by implication, by advertising and promotional material and by direct oral solicitations made by respondents or their salesmen or representatives, that:

1. Homes of prospective purchasers have 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. Products sold by respondents will never require repainting 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. Storm, hail and other elements will not damage the respondents' products.

7. 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 have not been selected as model homes for the installation 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 do 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. 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.

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

PAR. 6. Respondents, in the manner aforesaid have made numerous representations in promotional literature and advertising material as to the composition, characteristics and quality of their "Cast-O-Stone" siding.

Typical and illustrative, but not all inclusive thereof, are the following:

Stone Fronts
Beautiful Homes of Stone
This is the Stone Age
Beautiful Interiors of Stone Exterior Walls

Through the use of the foregoing statements and respresentations and pictorial representations made in connection therewith, and others of similar import and meaning, but not specifically set out herein, respondents have represented and do now represent, directly or by implication, that their so-called "Cast-O-Stone" siding is genuine stone in its natural state.

In truth and in fact, respondents' so-called "Cast-O-Stone" siding is imitation stone siding and is not genuine stone or stone in its natural state.

Therefore, the foregoing statements and representations were and are false, misleading and deceptive.

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

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

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

DECISION AND ORDER

The 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 Cast-O-Brick, 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 4525 Riverview Boulevard, in the city of St. Louis, State of Missouri.

Respondent Chester E. Swindel 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 Cast-O-Brick, Inc., a corporation, and its officers, and Chester E. Swindel, 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 other 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 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.

I. Respondents' imitation stone siding is natural stone or stone in its natural state.

II. Using the word stone to describe or refer to any product not composed solely of natural stone, unless immediately preceded by the word "imitation" or "simulated": *Provided*, Nothing herein shall prevent the use of the trade name "Cast-O-Stone."

III. Misrepresenting, in any manner, the efficacy, durability, efficiency, composition, or quality 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.

IN THE MATTER OF

MARY CARTER PAINT COMPANY, INC., ET AL.

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

Docket 8290. Complaint, Feb. 15, 1961—Decision, Aug. 17, 1966

Order modifying, pursuant to a remand from the Supreme Court on Nov. 8, 1965, 382 U.S. 46 (7 S.&D. 1403), which reversed a decision of the Court of Appeals, Fifth Circuit, 333 F. 2d 654 (7 S.&D. 929), a cease and desist order of June 28, 1962, 60 F.T.C. 1827, against a paint seller by requiring the company to state the usual price of a single can of paint in making its "Every Second Can Free" offer.

ORDER MODIFYING ORDER TO CEASE AND DESIST

The Commission on June 28, 1962 [60 F.T.C. 1827], having issued an order requiring respondents, in connection with the offering for sale, sale and distribution in commerce of paint or any other product, to cease and desist from representing, directly or by implication:

(a) That any amount is respondents' customary and usual retail price of any merchandise when said amount is in excess of the price at which such merchandise is customarily and usually sold by respondents at retail in the recent and regular course of business;

(b) That any article of merchandise is being given free or as a gift, or without cost or charge, when such is not the fact . . . (60 F.T.C. 1827, 1845) ; and

The United States Court of Appeals for the Fifth Circuit on June 19, 1964, having set aside such order of the Commission (333 F. 2d 654) [7 S.&D. 929]; and the Supreme Court on November 8, 1965 [7 S.&D. 1403], having reversed that decision and having remanded the case to the Court of Appeals with directions to remand to the Commission for clarification of its order; and the Court of Appeals, on January 5, 1966, having recalled and vacated its 1964 judgment and remanded the matter to the Commission for such purpose, and

The Commission on June 6, 1966, having issued its order to respondents to show cause why paragraph (b) of its cease and desist order of June 28, 1962, should not be modified, and

The respondents having failed to answer said order to show cause within the period provided in the Commission's order to show cause, and

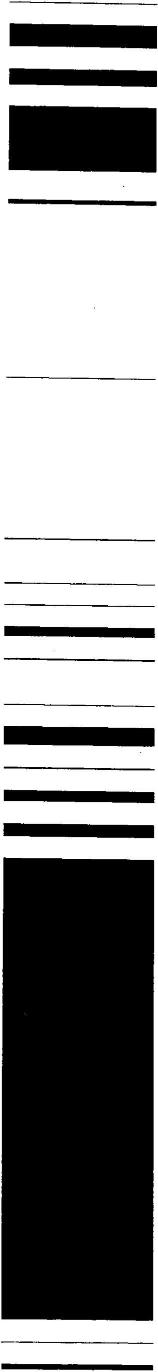
The Commission being of the opinion that appropriate clarification of paragraph (b) of its order of June 28, 1962, will be provided by the modified paragraph (b) set forth in its order to show cause dated June 6, 1966,

It is ordered, That the Commission's order to cease and desist dated June 28, 1962, be, and it hereby is, modified by substituting the following paragraph for paragraph (b) of that order:

> (b) 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, unless the stated price of the merchandise required to be purchased in order to obtain said article is the same or less than the customary and usual price

at which such merchandise has been sold separately for a substantial period of time in the recent and regular course of business in the trade area in which the representation is made.

Commissioner Elman not participating.



IN THE MATTER OF

KANSAS CITY COLLEGE OF AUTOMATION, INC., ET AL.

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

Docket C–1099. Complaint, Aug. 18, 1966—Decision, Aug. 18, 1966

Consent order requiring a Kansas City, Mo., business training school to cease making false offers of employment, exaggerated earning claims, and other misrepresentations to sell its resident and correspondence courses in data processing skills.

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 Kansas City College of Automation, Inc., a corporation, and Bobbie Paul Miles, 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 Kansas City College of Automation, 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 3230 Main Street, Kansas City, Missouri.

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

Respondents advertise under the names of "Job Opportunities" and "IBM Machine Training." Furthermore, said corporate re-

spondent was initially incorporated under the name of College of Automation, Inc., and operated and did business under such name until some months last past when the present corporate name was adopted.

PAR. 2. Respondents are now, and have been for more than two years last past, engaged in the offering for sale, sale and distribution of courses of instruction intended to prepare students thereof for employment as IBM key punch machine, machine tabulation, and computer operators and programmers. Said courses are pursued by correspondence through the United States mail, as well as by resident training at the school.

PAR. 3. In the course and conduct of their business, respondents have caused their courses of study and instruction to be sent from their place of business, located in the State of Missouri, to, into and through States of the United States other than the State of origin, to purchasers thereof located in such other States. Respondents also utilize the services of salesmen who call on prospective purchasers of the courses of instruction located in States other than the State of Missouri. There has been at all times mentioned herein a substantial course of trade in commerce in said courses of study and instruction as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition in commerce, with corporations, firms and individuals in the sale of courses of study and instruction.

PAR. 5. In the course and conduct of their business, as aforesaid, respondents have caused to be published in newspapers distributed through the United States mail and by other means to prospective purchasers in the several States in which respondents do business, advertisements in the "Help Wanted" columns of such newspapers stating "SEE IBM AD ON ENTERTAINMENT PAGE," with a display advertisement on the entertainment page of such newspaper of which the following are typical and illustrative, but not all inclusive:

WANTED TRAINEES
Men and Women are urgently needed to train as
IBM
Machine Operators
Need not interfere with your present job.
If you qualify, training can be financed.
Write for

JOB OPPORTUNITIES
Box c/o This Newspaper
Please Include Your Telephone Number
WANTED TRAINEES
Men and Women are urgently needed to train as
IBM
Computer Programmers and Machine Operators
Need not interfere with your present job.
If you qualify, training can be financed.
Write to:
IBM MACHINE TRAINING
Box c/o This Newspaper
Please Include Your Telephone Number

PAR. 6. By and through the use of the statements appearing in the advertisements referred to in Paragraph Five hereof, respondents represent, directly of by implication, that inquires are solicited for the ultimate purpose of offering employment to qualified applicants, who will be trained to operate various IBM machines.

PAR. 7. In truth and in fact, inquiries are not solicited for the purpose of offering employment to qualified applicants, but for the sole purpose of obtaining leads to prospective purchasers of respondents' courses of instruction.

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

PAR. 8. In the course and conduct of their business, as aforesaid, and for the purpose of inducing the sale of their courses of instruction, respondents have made certain statements and representations by means of brochures and promotional material and by oral statements of their salesmen and representatives, directly or by implication, to prospective purchasers of said courses of instruction. Typical and illustrative, but not all inclusive of said statements and representations are the following:

1. Respondents provide a placement service which will guarantee or assure to each graduate a job as an operator of the kind of machine on which they are trained by respondents.

2. A graduate of the school will be placed in a job in the geographical area of his choice.

3. Persons completing respondents' course in IBM Key Punch operation will thereby have the training and experience necessary to enable them to earn starting salaries of from $90 to $100 per week or $3.50 per hour or $300 to $500 or more a month or various other equally high amounts.

4. Persons completing respondents' course in computer programming will thereby receive the training and experience necessary to enable them to earn starting salaries of $475 to $500 a month or $600 per month or $800 per month or various other equally high amounts.

5. Students will receive resident training on the newest and most up-to-date IBM machines.

6. Each student enrolled in Key Punch Operation will have his own machine reserved for him for resident training.

7. The school has the IBM 1401 Data Processing System of machines available for resident training for students enrolling in their "1401 Computer Programing" courses.

8. Each student enrolled in the school's Key Punch course will receive 60 (or 90) hours of actual machine practice.

9. Respondents' school utilizes all of the two story and basement building in which it is located as depicted in a picture contained in advertising and promotional material displayed to prospective students.

10. Students may utilize the facilities of the school's dormitory and cafeteria.

11. The size of resident training classes is limited to 10, 15 or similar limited numbers; that there will be a teacher for each student, or that there is one teacher for each 10 students.

PAR. 9. In truth, and in fact:

1. The placement service provided by respondents does not in fact find jobs as operators of the kinds of machines on which they have trained for all graduates desiring such assistance. In actual practice, many graduates are not placed at all, and many others find jobs in the automation field, or in other lines of work, solely as a result of their own efforts.

2. Respondents place few, if any, graduates of their school in jobs in the geographical area of their choice.

3. Persons completing respondents' course in IBM Key Punch Operation do not receive the training and experience required to enable them to earn starting salaries of from $90 to $100 per week, or $3.50 per hour, or $300 to $500 or more a month, or like amounts, but typically receive substantially less.

4. Persons completing respondents' course in computer programming do not receive the training and experience required to enable them to earn starting salaries of from $475 to $500 a month, or like amounts but typically receive substantially less.

5. The IBM machines used by respondent for resident training

are not in all instances the newest, most up-to-date models of such machines.

6. Each student during resident training does not have an individual machine reserved for him, but typically, students must take turns for an opportunity to practice on the machines available.

7. The school does not have available for use in training, any of the three machines shown in their previous brochure or the five machines shown in their latest brochure as comprising the "IBM 1401 Data Processing System."

8. As the result of various factors, including, but not limited to such factors as the size and number of classes assembled at one time and the limited facilities and equipment available, not all students enrolled in respondents' Key Punch courses actuallly receive 60 (or 90) hours of actual machine practice, but many receive substantially less.

9. Respondents' school utilizes only a portion of the first floor and basement of the building shown in said photographs and drawings and none of the second floor of such building.

10. Respondents do not provide either a cafeteria or dormitory for use of resident students.

11. The sizes of resident classes are not limited to 10 or 15 students, and typically classes are substantially in excess of such numbers. Likewise, there is not one teacher provided for each student or one teacher for each 10 students, and in a typical class, the ratio between students and teachers is substantially greater.

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

PAR. 10. 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 numbers of courses of study and instruction by reason of said erroneous and mistaken belief.

PAR. 11. 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 Kansas City College of Automation, 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 3230 Main Street, Kansas City, Missouri.

Respondent Bobbie Paul Miles is an officer of said corporation and his address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Kansas City College of Automation, Inc., a corporation, and its officers, and Bobbie Paul Miles, 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 courses of study and instruction in key

punch machine operation, tabulating machine operation, computer programming or any other subject 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. Inquiries are solicited for the purpose of offering employment to qualified applicants: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that a bona fide offer of employment was made;

2. Respondents' placement service will guarantee or assure the placement of graduates in jobs for which they have been trained, or will find them jobs in the geographical areas of their choice; or misrepresenting in any manner their ability or their facilities for assisting graduates of their courses in finding employment;

3. Persons completing respondents' courses will earn starting or average salaries in excess of salaries actually and customarily paid to persons of like age, experience and training; or misrepresenting in any manner, the earnings which will be realized by persons completing said courses of instruction;

4. Respondents have available for use in training students machines or equipment of a stated make or brand; model, type or kind, age or number: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that machines or equipment as represented is available to each student being trained thereon;

5. Training of a certain number of hours or other period of time on specified machines or equipment is afforded: *Provided, however,* That is shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented training is in fact afforded;

6. Respondents' school occupies all of the building in which it is located; is larger than it in fact is; or that such school provides or has available physical facilities not in fact available;

7. Respondents' classes are limited to specified maximum numbers of students or to certain ratios between instructors and students: *Provided, however,* That in

any enforcement proceeding instituted hereunder it shall be a defense for respondents to establish that the size of classes and student-instructor ratios are as represented.

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

SUNFLOWER CHINCHILLA COMPANY ET AL.

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

Docket C-1100. Complaint, Aug. 23, 1966—Decision, Aug. 23, 1966

Consent order requiring copartners of Great Bend, Kansas, operators of a chinchilla breeding ranch to cease misrepresenting the production and quality of their chinchilla breeding stock and exaggerating the earnings purchasers can expect.

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 Sunflower Chinchilla Company, a partnership, and Alvin Gerstner and Robert K. Marmie, individually and as copartners, trading and doing business as the above partnership, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Alvin Gerstner and Robert K. Marmie are individuals and copartners trading as Sunflower Chinchilla Company, with their principal office and place of business located at 1013 McKinley Street, Great Bend, Kansas 67530.

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 business, respondents

now cause, and for some time have caused, their said chinchillas, when sold, to be shipped from their place of business in the State of Kansas 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 of said chinchillas in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and for the purpose of inducing the sale of their chinchillas, the respondents make numerous statements and representations in television and direct mail advertising and through the oral statements and representations of salesmen to prospective purchasers of chinchillas, with respect to the breeding, pelting and profits from the sale of said chinchillas.

Typical and illustrative, but not all inclusive of the statements made in respondents' direct mail and television advertising, are the following:

> Many ranchers start successfully in their own basements, garages, and even the spare bedroom, the only requirement being that the temperature be held at a fairly constant level and fairly cool. That is why the basement is such an ideal place.
>
> All of Sunflower chinchilla breeding stock have been prejudged and selected to insure that all of our new ranchers are getting quality stock to start off their new business.
>
> People who have purchased chinchillas in the past and had no experience with chinchillas have made a great success.
>
> We feel that there is no other known industry which would show such tremendous and continued earning power with equal maximum of safety than raising chinchillas of a superior quality and under the proper management. We consider chinchilla farming as safe or safer and far more profitable when properly conducted than most investiments or other lines of business.
>
> There is no experience needed in order to succeed.

PAR. 5. Through the use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with oral statements and representations made by respondents' salesmen and other representatives in direct sales presentations to prospective purchasers, respondents represent, and have represented, directly or by implication, that:

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

2. The breeding of chinchillas for profit requires no previous knowledge or experience.

3. Chinchilla breeding stock sold by respondents is select or choice quality.

4. The breeding stock of five female chinchillas and one male chinchilla purchased from respondents will result in live offspring as follows:

20 the first year
60 the second year
180 the third year
540 the fourth year

5. All of the offspring referred to in the salesmen's representations will have good quality pelts bringing an average net profit of $25 per pelt.

6. A purchaser starting with five females and one male of respondents' chinchilla breeding stock will have a net income in excess of $10,000 at the end of the fourth year.

7. Each female chinchilla purchased from respondents and each female offspring thereafter will produce at least four live young per year.

PAR. 6. In truth and in fact:

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

2. 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.

3. Chinchilla breeding stock sold by respondents is not select or choice quality.

4. The initial chinchilla breeding stock of five females and one male purchased from respondents will not result in the number of live offspring specified since these figures do not allow for deaths at delivery, miscarriages, sterile animals, and other causes.

5. All of the offspring produced by respondents' chinchilla breeding units will not produce good quality pelts nor will the average net profit be $25 per pelt, but substantially less than that amount.

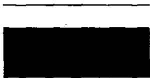
6. A purchaser starting with five females and one male of respondents' breeding stock will not have a gross income of $10,000 from the sale of pelts in the fourth year, but substantially less than that amount.

7. Female chinchillas purchased from respondents and female offspring thereafter will not produce, on the average, four live young per year, but generally less than that number.

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.



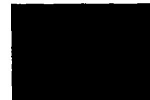
PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and 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 pubilc 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 Sunflower Chinchilla Company is a copartnership with its office and principal place of business located at 1013 McKinley Street, Great Bend, Kansas 67530.

Respondents Alvin Gerstner and Robert K. Marmie are individuals and copartners trading and doing business as Sunflower Chinchilla Company and their office and principal place of business is located at 1013 McKinley Street, Great Bend, Kansas.

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 Sunflower Chinchilla Company, a partnership, and Alvin Gerstner and Robert K. Marmie, individually and as copartners trading and doing business as Sunflower Chinchilla Company, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of 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. It is practicable to raise chinchillas in the home or that large profits can be made in this manner.

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

3. Chinchilla breeding stock sold by respondents is select or choice quality, or otherwise misrepresenting the quality of respondents' chinchilla breeding stock.

4. The initial chinchilla breeding stock of five females and one male purchased from respondents will produce live offspring of 20 the first year, 60 the second year, 180 the third year or 540 the fourth year; or that they will produce live offspring in any number in excess of the number of live offspring generally produced by chinchilla breeding stock, or their offspring, when such breeding stock is purchased from respondents.

5. All of the offspring of chinchilla breeding stock purchased from respondents will produce good quality pelts; or

that the average net profit is $25 per pelt; or that a purchaser of respondents' breeding stock will receive for chinchilla pelts any net profits in excess of that usually received for pelts of offspring produced by respondents' breeding stock.

6. A purchaser starting with five females and one male of respondents' breeding stock will have an income of $10,000 from the sale of pelts in the fourth year after purchase, or that the earnings or profits from the sale of pelts is any amount in excess of the amount generally earned by purchasers of respondents' chinchilla breeding stock.

7. Each female chinchilla purchased from respondents and each female offspring thereof will produce at least four live young per year; or that the number of live offspring produced by each of such female chinchillas is any number in excess of the number generally produced.

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

MONROE WHOLESALE COMPANY ET AL.

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

Docket C-1101. Complaint, Aug. 24, 1966—Decision, Aug. 24, 1966

Consent order requiring a Chicago retailer of miscellaneous merchandise to cease misrepresenting itself as a wholesaler through the use of the term "wholesaler" or similar words in its corporate name and that the selling prices of its merchandise are wholesale prices.

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 Monroe Wholesale Company, a corporation, and Franklin B. Orwin, 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 as follows:

PARAGRAPH 1. Respondent Monroe Wholesale Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1050 East 81st Street, Chicago, Illinois.

Franklin B. Orwin is an individual and an officer of the said corporate respondent. He formulates, directs and controls the policies, acts and practices of said corporate respondent, including those hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents have been, and are now, engaged in advertising, offering for sale, sale and distribution of various articles of merchandise including jewelry, cameras, silverware, sporting goods, household goods, appliances and typewriters to members of the consuming public.

PAR. 3. Respondents now cause, and for sometime last past have caused, their said merchandise, when sold, to be shipped 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 mentioned herein have maintained, a substantial course of trade in said merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, in the course and conduct of their business, and for the purpose of inducing the purchase of their merchandise, have advertised by the means of catalogs, disseminated by and through the United States mails to prospective purchasers located in various States other than the State of Illinois. Said catalogs contained numerous statements which were implied representations respecting respondents' status as a wholesaler and the wholesale prices of said merchandise.

Among and typical, but not all inclusive, of said statements are the following which appeared in respondents' catalogs for the years 1964 and 1965:

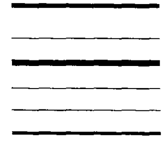
To Read Your Wholesale Cost—

(explanation follows to show how the user determines a coded price.)

We Will Not BE UNDERSOLD If—within 30 days any article purchased

from us is offered for less in any other wholesale catalog in the United States, we will refund the difference in cash.

PAR. 5. Respondents, for the articles of merchandise described in their catalog, set forth two prices; one, a so-called coded price which is their selling price and the other, a higher price, described as the "retail price."



By and through the use of the corporate respondents' name, separately and in connection with the aforesaid statements and representations, and the use of the above described pricing methods the respondents have represented directly or by implication:

(1) That they are wholesalers;

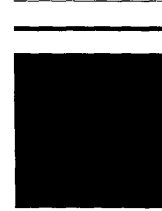
(2) That they sell all of their merchandise at wholesale prices and that the coded price is the wholesale price of each article of merchandise.

PAR. 6. In truth and in fact:

(1) Respondents are not wholesalers;

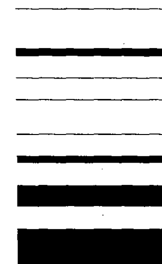
(2) They do not sell all of their articles of merchandise at wholesale prices and the so-called coded selling price is not the wholesale price of each article of merchandise, but is substantially in excess thereof.

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

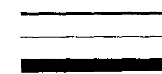


PAR. 7. At all times mentioned herein respondents have been, and are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of merchandise of the same general kind and nature as that sold by respondents.

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



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



DECISION AND ORDER

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

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

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

1. Respondent Monroe Wholesale Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 1050 East 81st Street, in the city of Chicago, State of Illinois.

Respondent Franklin B. Orwin is an officer of said corporation and his address is the same as that of said corporation.

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

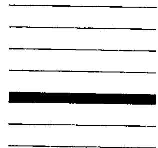
ORDER

It is ordered, That respondents Monroe Wholesale Company, a corporation, and its officers, and Franklin B. Orwin, 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 jewelry, cameras, silverware, sporting goods, household goods, appliances, typewriters or any other merchandise to the ultimate consumer in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

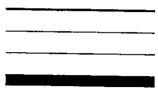
1. Using the word "wholesale," or any other word or

words of similar import or meaning as part of their corporate or trade name, or representing, directly or by implication, in any manner, that respondents are wholesalers: *Provided, however,* That the use of the name Monroe Merchandisers, Inc., in and of itself, shall not be construed as a violation of this paragraph or of this order: *Provided, further,* That should respondents so desire for reasons of continuity they may use the words "formerly Monroe Wholesale Company" in type smaller than and below any new corporate name selected in conformity with this order, on the front cover page of respondents' 1967 general catalog and on stationery; purchase orders, invoices, forms and other literature for a period not to exceed one year from the date of service of this order.

2. Using the words "wholesale," "wholesale cost" or any other word or term of similar import as descriptive of a selling price or representing, directly or by implication, that merchandise is being offered for sale at a wholesale price: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the price so described or referred to is the wholesale price in the trade area or areas where the representation is made: *And provide further,* That the designation of coded prices as "discount prices" will not of itself be taken as a representation that the price in question is a "wholesale price" in violation of this order.

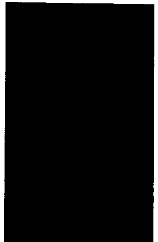


It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.



IN THE MATTER OF

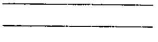
COLORAMA TEXTILE CORPORATION ET AL.



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

Docket C-1102. Complaint, Aug. 25, 1966—Decision, Aug. 25, 1966

Consent order requiring a New York City converter of piece goods to cease misbranding various fabrics which it markets in violation of the Textile Fiber Products Identification Act.



COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Colorama Textile Corporation, and Alan N. London and Frank Dickstein, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

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

Individual respondents Alan N. London and Frank Dickstein are officers of the corporate respondent, and they participate in the formulation, direction and control of the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to.

Respondents are converters of piece goods. Eighty-five percent of the fabrics handled are cottons. The balance consists of rayon and other fabrics.

The respondents have their office and principal place of business at 461 Park Avenue South, New York City, New York.

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

PAR. 3. Certain of said textile fiber products were misbranded

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

Among such misbranded textile fiber products; but not limited thereto, were fabrics with labels which failed:

(a) To disclose the true generic names of the fibers present; and

(b) To disclose the true percentage of the fibers present by weight; and

(c) To disclose the name of the country from which such textile fiber products were imported.

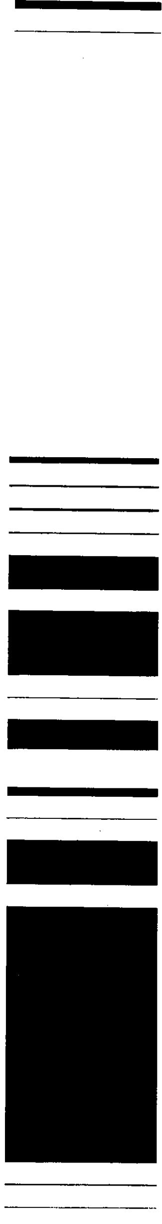
PAR. 4. The acts and practices of respondents, as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair and deceptive acts or practices, in commerce, and unfair methods 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 Textile Fiber Products Identification 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 is-



sues its complaint, accepts said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Colorama Textile Corporation 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 461 Park Avenue South, New York City, New York.

Respondents Alan N. London and Frank Dickstein are officers of said corporate respondent and their 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 Colorama Textile Corporation, a corporation, and its officers, and Alan N. London and Frank Dickstein, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by failing to affix a stamp, tag, label or other means of identification to each such product showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

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

IN THE MATTER OF

JOSEPH J. BIDNICK DOING BUSINESS AS STANDARD EDUCATIONAL LIBRARY

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

Docket C-1103. Complaint, Aug. 31, 1966—Decision, Aug. 31, 1966

Consent order requiring a Kansas City, Mo., seller of encyclopedias to cease misrepresenting the status of his business and the cost of the books he sells and to cease making deceptive "free" claims, and using "Library" or similar words as part of his trade name.

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 Joseph J. Bidnick, an individual, trading and doing business as Standard Educational Library, 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 Joseph J. Bidnick is an individual trading and doing business as Standard Educational Library. His principal office and place of business is located at 4010 Washington Street, Kansas City, Missouri.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, sale and distribution of encyclopedias, other books and publications and other articles of merchandise to the public.

PAR. 3. In the course and conduct of his business, respondent now causes, and for some time last past has caused, his said products, when sold, to be shipped from his place of business in the State of Missouri, or from the point of publication thereof, to purchasers thereof located in various other States of the United States other than the State in which said shipments originate 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 aforesaid business, and for the purpose of inducing the purchase of his encyclopedia and other articles of merchandise, the respondent makes numerous statements and representations through oral statements and display of promotional material to prospective purchasers by salesmen with respect to the cost of the encyclopedias and the supplements thereto, to free goods and to the status of his organization.

PAR. 5. In connection with the sale and distribution of said encyclopedia and supplements thereto, and as an inducement for the purchase thereof by members of the public, the respondent, for some time last past, has been using a plan or scheme for selling the same substantially as follows: Respondent or his agents telephone individuals and represent that they are doing special work for the publicity staff of the New Standard Encyclopedia; that the company has just released a new edition that is to be placed with a list of families in return for advertising help; that the encyclopedia will be made available to the individual without the usual expense normally associated with buying an encyclopedia; and that in return for the help the individual will receive compensation in the form of merchandise. Respondent or his salesmen then call on prospective purchasers in an effort to sell said books and merchandise.

Typical and illustrative, but not all inclusive of the statements and representations made by respondent or his salesmen, are the following:

1. That the offer of respondents encyclopedia is only to selected families or individuals; and that said offer is not being made to the general public.

2. That the encyclopedia is given free or at a reduced price in return for the use of the individual's name, endorsement or opinion or as a part of respondent's advertising program; or in return "for some advertising help."

3. That the encyclopedia is given free if the yearly supplements are purchased for a period of ten years; and that the cost of the yearly supplements is $16.95 a year which respondent requires to be paid in full in two years.

4. That the sum of $2.95 or $3.95 that appears on respondent's sales contract and other material represents the price of supplements' binder and is not for the supplements.

5. That certain additional merchandise such as a bible, diction-

ary, etc., will be given free or without cost to the purchaser with the purchase of the yearly supplements.

6. That through the use of the word "library" separately and as a part of the respondent's trade name, respondent's organization is an institution for the custody, circulation or adminstration of books and manuscripts.

PAR. 6. In truth and in fact:

1. The encyclopedia offered is not limited only to selected families or individuals and it is being offered to the general public at the time of presentation.

2. The encyclopedia is not given free or without cost or at a reduced price in return for the use of the individual's name, endorsement or opinion for respondent's advertising program, or for any other reason. Customers agreeing to approve or endorse respondents' products are charged respondents' customary and regular price.

3. The encyclopedia is not given free or without cost when the supplements are purchased at $16.95 per year for 10 years or any other amount since such amount is the regular price charged for the combination of the encyclopedia and the supplements and the price of the encyclopedia is included in the price charged for said combination.

4. The sum of $2.95 or some approximate amount is the cost of yearly supplements and the cost of the binder is included in said sum.

5. The additional merchandise such as a bible, dictionary, etc., is not given free or without cost to the purchaser when the yearly supplements are purchased since said merchandise is included in the price charged for supplements or the combination of the encyclopedia and supplements.

6. Respondent's organization is not an institution for the custody, circulation or administration of books and manuscripts but is a business organization formed for the purpose of selling encyclopedias.

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

PAR. 7. In the course and conduct of his business, at all times mentioned herein, respondent has been in substantial competition in commerce, with corporations, firms and individuals in the sale of encyclopedias and other publications.

PAR. 8. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has

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

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

DECISION AND ORDER

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

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

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

1. Respondent Joseph J. Bidnick is an individual who was trading and doing business as Standard Educational Library. His principal office and place of business was located at 4010 Washington Street, Kansas City, Missouri.

2. The Federal Trade Commission has jurisdiction of the sub-

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

ORDER

It is ordered, That respondent Joseph J. Bidnick, an individual, trading and doing business as Standard Educational Library, or under any other trade name or names, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of encyclopedias, or any other publications, or merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or indirectly:

1. That the opportunity to purchase respondent's products is not available to the public generally; or that purchasers of any of respondent's products are specially selected.

2. That said products are given free or without cost in return for the use of the individual's name, endorsement or opinion in or as a part of respondent's advertising program.

3. That said products are sold at a reduction from respondent's regular price to purchasers in return for the use of the individual's name, endorsement or opinion or as a part of respondent's advertising program; or representing, directly or by implication, that any price for a product or products is a reduced price unless such price constitutes a significant reduction from a price at which such product or products has been sold in substantial quanities by respondent in the recent regular course of business.

4. That the encyclopedia is given free or without cost if the yearly supplements thereto are purchased for 10 years or for any other period of time.

5. That the sum of $2.95 or any other amount is the price of the annual supplement binder and not for the supplement itself.

6. That additional merchandise will be given free or without cost if the yearly supplements are purchased; 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.

B. Using the word "Library" or any other word of similar import or meaning as part of respondent's trade name or corporate name, or misrepresenting in any other manner the nature or status of respondent's business.

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

ANNIS-STANTON COMPANY ET AL.

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

Docket C-1104. Complaint, Sept. 1, 1966—Decision, Sept. 1, 1966

Consent order requiring a Los Angeles importer and wholesaler of textile fabrics to cease importing and selling dangerously flammable fabrics, misbranding its textile fiber products, and failing to keep legally required records.

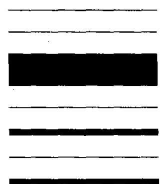
COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Annis-Stanton Company, a corporation, and David Anisgarten and Alfred Stanton, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act 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 Annis-Stanton Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California with its office and principal place of business located at 443 South San Pedro Street, Los Angeles, California.

Respondents David Anisgarten and Alfred Stanton are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the said corporate respondent including those hereinafter set forth. Their office and principal place of business is the same as that of the aforesaid corporate respondent. The respondents are engaged in the importing and wholesaling of textile fabrics.

PAR. 2. Respondents, subsequent to July 1, 1954, the effective date of the Flammable Fabrics Act, have sold and offered for sale, in commerce; have imported into the United States; and have introduced, delivered for introduction, transported, and caused to be transported, in commerce; and have transported and caused to be transported for the purpose of sale or delivery after sale, in commerce; as "commerce" is defined in the Flammable Fabrics Act, 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 respondents were and are in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and as such constitutes unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 4. 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 "com-

merce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 5. 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, namely fabrics, with invoices which contained the designation "Bemsilke," thereby representing that said fabrics were composed of or contained silk whereas in truth and in fact the fiber content of said fabrics was rayon.

PAR. 6. Certain of said textile fiber products were further misbranded in that they were not stamped, tagged, labeled, or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products with labels which failed:

1. To disclose the true generic names of the fibers present; and

2. To disclose the percentage of such fibers;

3. To disclose the country where imported textile fiber products were processed or manufactured;

4. To list the fibers present in order of predominance by weight.

PAR. 7. Respondents in substituting a stamp, tag, label, or other identification pursuant to Section 5(b) have not kept such records as would show the information set forth on the stamp, tag, label, or other identification that was removed and the name or names of the person or persons from whom such textile fiber product was received, in violation of Section 6(b) of the Textile Fiber Products Identification Act.

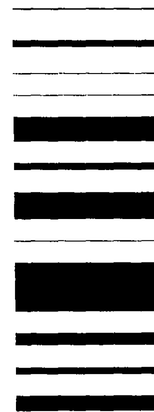
PAR. 8. The acts and practices of respondents as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in

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

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 Flammable Fabrics Act and the Textile Fiber Products Identification 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, makes the following jurisdictional findings, and enters the following order:

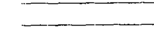
1. Respondent Annis-Stanton Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 443 South San Pedro Street, city of Los Angeles, State of California.

Respondents David Anisgarten and Alfred Stanton are officers of the corporate respondent and their 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 Annis-Stanton Company, a corporation, and its officers, and David Anisgarten and Alfred Stanton, individually and as officers of said corporation, and re-



spondents' 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 respondents Annis-Stanton Company, a corporation, and its officers, and David Anisgarten and Alfred Stanton, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from introducing, delivering for introduction, selling, advertising, or offering for sale, in commerce, or transporting or causing to be transported in commerce, or importing into the United States, any textile fiber product; or selling, offering for sale, advertising, delivering, transporting, or causing to be transported, any textile fiber product which has been advertised or offered for sale in commerce; or selling, offering for sale, advertising, delivering, transporting, or causing to be transported, after shipment in commerce, 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;

1. Which is falsely or deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

2. Unless each such product has securely affixed thereto a label showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondents Annis-Stanton Company, a corporation, and its officers, and David Anisgarten and Alfred Stanton, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly

or through any corporate or other device, do forthwith cease and desist from failing to keep such records when substituting a stamp, tag, label, or other identification pursuant to Section 5(b) as would show the information set forth on the stamp, tag, label, or other identification that was removed, and the name or names of the person or persons from whom such textile fiber product was received.

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

IN THE MATTER OF

THE MAY DEPARTMENT STORES COMPANY

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 7 OF THE CLAYTON ACT

Docket C-1105. Complaint, Sept. 9, 1966—Decision, Sept. 9, 1966

Consent order forbidding the Nation's sixth largest department store chain, with annual sales of $943 million in 1965, from acquiring any department store or other GMAF (General Merchandise, Apparel and Furniture) store for 10 years without the prior consent of the Federal Trade Commission.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated the provisions of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and that a proceeding in respect thereof would be in the public interest, issues this complaint, stating its charges as follows:

I. Definitions

1. For the purposes of this complaint, the following definitions are applicable:

(a) "Apparel" includes all clothing and related articles and accessories for personal wear and adornment, exclusive of footwear, for men, women and children. This definition corresponds to Bureau of Census commodity classifications 140 and 160, combined, as used in the 1963 Census of Business.

(b) "Department stores" are retail stores normally employing 25 or more people and engaged in selling some items in each of the following lines of merchandise:

(i) Furniture, home furnishings, appliances, radio and TV sets;

(ii) A general line of apparel; and

(iii) Household linens and dry goods.

An establishment with annual total sales of less than $5 million is not classified as a "department store" if: (a) sales of any one of these groups is greater than 80 per cent of total sales, or (b) sales of groups (ii) and (iii) combined represent less than 20 per cent of total sales. An establishment with annual total sales of $5 million or more is classified as a "department store" even if sales of one of the groups described above is more than 80 per cent of total sales, provided that the combined annual sales of the other two groups is $500,000 or more. This definition corresponds to Bureau of Census Industry Classification No. 531, as used in the 1963 Census of Business.

(c) "General Merchandise, Apparel, Furniture stores" (hereafter referred to as "GMAF stores") include retail establishments in the following categories:

(i) Department stores;

(ii) Other stores primarily engaged in the sale of apparel; Bureau of Census Major Industry Group No. 56;

(iii) Limited price variety stores—establishments primarily selling a variety of merchandise at low and popular price ranges, such as stationery, gift items, accessories, toilet articles, light hardware, toys, housewares, confectionery; these establishments frequently are known as "5 and 10¢ stores," although they usually sell merchandise outside these price ranges; these stores comprise Bureau of Census Industry Classification No. 533;

(iv) Miscellaneous general merchandise stores—retail stores primarily selling household linens and dry goods and/or a combination of apparel, hardware, homewares or home furnishings; stores which meet the criteria for department stores except as to number of employees are included here; these stores comprise Bureau of Census Industry Classificiation No. 539.

(v) Furniture, home furnishings, and equipment stores—retail stores primarily selling merchandise used in furnishing the home, such as furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators and other household electrical and

gas appliances, including radio and TV sets; such stores comprise Bureau of Census Major Industry Group No. 57.

GMAF stores, as defined herein correspond to all retail store groups under Bureau of Census Major Industry Groups No. 53, 56, and 57.

(d) "SMSA" means "Standard Metropolitan Statistical Area," as defined by the Bureau of the Budget and the Bureau of Census.

II. May

2. Respondent The May Department Stores Company (hereafter referred to as "May") is a corporation organized and existing under the laws of the State of New York, with its principal office located at Sixth and Olive Streets, St. Louis, Missouri 63101.

3. May is the sixth largest department store chain in the United States, with annual sales of approximately $943 million in 1965 and total assets of approximately $645 million.

4. May has eleven major store divisions. It operates thirteen major department stores in the downtown areas of large metropolitan centers, and fifty-four branch stores in smaller cities and in suburban areas. Each of May's major store groups is a leading retail institution in the communities in which it is located. Included are such prominent store groups as The Hecht Company (Baltimore, Maryland; Washington, D.C.), The May Company (Cleveland, Ohio; Los Angeles and San Diego, California), O'Neil's (Akron, Ohio), May-D & F (Denver, Colorado), Kaufmann's (Pittsburgh, Pennsylvania), May Cohens (Jacksonville, Florida), Famour-Barr Company (St. Louis, Missouri), Strouss-Hirshberg (Youngstown, Ohio), G. Fox and Company (Hartford, Connecticut), and Meier & Frank, Inc. (Portland, Oregon).

5. May has participated aggressively in the department store merger movement, evidencing a decided tendency to acquire established local department store companies throughout the United States. Since 1952, May has acquired the following department store companies:

Acquired Company	Year Acquired	Sales in Year Preceding Acquisition	Number Of Stores Acquired
Spring Holzworth, Inc. Alliance, Ohio.	1952	$ 1.3 million*	1
Sharon Stores Co. Sharon, Pennsylvania.	1954	$ 4.5 million	1
Erlanger Dry Goods Co. Alliance, Massillon and Canton, Ohio.	1957	$ 5.7 million	4
The Daniels & Fisher Stores Company, Denver, Colorado.	1957	$ 9.7 million	3
Cohen Bros. Jacksonville, Florida	1959	$ 10.4 million	1
The Hecht Company, Baltimore, Maryland and Washington, D.C.	1959	$101.7 million	9
G. Fox & Co., Hartford, Connecticut.	1965	$ 65.4 million	2
Meier & Frank Co., Inc. Portland, Oregon.	1966	$ 71.1 million	3
Totals—8 Companies		$269.8 million	24 Stores

*Estimate.

6. During the fifteen years 1951–1965, May's net sales increased from $417 million to $943 million. Stores acquired by May in this period had sales in the year preceding acquisition of $270 million; thus, more than 51% of May's total growth is due directly to its acquisitions.

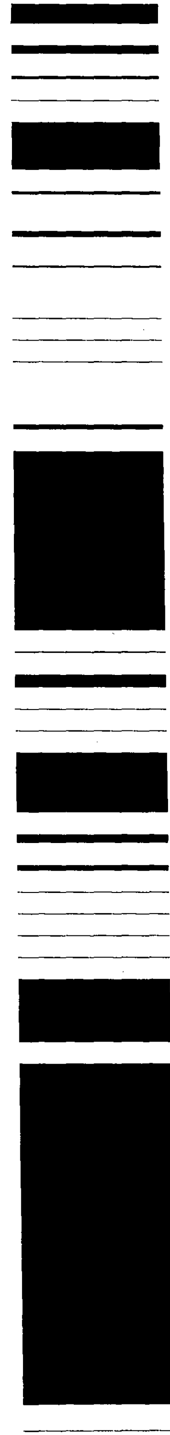
7. May's program of horizontal and market extension acquisitions has been aimed at achieving the dominant position in an increasing number of important local markets. Since 1951, its acquisitions have directly affected ten local markets, and achieved for May a market share of over 23% in all but one of these. The market shares resulting from these acquisitions are as follows:

Market	Year of Acquisition	May's Market Share Before the Acquisition	Resulting Market Share
Canton, Ohio SMSA	1952	3.9%*	12.1%*
Mercer County, Penna.	1954	0	64.5%*
Canton, Ohio SMSA	1957	16.2%*	41.9%*
Denver SMSA	1957	17.7%	23.7%
Colorado Springs SMSA	1957	0	6.9%
Jacksonville SMSA	1959	0	33.8%*
Baltimore SMSA	1959	7.6%*	23.4%*
Washington SMSA	1959	0	27.6%*
Hartford SMSA	1965	0	46.4%*
Portland SMSA	1966	0	43.5%*
Marion and Polk Counties, Oregon	1966	0	43.1%*

*Computed for nearest census year (1954, 1958 or 1963).

8. May's retained earnings currently exceed $230 million. May has for many years enjoyed a substantial cash flow and ready access to institutional funds and other sources of capital. During 1964 May had available to it net earnings of $41 million, proceeds from a long-term institutional loan of $25 million, and cash flow generated by depreciation and amortization of $15 million. Yearly capital expenditures have ranged upwards of $30 million, and May advised its stockholders that the $40 million of such expenditures planned for 1965 "will be provided by short-term investments now on hand plus retained earnings." May also advised its stockholders that its expansion plans have been accelerated and that May "should have 85 to 90 stores in operation by 1970," which "would add approximately 31% to our total store area in the next five years."

9. May, at all times relevant herein, has been engaged "in commerce" within the meaning of the Clayton Act.



III. The Acquired Companies

A. Meier & Frank

10. Meier & Frank Company, Inc. (hereinafter referred to as "Meier & Frank"), was, prior to its acquisition by May in 1966, a corporation organized and existing under the laws of the State of Oregon, with its principal office and principal place of business located at 621 S.W. Fifth Avenue, Portland, Oregon 97204.

11. Meier & Frank was, at the time of its acquisition, the leading department store company in Oregon. Its three stores served the population centers of the State. Meier & Frank did 44% of the department store business in Portland, and 43% in Salem. In 1964, its last full year of independent operation, Meier & Frank had total sales of approximately $71 million and total assets of approximately $56 million.

12. Meier & Frank, at all times relevant herein, was engaged "in commerce" within the meaning of the Clayton Act.

B. *Fox*

13. G. Fox & Co., Inc. (hereinafter referred to as "Fox"), was, prior to its acquisition by May in 1965, a corporation organized and existing under the laws of the State of Connecticut, with its principal office and place of business located at 956–986 Main Street, Hartford, Connecticut.

14. Fox was, at the time of its acquisition, the leading department store company in Hartford with 46% of department store

sales. It operated two department stores in downtown Hartford, one under the name of "G. Fox & Co." and the other under the name of "Brown Thomson, Inc." In 1964, its last full year of independent operation, Fox had total sales of approximately $65 million and total assets of approximately $42 million.

15. Fox, at all times relevant herein, was engaged "in commerce" within the meaning of the Clayton Act.

IV. Nature of Trade and Commerce

A. *Generally*

16. GMAF stores comprise the second largest group of retailers in the United States, with a sales volume of approximately $55 billion in 1963; they are exceeded in sales volume only by retail food stores. GMAF store sales represent approximately 23% of all retail sales in the United States.

17. Within the GMAF store group, department stores constitute the largest component, accounting for 37% of total GMAF store sales. Department stores, moreover, are the third most important group of retail stores in the United States, exceeded in sales volume only by food stores and automotive dealers and stores. Their national sales volume of approximately $20.5 billion in 1963 represented about 8% of all retail sales in the country. Department stores account for approximately 40% of apparel sales.

18. Department stores are recognized by the consuming public and in the trade as a distinct line of business:

(a) They are particularly favored by the public because they sell a cluster of commodities and services not duplicated by other retailers. They offer the opportunity to satisfy under one roof shopping needs for a wide variety of merchandise, including apparel, household linens and dry goods, furniture, appliances, and other housewares. This package of products is combined with an array of services such as the extension of credit, delivery of goods, the sending of goods on approval with liberal return privileges, fashion shows, and a number of other services. Moreover, frequently they enjoy a favorable image of stability and respectability attributable, at least in part, to their size and importance as retailers in the communities which they serve.

(b) In the last connection, department stores enjoy an image which derives, at least in part, from the fact that they are the major advertisers in the communities which they serve, usually

advertising more than all other GMAF stores combined. As a result of department stores' enormous advertising expenditures, they frequently receive preferred treatment from newspapers in the form of free publicity.

(c) Statistics on department store sales and other economic data relating to department stores, institutionally classified as such, are regularly gathered and published by the United States Bureau of Census, various state agencies, the National Retail Merchants Association, universities, and other trade publications and organizations.

B. *Mergers and Concentration in the Department Store Industry*

19. Since at least 1948, there has been a substantial degree of concentration in the department store industry. Moreover, between 1948 and 1963, the latest date for which published Census data is available, concentration among department store chains steadily and significantly increased. The approximate shares of department store sales commanded by the chains during this period, compared with the shares accounted for by the independent segment of the industry, are as follows:

Year	Market Share	
	Chains (6 or more stores)	Independents (1–5 stores)
1948	45.8%	54.2%
1954	61.4%	38.6%
1958	69.0%	31.0%
1963	80.8%	19.2%

20. The significant increase in concentration in the department store industry is largely attributable to the expansion of the major chains by mergers and acquisitions. Between 1951 and 1965, the twenty largest department store chains made approximately 84 acquisitions of department store companies throughout the United States, involving some 160 department stores and some 200 other stores. In general, these acquisitions have been made in the "choice outlet" segment of the industry—that segment which comprises established, respectable, full-line department stores enjoying a leading position in the areas in which they operated, and in which the increase in concentration has been especially significant.

21. As described in Paragraphs 5, 6 and 7, May has contributed

substantially to the trend toward concentration in the industry during this period by its series of acquisitions of "choice" stores.

V. The Acquisitions

22. On or about November 27, 1965, May acquired the operating assets of Fox in return for 720,000 shares of May common stock worth approximately $41 million at the time.

23. On or about July 27, 1966, May effectuated the merger of Meier & Frank into May. May acquired Meier & Frank in return for May common stock and cash having a total value of more than $40 million.

VI. Effects of the Acquisitions

24. The effects of the foregoing acquisitions have been and may be the following, among others:

(a) Competition may be substantially lessened, and there may be a tendency to create a monopoly, in the department store industry and in the "choice outlet" segment thereof, in the GMAF store industry, and in the retail sale of apparel and other merchandise distributed by department stores, in the United States generally and in various portions thereof;

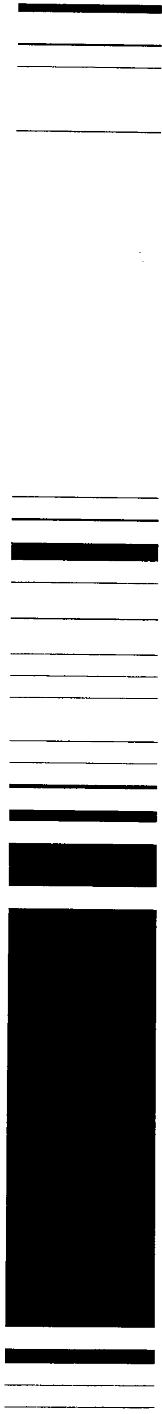
(b) Concentration in the department store industry, the GMAF store industry, and in the sale of apparel and other lines of merchandise sold by department stores may be increased, in the United States generally and in various portions thereof;

(c) Deconcentration in the department store industry, the GMAF store industry, and in the sale of apparel and other lines of merchandise sold by department stores may be prevented, in the United States generally and in various portions thereof;

(d) May may have achieved a decisive competitive advantage over its smaller, less diversified, and less powerful competitors in the department store industry, the GMAF store industry, and in the sale of apparel and other merchandise sold by department stores in each area where May operates;

(e) Other acquisitions in the department store industry, in the "choice outlet" segment thereof, and in the GMAF store industry, in the United States, may be encouraged or stimulated, thus exacerbating the competitive impact of the instant acquisitions, as hereinbefore described, thereby tending further to transform the department store and GMAF store industries from ones composed of viable, independent, locally-owned businesses into concentrated and nationally-managed industries;

(f) The members of the consuming public, in the United States generally and in various portions thereof, may be deprived of the benefits of free and unrestricted competition in the department store industry, and in the "choice outlet" segment thereof, in the GMAF store industry, and in the sale of apparel and other merchandise sold by department stores.



VII. Violation Charged

25. The effects of May's acquisition of Meier & Frank and of the assets of Fox, viewed individually, viewed together, or viewed as part of the series of acquisitions alleged in Paragraphs 5, 6, 7 and 20, may be substantially to lessen competition or to tend to create a monopoly, in violation of Section 7 of the Clayton Act, as more fully described above in Paragraph 24.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, to wit: the acquisition of the operating assets of G. Fox & Co., Incorporated, by The May Department Stores Company, and the merger of Meier & Frank Company, Inc., into The May Department Stores Company; and the respondent having been furnished thereafter with a copy of a draft of complaint by the Bureau of Restraint of Trade and which draft of complaint, if approved and issued by the Commission, would charge respondent with violation of Section 7 of the Clayton Act, as amended; and

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

The Commission, having reason to believe that the respondent has violated Section 7 of the Clayton Act, as amended, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent The May Department Stores Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at Sixth and Olive Streets, St. Louis, Missouri. 63101

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

ORDER

I

It is ordered, That, for ten (10) years from the effective date of this order, respondent, The May Department Stores Company, shall cease and desist from acquiring, directly or indirectly, without first notifying the Federal Trade Commission and obtaining its consent, any department store or other GMAF store, or any interest in capital stock or other share capital, or any assets constituting a substantial part of all of the assets, of any concern engaged in the department store or other GMAF store business in the United States.

II

It is further ordered, That Section I of this order shall terminate if the Federal Trade Commission, through trade regulation rules or other like non-adjudicative industrywide proceedings, issues rules or guide lines covering the subject matter of this order.

III

It is further ordered, That, in the event of the Federal Trade Commission, in any adjudicative or consent order proceeding involving a market extension acquisition of one or more department or other GMAF stores by a company which owns or operates one or more department stores, issues any order which imposes limitations on future such market extension acquisitions less restrictive than the comparable provisions of this order, then the Federal Trade Commission shall, on application of respondent, pursuant to Rule 3.28 of the Commission's Rules of Practice, reopen this proceeding in order to make whatever revisions, if any, are necessary and appropriate to bring the restrictions imposed on respondent herein into conformity with those imposed by such order.

IV

It is further ordered, That, within sixty (60) days after service of this order, The May Department Stores Company shall submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it has complied, is complying, and intends to comply, with the provisions of this order.

IN THE MATTER OF

E. J. KORVETTE, INC., AND SPARTANS INDUSTRIES, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF THE CLAYTON ACT

Docket C–1106. Complaint, September 9, 1966—Decision, September 9, 1966

Consent order approving the merger of the first and seventeenth nationally ranked discount department store chains, both headquartered in New York City, and requiring the surviving corporation to divest 97 stores recently acquired by the smaller chain (Spartans) and 43% of the stock interest presently owned by the larger chain (Korvette) in two of its New York City competitors;

The order also forbids the surviving corporation from acquiring any GMAF (General Merchandise, Apparel and Furniture) store for 10 years without prior approval of the Federal Tade Commission, and limits the amount of apparel and hosiery which the corporation may supply its own retail outlets from its manufacturing facilities.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated the provisions of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1) and that a proceeding in respect thereof would be in the public interest, issues this complaint, stating its charges as follows:

I Definitions

1. For purposes of this complaint, the following definitions apply:

(a) "SMSA" and "SCA" mean, respectively, "Standard Metropolitan Statistical Area" and "Standard Consolidated Area," each as defined by the U.S. Bureau of the Budget and used by the U.S. Bureau of the Census. Specific SMSA's and SCA's referred to herein are located in the following States but include only the following subdivisions thereof (counties unless otherwise indicated):

SCA's	STATES	SUBDIVISIONS
New York—Northeastern New Jersey	New York	New York Kings Queens Bronx Richmond Nassau Suffolk Westchester Rockland
	New Jersey	Essex Morris Union Hudson Bergen Passaic Middlesex Somerset
Chicago—Northwestern Indiana	Illinois	Cook Du Page Kane Lake McHenry Will
	Indiana	Lake Porter

SMSA's	STATES	SUBDIVISIONS
Cleveland	Ohic	Cuyahoga Geauga Lake Medina
Dallas	Texas	Collins Dallas Denton Elles
Detroit	Michigan	Macomb Oakland Wayne
Ft. Worth	Texas	Johnson Tarrant

SMSA's—Continued	STATES	SUBDIVISIONS
Kansas City	Missouri	Cass Clay Jackson Platte
	Kansas	Johnson Wyandette
Milwaukee	Wisconsin	Milwaukee Ozaukee Waukesha
Minneapolis—St. Paul	Minnesota	Anoka Dakota Hennepin Ramsey Washington
Oklahoma City	Oklahoma	Canadian Cleveland Oklahoma
Philadelphia	Pennsylvania	Bucks Chester Deleware Montgomery Philadelphia
	New Jersey	Burlington Camden Gloucester
San Antonio	Texas	Bexar Gaudelupe
Shreveport	Louisiana	Bossier (Parish) Caddo (Parish)
St. Louis	Missouri	St. Louis (City) Franklin Jefferson St. Charles St. Louis
	Illinois	Madison St. Clair
Trenton	New Jersey	Mercer
Washington	District of Columbia	Washington (City)
	Maryland	Montgomery Prince Georges
	Virginia	Alexandria (City) Fairfax (City) Falls Church (City) Arlington Fairfax

(b) "Department stores," as used herein, corresponds with Bureau of the Census Industry Classification No. 531, 1963 Census of Business. It refers to retail stores normally employing 25 or more people and engaged in selling some items of each of the following groups of merchandise:

(1) Furniture, home furnishings, appliances, radio TV sets; and

(2) A general line of apparel; and

(3) Household linens and dry goods.

An establishment with total annual sales of less than $5 million is not classified as a "department store" if (a) sales of any one of the said lines represent more than 80% of total sales, or (b) sales of the second and third lines combined represent less than 20% of total sales. An establishment with total sales of $5 million or more is classified as a "department store," even if sales of one of the said lines represent more than 80% of its total sales, provided that the combined annual sales of the other two groups is $500 thousand or more.

(c) "Discount department stores," as used herein, are department stores, as defined in (b) above, which utilize mostly self-service techniques and operate at a lower gross margin than most other department stores.

(d) "GMAF stores," as used herein, refers to all retail establishments included in the following Bureau of the Census Major Industry Group and Industry Classification as used in the 1963 Census of Business:

Census Number	*Descriptions*
Classification #531	Department stores
Major Industry Group #56	Other stores primarily engaged in the sale of apparel
Classification #533	Limited price variety stores
Classification #539	Miscellaneous general merchandise stores
Major Industry Group #57	Furniture, home furnishings and equipment stores

(e) "Apparel" as used herein corresponds with Bureau of the Census Merchandise Lines No. 140 and 160, 1963 Census of Business, combined, and includes all clothing and related articles and accessories for personal wear and adornment, exclusive of footwear, for men, women and children.

(f) "Appliances," as used herein corresponds with Bureau of

the Census Merchandise Line No. 220, 1963 Census of Business, and includes all major household appliances, radio and TV sets, record players, tape recorders, records, tapes, sheet music and music instruments.

II Spartans

2. Respondent Spartans Industries, Inc. (hereinafter referred to as "Spartans"), a Delaware corporation with its principal office in New York City, New York, was organized in 1959 to succeed to an apparel manufacturing business started in 1936.

3. As a major producer of popular priced men's, women's and children's apparel particularly shirts, blouses and nightwear, Spartans in 1965 produced about 75 million units of apparel for sale at wholesale to approximately 8,000 retail accounts. In 1963, when it was producing less than half its 1965 output of apparel, Spartans accounted for shares of total U.S. production ranging from 4.8% to 7% in three apparel categories and from 2.2% to 3.6% in five other apparel categories, as follows:

Apparel Categories	*Spartans' Share of 1963 Census Total Production*
Women's and children's nightwear	7.0%
Girls' blouses, waists and shirts, woven	5.2%
Women's blouses, waists and shirts, woven	4.8%
Women's playshorts, pedal pushers, Burmudas	3.6%
Men and boys' woven dress and sport shirts	3.1%
Men and boys' knit outerwear sport shirts	2.4%
Women's dozen-priced dresses	2.2%

4. In 1960 Spartans began integrating forward into retailing. Between 1960 and 1965 it carried on an aggressive expansion, opening 44 discount department stores offering a wide variety of consumer products, particularly apparel and other soft goods, in 15 States, largely in mid-America.

5. In 1965 Spartans acquired a drug store chain (Crank Drug Stores) in the mid-continent area; but otherwise this dynamic and aggressive business organization expanded entirely through internal growth until the end of 1965. By the beginning of 1966, Spartans' net sales (wholesale and retail) were running about $200 million per year and its assets were approximately $80 million. Its discount department store sales (including its leased departments) alone amounted to an estimated $129 million in 1965

and gave Spartans a rank among the largest of all discount department store operations in the United States.

6. At all times relevant hereto Spartans has been and is now engaged in commerce within the meaning of the Clayton Act and the Federal Trade Commission Act.

III Spartans' Acquisition of Atlantic Thrift Centers Inc.

7. Early in 1966 Spartans began an aggressive campaign to acquire competitors, customers and suppliers. Spartans' first major acquisition was of a competitor and customer. As of January 29, 1966, for approximately $19 million, it purchased all the stock of another of the largest discount department store operations in the United States, Atlantic Thrift Centers, Inc. (hereinafter called "Atlantic"), a Delaware corporation with assets of about $30 million and annual sales of approximately $140 million, including sales of leased departments. Thereafter on March 12, 1966, Spartans merged Atlantic into itself and now operates, along with its own 44 stores, Atlantic's 49 discount department stores (known as "Atlantic Thrift Centers").

8. Atlantic's discount department stores, like Spartans' were located principally in mid-America, although it also operated a number of such stores along the East Coast. In eleven metropolitan areas where these two aggressive price competitors had both been opening stores in recent years, their (combined) market shares ranged from 2.7% to 14.7% of total department store sales:

SMSA	Initial Market Entry		Combined Market Share (1965)
	Spartans	Atlantic	
Shreveport, La.	9/61	8/61	14.7%
Oklahoma City, Okla.	11/60	4/61	9.0%
San Antonio, Texas	5/61	11/60	8.2%
Milwaukee, Wisc.	11/61	11/58	5.3%
Dallas, Texas	11/60	3/61	4.8%
Kansas City, Mo.-Kans.	4/62	6/61	4.4%
Minneapolis-St. Paul, Minn.	10/61	8/58	4.0%
Ft. Worth, Texas	3/61	11/60	3.4%
Detroit, Mich.	10/61	4/57	3.3%
St. Louis, Mo.-Ill.	8/61	11/61	2.8%
Cleveland, Ohio	9/62	5/56	2.7%

Elimination of competition within the discount segment of department stores in all these areas was necessarily much greater than is indicated by the above market share statistics, which are based on total sales of all department stores.

9. In addition to the foregoing metropolitan areas where Spartans and Atlantic were actually competing with each other, at the end of 1965 there was potential competition between them in at least 46 other cities in 24 States in which one or the other of these two chains had already entered a local market where the other was not yet established. Moreover, 18 of these 46 cities were located in 6 States where both of these dynamic, expanding firms have already entered at least one other market in that State, as shown by the following data:

State	City	Entrant	Date of initial entry into local market	Date of other chain's entry into State
Kansas	Wichita	Atlantic	8/61	9/62
Louisiana	New Orleans	Atlantic	8/62	9/61
Michigan	Grand Rapids	Atlantic	8/56	10/61
	Inkster	Atlantic	5/62	10/61
	Kalamazoo	Spartans	8/62	4/57
	Lansing	Spartans	5/62	4/57
	Muskegon	Spartans	11/62	4/57
	Pontiac	Spartans	5/52	4/57
	Warren	Atlantic	11/65	10/61
Ohio	Akron	Spartans	3/63	5/56
	Brooklyn	Atlantic	8/65	3/62
	Cuyahoga Falls	Spartans	8/63	5/56
	Youngstown	Atlantic	11/58	3/62
Tennessee	Knoxville	Atlantic	8/57	11/61
	Memphis	Atlantic	11/59	11/61
	Nashville	Spartans	11/61	8/57
Texas	Austin	Spartans	2/61	11/60
	Corpus Christi	Atlantic	3/62	11/60

10. At the time of its acquisition by Spartans Atlantic was engaged in commerce within the meaning of the Clayton Act and the Federal Trade Commission Act.

IV Spartans' Acquisition of Maro Industries, Inc.

11. Spartans' next major acquisition was the purchase of an important supplier of hosiery and miscellaneous apparel for its expanding retail outlets. On April 13, 1966, in exchange for stock worth about $17 million, Spartans acquired all of the outstanding shares of Maro Industries, Inc. (hereinafter called "Maro"), a Delaware corporation organized in 1961 to take over a family proprietorship founded by one Max Rounick in 1912. During 1965 Maro's sales totaled well over $30 million.

12. When it was acquired, Maro and its several subsidiaries were engaged in designing, manufacturing, importing and selling

a diversified line of moderately priced men's, women's and children's apparel consisting principally of hosiery (representing about 63% of its sales) but also including shirts, sweaters and other items of sportswear. Maro's production and imports were sold to and through 12,000 retail outlets throughout the United States, including Spartans, Atlantic, Korvette and other department stores. Maro ranked as one of the nation's largest suppliers of hosiery, making a total of $22 million in sales in this line. Of this total about $20 million were sales of men's finished seamless hosiery which amounted to a very substantial share of national sales of that product.

13. At the time of its acquisition by Spartans, Maro was engaged in commerce within the meaning of the Clayton Act and the Federal Trade Commission Act.

V Korvette

14. Respondent E. J. Korvette, Inc. (hereinafter referred to as "Korvette"), is a New York corporation with its principal office in New York, New York. Korvette is the nation's largest discount department store operation, with 1965 sales of about $800 million and assets of about $200 million. Starting in a small suite in midtown New York City in 1948, its promotion of nationally advertised products (particularly household appliances, cameras and similar equipment) at discount prices caught the public fancy and brought it phenomonal success. Since then it has expanded rapidly throughout the New York-Northeastern New Jersey Standard Consolidated Area and into other major population centers, simultaneously enlarging its lines of merchandise. By 1966 it had become a chain of 42 discount department stores and 59 food supermarkets in the metropolitan areas of New York, N.Y., Chicago, Ill., Detroit, Mich., Washington, D.C., Baltimore, Md., St. Louis, Mo., Philadelphia and Harrisburg, Pa., and Hartford and Bridgeport, Conn. Although its supermarket chain came into being largely as a result of its acquisition in early 1965 of Hill's Supermarkets, Inc., Korvette's dramatic expansion has thus far been achieved primarily through internal growth.

15. At all times relevant hereto, Korvette has been and is now engaged in commerce within the meaning of the Clayton Act and the Federal Trade Commission Act.

VI Korvette's Acquisition of Stock in Alexander's

16. In 1961 Korvette made an effort to acquire control of a

leading competitor among New York discount department stores, Alexander's Department Stores, Inc. (hereinafter referred to as "Alexander's"), a New York Corporation with its principal office in New York, New York. Although Alexander's majority stockholder, one George Farkas, resisted Korvette's effort at the time, Korvette has nevertheless retained a 43% interest in the voting common stock of Alexander's.

17. In the New York-Northeastern New Jersey SCA department store market, Alexander's, with current annual sales of about $180 million a year, has a market share of about 7%. Its rank in this market is about 5th and the addition of its six huge discount department stores to the Korvette enterprise would alone increase Korvette's present market share from 13% to 20% and its market rank from 3rd to 2nd in the New York-Northeastern New Jersey (SCA) metropolitan department store market. Alexander's ranks high in sales nationwide among all discount department stores and conversion of Korvette's near-control into actual control of Alexander's would increase substantially Korvette's lead as the nation's largest discount department store operator.

18. At all times relevant hereto Alexander's has been and is now engaged in commerce within the meaning of the Clayton Act and the Federal Trade Commission Act.

VII The Spartans-Korvette Merger

19. The respective Boards of Directors of Spartans and Korvette on July 27, 1966, entered into a mutual agreement to merge Spartans into Korvette and rename Korvette "Spartans Industries, Inc." (hereinafter referred to as "the surviving corporation"), provided that the necessary two-thirds of the voting common stock of each corporation approve the proposed merger. Stockholder's meetings for this purpose are now scheduled for September 22, 1966.

20. If consumated, a Spartans-Korvette merger will result in the creation of a business entity with annual sales well over a billion dollars a year and assets over $300 million. This proposed combination will embrace four of the largest and most dynamic discount department store chains in the United States, recently ranked by a leading trade publication as 1st (Korvette), 11th (Alexander's), 13th (Atlantic) and 17th (Spartans) among leading discounters carrying a full complement of soft and hard lines.

21. In seven major geographic areas where both Spartans and

Korvette compete their combined local market shares of total 1965 department store sales and GMAF sales will range as follows (again excluding Alexander's sales):

	Post-Merger Market Share (excluding Alexander's)	
	Department Stores	GMAF
SCA's		
New York-Northeastern New Jersey	13.1%	4.9%
Chicago-Northwestern Indiana	4.4%	1.9%
SMSA's		
Trenton, New Jersey	32.6%	13.7%
Philadelphia, Pa.-N.J.	13.4%	5.6%
Detroit, Michigan	7.4%	3.9%
St. Louis, Mo.-Ill.	6.4%	3.2%
Washington, D.C.-Md.-Va.	6.3%	3.2%

The surviving corporation's share of discount department store sales in each of these local areas will necessarily be much greater than its share of all department store sales in the same areas.

22. In these same seven metropolitan areas where Korvette and Spartans (plus Atlantic) both compete, the surviving corporation's local shares of the apparel and appliance lines of commerce, (without Alexander's, a big factor in the New York soft goods market) will range upward from 1.4% to 11.3% for apparel and from 2.1% to 9.6% for appliances:

	Post-Merger Market Share (excluding Alexander's)	
	Apparel	Appliances
SCA's		
New York-Northeastern New Jersey	2.9%	5.2%
Chicago-Northwestern Indiana	1.4%	2.1%
SMSA's		
Trenton, N.J.	11.3%	9.6%
Washington, D.C.-Md.-Va.	4.5%	7.3%
Philadelphia, Pa.-N.J.	4.3%	5.2%
Detroit, Michigan	4.0%	3.0%
St. Louis, Mo.-Ill.	3.6%	3.3%

23. Beyond the foregoing metropolitan areas where both Spartans and Korvette are already in actual competition there are very few, if any, metropolitan areas, at least east of the Rockies, which are not areas of potential competition between these two rapidly expanding chains of discount department stores. In addition to the metropolitan areas listed in Paragraph 21, Korvette

has now expanded into the vicinities of Hartford, Conn., Bridgeport, Conn., Harrisburg, Pa., and Baltimore, Md. In addition to the eleven metropolitan areas of actual Spartans-Atlantic competition listed in Paragraph 8 and eighteen other localities of especially likely potential competition between them listed in Paragraph 9–all of which are now also areas of potential if not actual competition between Korvette and Spartans–potential competition between Korvette and Spartans (including Atlantic) also exists in 20 other local markets already entered into by either Spartans or Atlantic, including: New Bedford, Mass., Providence, R.I., Rochester, N.Y., Wilmington, Del., Norfolk, Va., Charlotte, N.C., Columbia, S.C., Atlanta, Ga., Jacksonville, Fla., Birmingham and Mobile, Ala., Little Rock, Ark., Denver, Col., Cedar Rapids, Davenport and Des Moines, Iowa, Peoria and Rockford, Ill., and Mishawaka, Ind.

VIII Nature of Trade and Commerce

24. Department stores are the third most important group of retail stores in the United States, exceeded in sales volume only by food and automotive retail sales outlets. Their national sales volume of approximately $20.5 billions in 1963, (estimated $23.4 billion in 1965) represent about 8% of all retail sales in the country. Department stores constitute a line of commerce characterized particularly by relatively large retail stores which offer, under one roof, a relatively large group of commodities, including various combinations of soft goods and hard goods, within the defined limits set forth in Paragraph 1(b) above. Among the commodities usually sold by department stores, apparel and appliances are two very important lines. Nationwide, department stores account for approximately 40% of apparel sales and 25% of appliance sales. Department stores are well recognized by the consuming public and by the trade itself as a distinct line of commerce. In this line of commerce in 1965 Korvette, Alexander's, Spartans and Atlantic sales amounted to 2.7%, .8%, .5% and .6% respectively for a combined total of 4.6% of all national department store sales.

25. Department stores constitute approximately 37% of the broader GMAF stores market, including apparel, furniture and appliance stores as well as general merchandise, limited price variety and department stores. They altogether make up the second largest group of retailers in the United States, being exceeded

solely by retail food stores in sales volume. Total GMAF store sales of approximately $55 billion in 1963, (projected to $65.3 in 1965) represent approximately 23% of all retail sales in the United States. In this line of commerce in 1965 Korvette, Alexander's, Spartans and Atlantic sales amounted to 1.0%, .3%, .2% and .2% respectively for a combined total of 1.7% of all national GMAF store sales.

26. Discount department store operations constitute a popularly recognized submarket within the broader department stores market. It is a line of commerce which has emerged principally since World War II and now accounts for an increasingly large part of all department store sales in the United States, particularly in metropolitan areas. Discount department stores generally sell merchandise more cheaply, at a lower markup and with less services than do conventional department stores. Moreover, a principal and distinctive appeal of the post-war discount department store has been the sale of at least some widely-advertised national brands, often elsewhere sold at list prices, at discount prices, as distinguished from the sale of low-price private brand merchandise. The emergence of discount department store operations has had a peculiarly healthy influence on competition in the American retail market place. No other individual enterprise has played a more important role in this development than Korvette, the pioneer and still the undisputed national leader in the discount department store field. In addition to Korvette, there are few other discount department store chains that exceed in competitive importance Alexander's, Atlantic and Spartans, the 11th, 13th and 17th ranking businesses respectively among the nation's leading discounters carrying full lines of hard and soft goods, as alleged in Paragraph 20.

27. The major merchandise lines affected by this merger are also of great importance. The sale of apparel throughout the United States totals close to $25 billion annually and accounts for about 9% of all retail sales. Nationwide appliance sales are something under $6 billion annually and represent about 2% of all retail sales. The combination resulting from the merger of Korvette with Spartans-Atlantic would account for 1.2% of all apparel sales and 1.4% of all appliance sales in the United States.

28. The department store business has exhibited for some years past a dangerous trend toward concentration. Between 1948 and 1963, chains of 6 or more stores increased their share of all department stores sales from 45.8% to 80.8%. The obverse of

this trend was a decline in sales by the independents with 5 or fewer stores from 54.2% to 19.2% of the market. In absolute terms, while the sales of the chains rose from about $4.9 billion to $16.6 billion, independent's sales declined from $5.8 billion to $3.9 billion. During this same period the total number of establishments operated by department store chains (6 or more stores) increased from 1491 to 3157. The total number of establishments operated by the independents (5 or fewer stores) declined from 1089 in 1948 to 966 in 1958 but rose again to 1094 in 1963, mainly because of an influx of small companies operating discount department stores – the very development most likely to be injured and inhibited by merging Korvette with Spartans and Atlantic.

IX Competitive Effects of the Mergers

29. The effect of the acquisition and merger of Atlantic into Spartans has been or may be substantially to lessen competition and to tend to create a monopoly in the department store line of commerce, particularly the discount department store segment thereof; in the GMAF stores line of commerce; and in the retail sale of apparel and appliances; both nationally and in each of the various metropolitan areas where both competed or were likely potential competitors of one another, in the following ways, among others:

(a) by eliminating and preventing actual and potential competition between Spartans and Atlantic;

(b) by removing Atlantic as a significant, independent competitive force;

(c) by aiding Spartans to achieve what may be a decisive competitive advantage;

(d) by aggravating and encouraging others to aggravate the serious trend to ever greater concentration in the relevant lines of commerce.

30. The effect of the acquisition of Maro by Spartan has been or may be substantially to lessen competition and to tend to create a monopoly in the department store line of commerce, and particularly the discount department store segment thereof; in the GMAF stores line of commerce; in the retail sale of apparel and appliances; in the production and wholesale distribution of certain hosiery, shirts and other apparel lines of commerce; both nationally and in the various metropolitan areas where Spartans

now operates or is likely to operate, in the following ways, among others:

(a) by foreclosing manufacturing and wholesaling competitors of Maro from access to Spartans' retail outlets, either absolutely or on as favorable terms as may be available to Spartans itself, and

(b) by foreclosing retailing competitors of Spartans and/ or Korvette from access to Maro's supplies, either absolutely or on as favorable terms as may be available to Spartans and/or Korvette.

31. The effect of Korvette's acquisition of 43% of the voting capital stock of Alexander's has been or may be substantially to lessen competition and to tend to create a monopoly in the department store line of commerce, particularly the discount department store segment thereof; in the GMAF stores line of commerce; and also in the retail sale of apparel and appliances; in the New York–Northern New Jersey metropolitan area (SCA), in the following ways, among others:

(a) by raising a probability that Korvette will eventually acquire operating control of Alexander's, thereby:

(a) eliminating and preventing actual and potential competition between Korvette and Alexander's;

(b) eliminating Alexander's as a significant independent competitive factor;

(c) aiding Korvette to achieve what may be a decisive competitive advantage;

(d) aggravating and encouraging others to aggravate a serious trend to ever greater concentration in the relevant lines of commerce; and

(b) by continually threatening Alexander's independence as a competitive factor in such markets.

32. The effect of a Spartans-Korvette merger, if consummated, may be substantially to lessen competition and tend to create a monopoly in the department store line of commerce, and particularly the discount department store segment thereof; in the GMAF stores line of commerce; and in the retail sale of apparel and appliances; both nationally and in each of the metropolitan areas where Spartans and Korvette and Spartans and Alexander's presently or potentially compete; and also in the nationwide production and wholesale distribution of certain hosiery, shirts/blouses and other apparel lines, in the following ways, among others:

(a) by eliminating and preventing actual and potential competition between Spartans and Korvette and, thru Korvette's 43% ownership of Alexander's, between Spartans and Alexander's;

(b) by eliminating one of the two merging corporations as a significant independent competitive factor;

(c) by aiding the surviving corporation to achieve what may be a decisive competitive advantage;

(d) by foreclosing Spartans' manufacturing and wholesaling competitors from access to Korvette's and, potentially, from Alexander's retail outlets for the sale of certain hosiery, shirts/blouses, nightwear and other apparel lines, either absolutely or on as favorable terms as may be available to Spartans;

(e) by foreclosing Korvette's retail competitors from access to Spartans as a supplier of certain hosiery, shirts/blouses, nightwear and other apparel lines, either absolutely or on as favorable terms as may be available to Korvette;

(f) by aggravating and encouraging others to aggravate the serious trend to ever greater concentration in the relevant lines of commerce.

X Violations Charged

33. The effect of Spartans' acquisition of the capital stock of Atlantic, as alleged in Paragraph 7 herein, may be substantially to lessen competition or to tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, as more fully described in Paragraph 29 herein.

34. The effect of Spartans' acquisition of the capital stock of Maro, as alleged in Paragraph 11 herein, may be substantially to lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, as more fully described in Paragraph 30 herein.

35. The effect of Korvette's acquisition of 43% of the voting stock of Alexander's, as alleged in Paragraph 16 herein, may be substantially to lessen competition or to tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, as more fully described in Paragraph 31 herein.

36. The effect of the proposed merger of Spartans into Korvette, as alleged in Paragraph 19 herein, may be substantially to lessen competition or to tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, as more fully described in Paragraph 32 herein.

37. The contract, combination and agreement to effect the proposed mergers of Spartans into Korvette, as alleged in Paragraph 19, constitutes an incipient restraint of trade and incipient monopolization and thus an unfair method of competition and unfair act and practice in commerce within the meaning of Section 5(a)(i) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(i).

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 Restraint of Trade 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 Section 7 of the Clayton Act, as amended; 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 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 E. J. Korvette, Inc. (hereinafter referred to as "Korvette"), 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 46th Street and the Avenue of the Americas, in the city of New York, State of New York.

Respondent Spartans Industries, Inc. (hereinafter referred to as "Spartans"), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1 West 34th Street, in the city of New York, State of New York.

Respondents Korvette and Spartans propose to merge Spartans into Korvette and to change the name of Korvette to "Spartans Industries, Inc." (hereinafter referred to as the "surviving 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

I

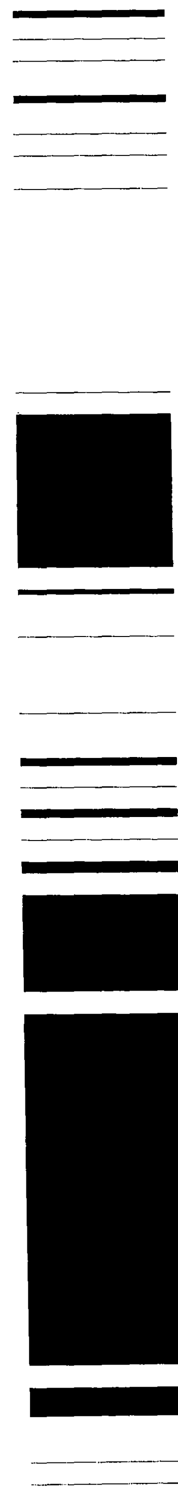
It is ordered, That the surviving corporation shall divest itself absolutely, in good faith, of all stock or any other interest, direct or indirect, through Schwabro Corporation or otherwise, in Alexander's Department Stores, Inc. ("Alexander's") and Retail Realty, Inc. ("Retail"), an affiliate of Alexander's.

A. The surviving corporation shall make every reasonable effort to effectuate such divestiture within a period of three (3) years from the effective date of this order: *Provided, however,* That if divestiture has not been effected within said three-year period, the Federal Trade Commission shall grant to the surviving corporation an opportunity to be heard before issuing any further order or orders which may be deemed appropriate. If at that time the surviving corporation shows that it has made a good faith effort and that failure to effectuate the divestiture within the three-year period cannot be attributed to delays by it, the Federal Trade Commission will grant an additional period of two years in which to complete the divestiture.

B. By such divestiture none of said interest in the stock of Alexander's and Retail shall be sold, directly or indirectly, to any person not approved as a purchaser by the Federal Trade Commission.

C. If the surviving corporation divests said interest in the stock of Alexander's and Retail to a new corporation, the stock of which is wholly owned by the surviving corporation, and if the surviving corporation then distributes all of the stock in said wholly owned new corporation to the stockholders of the surviving corporation, then paragraph I(B), of this order shall be inapplicable to the spin-off, and the following paragraph I(D) of this order shall take force and effect in its stead.

D. No person who is an officer or director of the surviving corporation shall at the same time be an officer of director of the new corporation. None of the following, or their legal representatives, shall own or control, directly or indirectly, more than one percent (1%) of the outstanding stock of the new corporation: (i) the Bassine Foundation, the Kardell Corporation, Charles C. Bassine and his family, as a group, (ii) Eugene Ferkauf and his family, as a group, (iii) Murray Sussman and his family, as a group, and (iv) any officer or director of the surviving corporation. Such persons or groups shall have nine (9) months following distribution of the stock of the new corporation within which to sell or dispose of any stock in the new corporation in excess of the foregoing one percent (1%) limitation, and the persons or groups named in (i), (ii) and (iii) above shall do so only to a person or persons approved by the Federal Trade Commission. As used herein the family of a person shall mean any descendant of the grandparents of such person or the spouse of any such descendant. If the surviving corporation shall apply to the Internal Revenue Service, prior to such distribution, for a tax ruling that the stockholders of the surviving corporation will not be required, notwithstanding the above provision of this order requiring the above named persons to sell or dispose of such stock, to recognize gain or loss with respect to such transaction under the Internal Revenue Code, and the Internal Revenue Service shall fail to issue a ruling to such effect within six (6) months after the date such application is made, then and in such event, the above named persons shall have three (3) months following the issuance of a ruling to such effect within which to sell or dispose of such stock but, until a ruling to such effect is issued, the above named persons shall not be required to sell or dispose of such stock in the new corporation, but such persons shall, so long as such persons own or control such shares, never cause or permit such shares to be voted at any meeting of the stockholders of the new corporation, except in a manner approved by the Federal Trade Commission, and shall forthwith deliver to the new corporation an instrument in writing, in a form approved by the Federal Trade Commission to this effect; *Provided further*, That, if and when such stock is sold or disposed of, such sale or disposition shall be to persons approved by the Federal Trade Commission.



E. If the surviving corporation transfers said interest in Alexander's and Retail to a new corporation, the stock of which is wholly owned by the surviving corporation, and if the surviving corporation then markets all of the stock in said new corporation in a separate public offering, then paragraphs I(B), I(C), and I(D) of this order shall be inapplicable, and the following paragraph I(F) shall take force and effect in its stead.

F. No person who is an officer or director of the surviving corporation, or who owns or controls, directly or indirectly, more than one per cent (1%) of the stock of the surviving corporation, shall be an officer or director of the new corporation described in paragraph I(E) of this order or shall own or control, directly or indirectly, more than one per cent (1%) of the stock of the new corporation described in paragraph I(E) of this order. For the purposes of this paragraph I(F) of this order, the stock ownership of any person either in the surviving corporation or the new corporation shall include the stock ownership of all members of his family. As used herein the family of a person shall mean any descendant of the grandparents of such person or the spouse of any such descendant.

G. If the surviving corporation is unable to dispose of said interest in Alexander's and Retail entirely for cash, nothing in this order shall be deemed to prohibit the surviving corporation from retaining, accepting and enforcing in good faith any security interest therein for the sole purpose of securing to the surviving corporation full payment of the price, with interest, at which the said interest is disposed of or sold: *Provided,* That such security arrangement shall be on terms and conditions approved by the Federal Trade Commission: *And further provided,* That if, after a good faith divestiture of the said interest, the buyer fails to perform his obligation and the surviving corporation regains ownership or control over said interest, the surviving corporation shall redivest itself of said interest within one year in the same manner as provided for herein.

II

It is further ordered, That the surviving corporation shall divest itself, absolutely, in good faith, of all its interest in the 93 self-

service department stores now operated by Spartans and in the four self-service department stores presently planned to be opened by Spartans (hereafter the "acquired stores"), by divesting the acquired stores as one or more going businesses. The interest so divested shall include the right of at least one acquirer to use the name "Atlantic Thrift Center" in any retail business; and shall include the right of at least one acquirer to use the name "Spartans Department Store[s]" in any retail business for a period of two years but not in any corporate name. The surviving corporation shall not subsequent to the completion of such divestiture operate any retail stores as "Spartans" or "Atlantic Thrift Center" stores but the surviving corporation may, in any event, continue to use the word "Spartans" as part of its corporate title.

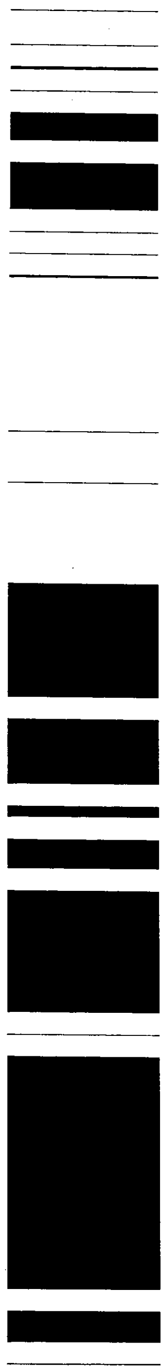
A. The surviving corporation shall have five (5) years from the effective date of this order to complete such divestiture. The surviving corporation shall make every reasonable effort to effectuate such divestiture by means of a transaction contemplated by paragraphs II(B) or II(E) of this order before it effectuates such divestiture by means of a transaction contemplated by paragraph II(C) of this order.

B. By such divestiture none of such interest in the acquired stores shall be sold, directly or indirectly, to any person not approved as a purchaser by the Federal Trade Commission.

C. If the surviving corporation divests said interest in the acquired stores to one or more new corporations, the stock of which is wholly owned by the surviving corporation, and if the surviving corporation then distributes all of the stock in said wholly owned new corporation[s] to the stockholders of the surviving corporation, then paragraph II(B) of this order shall be inapplicable to the spin-off, and the following paragraph II(D) of this order shall take force and effect in ins stead.

D. No person who is an officer or director of the surviving corporation shall at the same time be an officer or director of the new corporation[s]. None of the following, or their legal representatives, shall own or control, directly or indirectly, more than one per cent (1%) of the outstanding stock of the new corporation: (i) the Bassine Foundation, the Kardell Corporation, Charles C. Bassine and his family, as a group, (ii) Eugene Ferkauf and his family, as a group,

(iii) Murray Sussman and his family, as a group, and (iv) any officer or director of the surviving corporation. Such persons or groups shall have nine (9) months following distribution of the stock of the new corporation within which to sell or dispose of any stock in the new corporation in excess of the foregoing one per cent (1%) limitation, and the persons or groups named in (i), (ii), and (iii) above shall do so only to a person or persons approved by the Federal Trade Commission. As used herein the family of a person shall mean any descendant of the grandparents of such person or the spouse of any such descendant. If the surviving corporation shall apply to the Internal Revenue Service, prior to such distribution, for a tax ruling, that the stockholders of the surviving corporation will not be required, notwithstanding the above provision of this order requiring the above named persons to sell or dispose of such stock, to recognize gain or loss with respect to such transaction under the Internal Revenue Code, and the Internal Revenue Service shall fail to issue a ruling to such effect within six (6) months after the date such application is made, then and in such event, the above named persons shall have three (3) months following the issuance of a ruling to such effect within which to sell or dispose of such stock but, until a ruling to such effect is issued, the above named persons shall not be required to sell or dispose of such stock in the new corporation[s], but such persons shall, so long as such persons own or control such shares, never cause or permit such shares to be voted at any meeting of the stockholders of the new corporation, except in a manner approved by the Federal Trade Commission, and shall forthwith deliver to the new corporation an instrument in writing, in a form approved by the Federal Trade Commission to this effect: *Provided further*, That, if and when such stock is sold or disposed of, such sale or disposition shall be to persons approved by the Federal Trade Commission.



E. If the surviving corporation transfers said interest in the acquired stores to a new corporation[s], the stock of which is wholly owned by the surviving corporation, and if the surviving corporation then markets all of the stock in said new corporation[s] in a separate public offering, then paragraphs II(B), II(C), and II(D) of this order shall be in-

applicable, and the following paragraph II(F) shall take force and effect in its stead.

F. No person who is an officer or director of the surviving corporation, or who owns or controls, directly or indirectly, more than one per cent (1%) of the stock of the surviving corporation, shall be an officer or director of the new corporation[s] described in paragraph II(E) of this order or shall own or control, directly or indirectly, more than one per cent (1%) of the stock of the new corporation[s] described in paragraph II(E) of this order. For the purposes of this paragraph II(F) of this order, the stock ownership of any person either in the surviving corporation or the new corporation shall include the stock ownership of all members of his family. As used herein the family of a person shall mean any descendant of the grandparents of such person or the spouse of any such descendant.

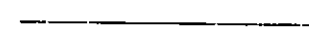
G. If the surviving corporation is unable to dispose of said interest in the acquired stores entirely for cash, nothing in this order shall be deemed to prohibit the surviving corporation from retaining, accepting and enforcing in good faith any security interest therein for the sole purpose of securing to the surviving corporation full payment of the price, with interest, at which the said interest is disposed of or sold: *Provided,* That such security arrangement shall be on terms and conditions approved by the Federal Trade Commission: *And further provided,* That if, after a good faith divestiture of the said interest, the buyer fails to perform his obligation and the surviving corporation regains ownership or control over said interest, the surviving corporation shall redivest itself of said interest within one year in the same manner as provided for herein.

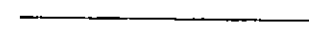
H. Pending divestiture, the surviving corporation shall make every reasonable effort to maintain the acquired stores in good operating condition with such replacements and additions and such effective overall organization as may be necessary to divest them as viable competitive entities: *Provided, however,* That nothing contained herein shall be deemed to require the surviving corporation to continue to operate any store which is so unprofitable that sound business judgment requires its closing or which is rendered inoperative as a result of force majeure or other events beyond the control of the surviving corporation.

III

It is further ordered, That no method, plan or agreement of divestiture to comply with this order shall be adopted or implemented save upon such terms and conditions as shall first be approved by the Federal Trade Commission.

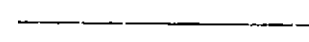
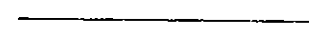
IV





It is further ordered, That for a period of ten (10) years from the effective date of this order the surviving corporation shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, any department store or other GMAF store located within the United States without the prior approval of the Federal Trade Commission. Nothing contained herein shall restrict the right of the surviving corporation to open additional department stores or GMAF stores at any time through lawful internal expansion.

V

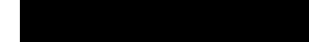



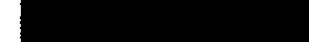
It is further ordered, That for a period of ten (10) years from the effective date of this order the surviving corporation shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, any enterprise manufacturing any apparel or hosiery, located in the United States, without the prior approval of the Federal Trade Commission. Nothing contained herein shall restrict the right of the surviving corporation to open apparel or hosiery manufacturing facilities at any time through lawful internal expansion.

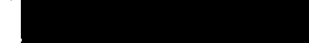
VI

It is further ordered, That for a period of ten (10) years from the effective date of this order the surviving corporation shall cease and desist from acquiring, directly or indirectly, through subsidiaries or otherwise, any wholesaler or importer of any apparel or hosiery products, located in the United States, without the prior approval of the Federal Trade Commission. Nothing contained herein shall restrict the right of the surviving corporation to open any such wholesale or importing operation at any time through lawful internal expansion.

VII







It is further ordered, That after the effective date of this order

the surviving corporation shall cease and desist from supplying from its own manufacturing facilities (the "manufacturing facilities"), (i) during any calendar year for a period of ten years from the effective date of this order more than thirty-three and one-third per cent (33-1/3%) of the total dollar volume of the total requirements for such year of the 42 promotional department stores operated by Korvette at or immediately prior to the date of merger of Spartans into Korvette and of any other department stores or GMAF stores opened by the surviving corporation after the effective date of such merger ("the Korvette Stores") for any or all products (whether or not manufactured by Spartans, the surviving corporation or any affiliate during the calendar year 1966) includible in currently prevailing Census Five Digit S.I.C. (Standard Industrial Classification) product classifications in which Spartans, the surviving corporation or any affiliate manufactured products in 1966 ("the apparel and hosiery products"), and (ii) during any calendar year prior to the divestiture of the acquired stores a percentage of the total dollar volume of the total requirements of the acquired stores for such year for the apparel and hosiery products greater than the percentage of the total dollar volume of the total annual requirements of the acquired stores for the calendar year 1966 for the apparel and hosiery products, which shall be so supplied by Spartans, the surviving corporation and such affiliate(s) during the calendar year 1966: *Provided*, (A) That if in any calendar year, the surviving corporation's total sales of the apparel and hosiery products to all customers, including the Korvette stores and the acquired stores (whether or not the latter have yet been divested), fall below the total sales by Spartans, the surviving corporation or any affiliate of the apparel and hosiery products during the calendar year 1966, as adjusted by a percentage equal to the percentage change in the gross national product between the calendar year 1966 and the calendar year in question, then the surviving corporation may increase its supply of the apparel and hosiery products to the Korvette stores during the calendar year in question above the limitations hereinabove provided by an amount equal to the difference between the surviving corporation's total sales of the apparel and hosiery products in the year in question and the total sales of the apparel and hosiery products by Spartans, the surviving corporation and any affiliate during the calendar year 1966 as so adjusted: *And provided further, however*, (B) That this paragraph VII of this order shall be effective only for a period of

ten (10) years following the effective date of this order and shall thereafter be deemed to have been vacated and shall be of no further force and effect, except that, upon application duly made upon written notice to the surviving corporation not less than six months nor more than twelve months prior to the date upon which this paragraph VII shall so be deemed to have been vacated and to be of no further force and effect, and after an opportunity to be heard, the Federal Trade Commission may enter a further order extending the effectiveness of this paragraph VII for an additional period of time not to exceed ten years upon a showing and determination that the effect of failing so to extend the period during which this paragraph VII shall be effective may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country: *And provided further, however,* (C) That in the event that the period of time during which this paragraph VII shall be effective is so extended by such further order of the Federal Trade Commission, the surviving corporation shall have all rights of appeal from or review of such further order as exist for appeal from or review of any order of the Federal Trade Commission entered under and pursuant to Section 7 of the Clayton Act and as exist for appeal from or review of any order of the Federal Trade Commission entered under and pursuant to Section 5 of the Federal Trade Commission Act: *Provided, however,* That during the pendency of any such application for such a further order and of any appeal from or review of any such further order, whether during or after the first ten (10) year period contemplated by this paragraph VII, the limitations of this section on the extent to which the surviving corporation may supply its own retail facilities shall continue in full force and effect.

VIII

It is further ordered, That the surviving corporation, within sixty (60) days from the effective date of this order, and every ninety (90) days thereafter until it has fully complied with the provisions of this order, submit in writing to the Federal Trade Commission a report setting forth in detail the manner and form in which it tends to comply, is complying, and/or has complied with this order. All compliance reports shall include, among other things which may from time to time be required:

A. The total quantity and dollar volume of the apparel

and hosiery products, stated separately for each Five-digit S.I.C. product classification, (1) manufactured and shipped by the surviving corporation, (2) received from all sources by the Korvette Stores and by the acquired stores separately, and (3) supplied by it to the Korvette Stores and to the acquired stores separately; all for the preceding calendar quarter. Each fourth quarter report shall also include a report for the entire preceding calendar year, including specifically such data for the entire calendar year 1966.

B. A summary of all contacts and negotiations with all persons who have or may have an interest in acquiring ownership of and control over the stock and assets to be divested under this order, the identity of all such persons, copies of all written communications to or from such persons, copies of any proposed or executed sales contracts, copies of any internal corporate documents discussing such divestiture, and copies of any proposed plan of divestiture.

IX

As used in this order, the word "person" shall include persons, firms and corporations.

X

It is further ordered, That in the event after the date hereof the Federal Trade Commission, in any adjudicative or consent order proceeding involving a market extension acquisition of one or more department or other GMAF stores by a company which owns or operates one or more department stores, issues any order which imposes limitations less restrictive than the comparable provisions of paragraph IV of this order, then the Federal Trade Commission shall, on application of the surviving corporation, pursuant to Rule 3.28 of the Commission's Rules of Practice, reopen this proceeding in order to make whatever revisions, if any, are necessary and appropriate to bring the restrictions imposed on the surviving corporation in paragraph IV of this order into conformity with those imposed by such order.

XI

The effective date of this order shall be the date upon which Spartans is merged into Korvette.