VII

It is further ordered, That respondent L. G. Balfour Company and respondent Burr, Patterson & Auld shall, within sixty (60) days from the date of service of this order, submit to the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which they have complied with Parts I, II, III and V of this order; respondent L. G. Balfour Company shall also, within sixty (60) days from the date of such service, submit to the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which it has complied with Part VI of this order; and respondent L. G. Balfour Company shall also, within sixty (60) days from such date of service and every sixty (60) days thereafter until it has fully complied with this order, submit to the Commission a detailed written report of its actions, plans and progress in complying with the provisions of Part IV of this order.

VIII

It is further ordered, That all charges respecting respondent L. G. Balfour be, and they hereby are, dismissed.

IN THE MATTER OF

HAWAIIAN SPORT SHOP, INC., ET AL.

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

Docket C-1394. Complaint, July 29, 1968–Decision, July 29, 1968

Consent order requiring two affiliated Florida retailers of ladies' and men's sportswear to cease marketing dangerously flammable products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Hawaiian Sport Shop, Inc., a corporation, and Waikiki Shop, Inc., a corporation, and John F. McFall, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, 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 Hawaiian Sport Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 2633 E. Sunrise Boulevard, Fort Lauderdale, Florida.

Respondent Waikiki Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 44 Oceanside Center, Pompano Beach, Florida.

Respondent John F. McFall is an officer of Hawaiian Sport Shop, Inc., a corporation, and Waikiki Shop, Inc., a corporation. He formulates, directs and controls the policies, acts and practices of said corporations. His address is 2633 East Sunrise Boulevard, Fort Lauderdale, Florida.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the manufacture for sale, the sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were leis.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the 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 Com-

mission Act and the Flammable Fabrics 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hawaiian Sport Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 2633 E. Sunrise Boulevard, Fort Lauderdale, Florida.

Respondent Waikiki Shop, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 44 Oceanside Center, Pompano Beach, Florida.

Respondent John F. McFall is an officer of said corporations and his address is the same as that of Hawaiian Sport Shop, Inc.

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

ORDER

It is ordered, That respondents Hawaiian Sport Shop, Inc., a corporation, and its officers, and Waikiki Shop, Inc., a corporation, and its officers, and John F. McFall, individually and as an officer of said corporations, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United

States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, as "commerce" and "product" are defined in the Flammable Fabrics Act, as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this Order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this Order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) and any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since February 21, 1968. Such report shall further inform the Commission whether respondents have in inventory any wood fiber chips from which the aforementioned products are made or any other fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of the order to each of their operating divisions.

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 of their compliance with this order.

IN THE MATTER OF

CHARLES G. COLLINS TRADING AS FAMILY ENURESIS SERVICE OF KANSAS CITY

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

Docket C-1395. Complaint, July 29, 1968—Decision, July 29, 1968

Consent order requiring a Raytown, Mo., marketer of devices for eliminating bed-wetting to cease misrepresenting the efficacy of his product and making other false claims.

COMPLAINT

Pursuant to the provision of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Charles G. Collins trading and doing business as Family Enuresis Service of Kansas City, and under other names as herein set forth, 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 Charles G. Collins, is an individual trading and doing business under the name of Family Enuresis Service of Kansas City, and under other names including but not limited to Quickover, and Enuraid. His office and principal place of business is located at 7928 Hedges Avenue, Raytown, Missouri.

He formulates, directs and controls the acts and practices of Family Enuresis Service of Kansas City, and of the other trade name organizations under which he does business, and of certain of his franchised dealers, lessees, and licensees, including the acts and practices hereinafter set forth.

PAR. 2. Respondent is now and for some time last past has been engaged in the business of leasing and selling certain equipment for use in cases of enuresis or bed-wetting. Said equipment comes within the classification of device as "device" is defined in the Federal Trade Commission Act. Respondent does not manufacture said devices, but purchases them from one or more manufacturers.

PAR. 3. In the course and conduct of his business respondent causes, and has caused, said devices when leased, or sold, to be transported from his place of business or their place of manufacture, to lessees or purchasers thereof located in various States of the United States, who in turn rent said devices to members of the general public. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in said devices in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, at all times mentioned herein, respondent has been in substantial competition

with corporations, firms and individuals engaged in the business of leasing, selling, and distributing substantially similar devices for use in cases of enuresis.

PAR. 5. In the course and conduct of his business, at all times mentioned herein, pursuant to agreements with lessees, franchise dealers, and licensees, respondent has disseminated, and does now disseminate, advertising by the United States mails, and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including advertising material for use in newspapers of general circulation, for the purpose of inducing, or which is likely to induce, the sale, rental or leasing of said devices and has disseminated, and caused the dissemination of, advertising material by various means for the purpose of inducing and which were likely to induce the sale, rental or leasing of said devices in commerce as "commerce" is defined in the Federal Trade Commission Act.

Respondent has furnished and supplied to lessees, franchise dealers and licensees, who rent said devices to the public, various types of advertising literature, including but not limited to, sales manuals, brochures, advertising mats, and has instructed, assisted, and in other ways cooperated with them in the advertising of said devices in newspapers of general circulation.

PAR. 6. Respondent through said advertising material; and through said lessees, franchise dealers and licensees, and their agents and representatives, to induce the rental of said devices by the public represents and has represented, directly and by implication, that:

1. 98% of the users of respondent's device and service have succeeded in eliminating their enuresis problems.

2. A personal home visiting service by qualified personnel is provided with the rental of each device, including consultation with and advice of a competent psychologist.

3. If the enuresis condition returns after the term of rental for the device has terminated, the said device will be returned on request for such additional use as is necessary to correct said condition, and that no rent or charge will be made for the said return and additional use of the device.

PAR. 7. In truth and in fact:

1. The quoted figure of 98% is not based upon scientifically adequate clinical records but is an arbitrary figure selected by respondent.

2. The so-called "counselling service" does not consist of personal visits from personnel trained and qualified in problems of

enuresis, nor is consultation with or advice of a competent psychologist provided.

3. The device is not returned on request to one whose enuresis has recurred, after termination of his rental agreement, for free additional use.

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

PAR. 8. By use of the aforesaid practices respondent has placed in the hands of lessees, franchise dealers and licensees, the means and instrumentalities by and through which they may mislead the public; and use by respondent and his lessees, franchise dealers and licensees, 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 public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the rental of substantial numbers of the aforesaid devices because of said mistaken and erroneous belief.

PAR. 9. The aforesaid acts and practices by respondent as herein alleged, including the dissemination by respondent of false advertisements as aforesaid, were, and are, all to the prejudice and injury of the public and constituted and now constitute unfair and deceptive acts and practices in commerce in violation of Sections 5 and 12 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 respondent that the law has been

violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Charles G. Collins is an individual trading and doing business as Family Enuresis Service of Kansas City, and under other names, with his office and principal place of business located at 7928 Hedges Avenue, Raytown, Missouri.

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 Charles G. Collins, an individual, trading and doing business as Family Enuresis Service of Kansas City, or under any other name or names, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, leasing or distribution of any device for use in cases of enuresis or bedwetting do forthwith cease and desist from:

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

(a) Which represents directly or by implication that 98% of the users of the devices, or any other percentage of said users not substantiated by scientifically adequate clinical records, have eliminated their enuresis problems, or

(b) Which misrepresents in any manner the efficacy of the device.

(c) Which represents directly or by implication that a personal home visiting service by qualified personnel is provided with the rental of each device, or that consultation with and advice of a qualified psychologist

is provided the users of said device during the said rental period; or

(d) Which misrepresents in any manner any service provided in connection with a rental or sale of said device.

(e) Which represents directly or by implication that users of said device, whose rental periods have terminated, and who experience a recurrence of their enuresis problem, will be entitled to additional use of the device without an additional charge or cost.

2. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the sale, lease, rental or distribution or respondent's device, in commerce as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations prohibited in Paragraph 1 hereof.

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

APPAREL INDUSTRIES OF CALIFORNIA, INC., TRADING AS MARTIN OF CALIFORNIA ET AL.

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

Docket C-1396. Complaint, July 29, 1968—Decision, July 29, 1968

Consent order requiring a Los Angeles, Calif., manufacturer of wearing apparel to cease misbranding the fiber content of its wool products.

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 Apparel Industries of California, Inc., a corporation, trading as Martin of California, and Alexander Lawlor, individually and as an officer of said Apparel Industries of California, Inc., and Jay M. Greenberg,

individually and as Production Control Manager of Apparel Industries of California, Inc., hereinafter referred to as respondents, have violated the provisions of 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 Apparel Industries of California, Inc., 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 6915 E. Slauson Avenue, Los Angeles, California. Said corporate respondent also trades under the name Martin of California.

Respondent Alexander Lawlor is an officer of corporate respondent Apparel Industries of California, Inc. He formulates, directs and controls the acts, practices and policies of said corporation. His address is the same as that of said corporation.

Respondent Jay M. Greenberg is Production Control Manager of corporate respondent Apparel Industries of California, Inc. He participates in the formulation, direction and control of the acts, practices and policies of said corporation. His address is the same as that of said corporation.

PAR. 2. Respondents, now and for some time last past, have introduced into commerce, sold, transported, distributed, delivered for shipment, shipped 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 by respondents 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 wool products, namely wearing apparel, stamped, tagged, labeled, or otherwise identified as containing "Outer Fabric, 90% Reprocessed Wool, 10% Other fibers, Body and Sleeve lining 100% Acetate," whereas in truth and in fact, said wool products contained substantially different amounts of woolen fibers and other fibers then represented.

PAR. 4. Certain of said wool products were further misbranded by respondents 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 products, namely wearing apparel, with labels on or affixed thereto, which failed to disclose the percentage of the total fiber weight of the wool products, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more; and (5) the aggregate of all other fibers.

Such wool products were further misbranded in that the labels on or affixed thereto failed to disclose the name of the manufacturer of such wool products and/or the name of one or more persons subject to Section 3 with respect to such wool products.

PAR. 5. The acts and practices of the respondents as set forth in Paragraphs Three and Four were, and are, in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939; and

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

The Commission having thereafter considered the matter and

having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Apparel Industries of California, Inc., 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 6915 E. Slauson Avenue, Los Angeles, California. Said corporate respondent also trades under the name of Martin of California.

Respondent Alexander Lawlor is an officer of said corporate respondent and his address is the same as that of said corporate respondent.

Respondent Jay M. Greenberg is Production Control Manager of said corporate respondent and his address is the same as that of said corporate respondent.

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

ORDER

It is ordered, That respondents Apparel Industries of California, Inc., a corporation, and its officers, trading as Martin of California or under any other name or names, and Alexander Lawlor, individually and as an officer of said Apparel Industries of California, Inc., and Jay M. Greenberg, individually and as Production Control Manager of Apparel Industries of California, Inc., and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or the manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification 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.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of the Order to each of its operating divisions.

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

MERCURY ELECTRONICS, INC., ET AL.

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

Docket C-1397. Complaint, July 31, 1968—Decision, July 31, 1968

Consent order requiring a Dallas, Tex., distributor of dry cell batteries, flashlights and other electric and electronic equipment to cease using deceptive methods to recruit franchised dealers to sell 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 Mercury Electronics, Inc., a corporation, and Marathon Sales Corporation, a corporation, and David L. George, individually and as an officer of said corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Mercury Electronics, Inc., and Marathon Sales Corporation, are corporations organized, existing and doing business under and by virtue of the laws of the State of Texas, with their principal office and place of business located at 4622 Greenville Avenue in the city of Dallas, State of Texas.

Respondent David L. George is president and a stockholder of the corporate respondents. This individual formulates, directs

and controls the acts, policies and practices of the corporate respondents, including the acts and practices hereinafter set forth, and he maintains business offices at the same address as the corporate respondents.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of electronic equipment, dry cell batteries, flashlights and displays, and routes, licenses, and franchises in relation thereto to dealers for resale to members of the general 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 either from respondents' place of business in the State of Texas or from their place of manufacture in the State of Wisconsin to purchasers thereof located in various other States of the United States. Respondents 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 aforesaid business, and for the purpose of inducing the purchase of their products and the other aforesaid business opportunities, respondents have made numerous statements and representations in oral sales presentations to prospective purchasers and in newspaper advertisements and promotional literature respecting profits, locations of routes, character of business, corporate affiliations, selection of persons, nature of investment and security of investment.

Typical and illustrative of the statements and representations contained in said advertising and promotional material, but not all inclusive thereof, are the following:

EXCLUSIVE FRANCHISE—Marathon Battery Company of Wausau, Wis., is now taking applications for qualified applicants for this billion dollar a year business. Distributor chosen has these advantages:

1. A complete line of batteries. (Flashlight, transistor and commercial).
2. Accounts established for you.
3. All merchandise unconditionally guaranteed.
4. Excellent profit potential. (Should run into medium 5 figures per year).

. . . Marathon Battery Co. of Wausau has manufactured the top line of batteries for over 43 years. Minimum investment required $1,695, secured by inventory.

* * * * * * *

FIRST TIME OFFERED—Marathon Battery Company of Wausau, Wis., is now taking applications for distributors in trade area served by this

newspaper. We offer these advantages:

1. A complete line of batteries and flashlights.
2. Excellent profit potential. (Five figures or better).
3. Accounts established for you.
4. All merchandise unconditionally guaranteed.
5. Protected territory.
6. 43 years experience manufacturing batteries for Nation's largest private label users.

This is an opportunity to get your share of a billion dollar market which will double in next 10 years. Minimum investment $895.

* * * * * * *

EXCLUSIVE FRANCHISES . . . The midwest's largest service organization will award exclusive franchise to qualified persons in North Texas. This is a proven business, now the largest of its kind in 10 midwestern cities. Offers virtual isolation from competition due to complete organization training for supervision and service personnel. Based on experience in comparable markets your investment returned the first year. Your income will be approximately $19,000 each year thereafter. You must have management capabilities and be willing to work long hours during first year. Investment required $11,300 covered by training, services and inventory.

* * * * * * *

EXCLUSIVE FRANCHISE
OUTSTANDING BUSINESS OPPORTUNITY

MARATHON BATTERY COMPANY OF Wausau, Wisconsin is now offering an exclusive franchise in this area for retail sales of their world famous batteries. Marathon—manufacturing all types of dry cell and electron batteries for over forty-three years—is taking applications from qualified men and women for this billion dollar a year business. The Distributor chosen has these advantages:

1. A complete line of batteries. (flashlight, transistor, and commercial).
2. Company obtains all retail locations.
3. Company installs beautiful display in all retail locations.
4. All merchandise triple tested and unconditionally guaranteed.
5. Regional marketing assistance continually.
6. Excellent annual profit potential.

MARATHON batteries are guaranteed to equal or exceed any comparable batteries obtainable from any source. One of Marathon's biggest customers is the United States Signal Corps—where dependable batteries are a must.

GET IN on the booming and growing battery business. Our company invites your complete investigation.

A SMALL Investment in merchandise of $1,695 will be required for distributor chosen.

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning, but not specifically set forth herein, and through oral statements and representations to prospective purchasers, respondents now

represent, and have represented, directly or by implication, that:

1. Respondents are the Marathon Battery Company of Wausau, Wisconsin, or that they are affiliated with that company in a manner other than as independent contracting agent.

2. Respondents offer exclusive franchises for said Marathon Battery Company.

3. Any amount invested is secured by an inventory worth the amount invested and there is no risk of losing any part of the investment.

4. Persons investing $1,695 will realize a profit in the medium five figures per year; and those investing $895 will earn five figures or better; and those investing $11,300 will recoup their investment in the first year and their annual income thereafter will be $19,000; and other equally substantial earnings are assured to persons who purchase respondents' products and engage in business.

5. Respondents establish profitable accounts and routes for their products.

6. Respondents' business is the largest service organization in the midwest.

7. Respondents' offer is made to selected persons only.

PAR. 6. In truth and in fact:

1. Respondents are not the Marathon Battery Company of Wausau, Wisconsin; nor are they affiliated with that company in any manner other than as independent contracting agents for the products of that company.

2. Respondents do not have the authority or the ability to grant exclusive franchises for the Marathon Battery Company.

3. Invested sums of money are not secured by an inventory worth the amount invested and there is a real and substantial risk assumed by the purchaser of losing all or a substantial portion of the money invested.

4. Persons investing $1,695 will not realize a profit in the medium five figures per year; and those investing $895 will not earn five figures or better; and those investing $11,300 will not recoup their investment in the first year and their annual income thereafter will not be $19,000; and substantial earnings are not assured to persons who purchase respondents' products and engage in business. Actually, persons purchasing respondents' products and engaging in business have made little or no profit.

5. Respondents do not establish profitable accounts or routes for their products.

6. Respondents' business is not now, and never has been, the

largest service organization in the midwest.

7. Respondents' offer is not made to selected persons only, but to anyone who has the money to purchase respondents' products.

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

PAR. 7. By and through the use of the corporate name "Marathon Sales Corporation," separately and in conjunction with the above quoted statements and representations and others of similar import and meaning but not expressly set out herein, respondents now represent, and have represented, directly or by implication that they are the Marathon Battery Company of Wausau, Wisconsin or an affiliate thereof.

The Marathon Battery Company of Wausau, Wisconsin, is a corporation doing business under the laws of the State of Wisconsin and is now and has been for some years last past engaged in the manufacture, advertising for sale, sale and distribution, in commerce, of electronic equipment, dry cell batteries, flashlights and displays. By reason of its large expenditure for advertising, said products of the said Marathon Battery Company have become widely and favorably known to the trade and to the purchasing public and it has acquired valuable good will in the same and in the name of "Marathon" as applied to its products.

PAR. 8. In truth and in fact the respondent Marathon Sales Corporation is not the Marathon Battery Company or an affiliate thereof.

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

PAR. 9. By the aforesaid practices, respondents place in the hands of jobbers, retailers, dealers, and others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinbefore alleged.

PAR. 10. In the course and conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 11. 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. 12. 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondents Mercury Electronics, Inc., and Marathon Sales Corporation are corporations organized, existing and doing business under and by virtue of the laws of the State of Texas, with their principal office and place of business located at 4622 Greenville Avenue, in the city of Dallas, State of Texas.

Respondent David L. George is an officer of the corporate re-

spondents and his address is the same as that of said corporate respondents.

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

ORDER

It is ordered, That respondents Mercury Electronics, Inc., a corporation, and its officers, and Marathon Sales Corporation, a corporation, and its officers, and David L. George, individually and as an officer of said corporations 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 electronic equipment, dry cell batteries, flashlights and displays and routes, licenses and franchises in relation thereto, or any other route, franchise, license or product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Marathon" in or as part of respondents' trade or corporate name or representing, directly or by implication, that respondents are the Marathon Battery Company of Wausau, Wisconsin, or are affiliated with or related to said company in any manner other than as independent contracting agents for the products of that company; or misrepresenting, in any manner, respondents' trade or business connections or affiliations.

2. Representing, directly or by implication, that respondents offer exclusive franchises for the Marathon Battery Company, or for any other company: *Provided however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that they do offer a bona fide exclusive franchise for the area and in accordance with the terms of any represented offer.

3. Representing, directly or by implication, that any amount invested pursuant to respondents' offer is secured by inventory or otherwise; or that there is no risk of losing the money so invested: *Provided however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the investment is actually secured by inventory and in accordance with the terms of any represented offer.

4. Representing, directly or by implication, that persons investing in any products or business will have substantial

earnings or profit or any percentage of profit or will earn any amount of income: *Provided however,* That it shall be a defense in any enforcement proceeding instituted hereunder for any respondent to establish that any represented percentage of profit or any represented amount of income or profit is the percentage or amount generally realized by previous purchasers of such products or such business as a result of such purchase.

5. Misrepresenting, in any manner, the income of persons investing in any products or engaging in any business opportunity offered by any respondent.

6. Representing, directly or by implication, that respondents establish profitable accounts or profitable routes for their products; or misrepresenting, in any manner, the assistance supplied in obtaining locations for the products purchased from respondents: *Provided however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to show that they do establish profitable accounts or profitable routes for their products.

7. Representing, directly or by implication, that respondents' business is the largest service organization in the midwest; or misrepresenting, in any manner, the nature or extent of respondents' business.

8. Representing, directly or by implication, that respondents' offer is made only to selected persons or that any qualifications other than tender of the purchase price are necessary: *Provided however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any qualification other than tender of the purchase price is necessary and that the offer is made only to a selected group of persons.

9. Placing in the hands of jobbers, retailers, dealers or others the means and instrumentalities by and through which they may mislead or deceive the public in any manner or as to the things hereinabove prohibited.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

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

GREAT WESTERN STAGE EQUIPMENT CO., INC., ET AL.

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

Docket C-1398. Complaint, Aug. 1, 1968—Decision, Aug. 1, 1968

Consent order requiring two Midwestern stage equipment companies to cease conspiring to fix prices for their products and allocate territories and customers.

COMPLAINT

The Federal Trade Commission has reason to believe that the parties listed in the caption hereof, and hereinafter more fully described, have violated and are now violating Section 5 of the Federal Trade Commission Act, 15 U.S.C. Sec. 45, and it appears to the Commission that a proceeding by it in respect thereof would be in the public interest. Accordingly, pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. Sec. 41, and by virtue of the authority vested in it by said Act, the Commission hereby issues its complaint, stating its charges as follows:

COUNT I

PARAGRAPH 1. Respondent Great Western Stage Equipment Co., Inc., hereinafter sometimes referred to as Great Western, is a corporation organized and doing business under the laws of the State of Missouri, with its office and principal place of business located at 1324 Grand Avenue, Kansas City, Missouri. Great Western is engaged in the stage equipment business in several States of the United States. Through its division trading as Great Western Textiles, Inc., Great Western also sells and distributes textile fabrics to other firms in the stage equipment business located in several States of the United States. In 1963, Great Western had a volume of business in excess of $650,000 of which approximately $278,000 was derived from its stage equipment business and approximately $378,000 from the sale and distribution of textile fabrics.

Respondent Edgar L. Gossage, 1324 Grand Avenue, Kansas City, Missouri, is president of Great Western. He is primarily responsible for the formation and carrying out of the policies and practices of Great Western and actively participates therein.

PAR. 2. Respondent Metropolitan Stage Equipment, Inc., hereinafter sometimes referred to as Metropolitan, is a corporation

organized and doing business under the laws of the State of Nebraska, with its office and principal place of business located at 2451 St. Marys Avenue, Omaha, Nebraska. Metropolitan is engaged in the stage equipment business in several States of the United States. In 1963 Metropolitan's annual volume of business exceeded $400,000.

Respondents Donald W. Beck and Carl W. Winther, 2451 St. Marys Avenue, Omaha, Nebraska are president and executive vice president, respectively, of Metropolitan. They are primarily responsible for the formulation and carrying out of the policies and practices of Metropolitan and actively participate therein.

PAR. 3. For the purpose of this complaint, the term stage equipment includes materials for making stage curtains and draperies, devices for suspending and operating stage curtains and draperies, such as curtain tracks, rigging and hardware, and stage lighting equipment. The stage equipment business is the fabrication, offering for sale, sale and installation of any or all of the aforementioned items of stage equipment. Purchasers of stage equipment include, among others, public and private schools, colleges and universities, churches, civil centers, government installations, commercial theaters and other commercial or business firms.

PAR. 4. In the course and conduct of their business, respondents purchase stage curtain and drapery fabric and other items of stage equipment for suppliers located in States other than the respondents' respective States of incorporation and principal place of business and cause said items of stage equipment to be transported to purchasers located in the States of Missouri, Kansas, Nebraska and Iowa, among other States. Respondents, therefore, are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. In the course and conduct of their business in commerce, respondents have been and are now in active competition with each other and with others in the fabrication, sale and installation of stage equipment, except to the extent that competition has been lessened, hindered, restrained or eliminated as alleged herein.

PAR. 6. For more than seven years last past, respondents, for the purpose of suppressing, preventing, hindering, and lessening competition in the fabrication, sale and installation in commerce of stage equipment, have entered into, maintained and carried out an agreement, understanding, combination, conspiracy, or planned common course of action or course of dealing through

which they have allocated and now allocate designated territories and customers and through which they have fixed and maintained and now fix and maintain the prices at which stage equipment has been, and is, fabricated, sold and installed.

PAR. 7. Pursuant to and in furtherance of the aforesaid unlawful agreement, understanding, combination, conspiracy or planned common course of action or course of dealing, respondents did and performed the following acts:

1. Respondent Metropolitan agreed not to compete with respondent Great Western in the area of Kansas City, Missouri, and Kansas City, Kansas. Respondent Great Western agreed not to compete with respondent Metropolitan in the area of Omaha, Nebraska.

2. Respondent Metropolitan agreed not to compete with respondent Great Western for the stage equipment business of the public school systems of the cities of Kansas City, Missouri, and Kansas City, Kansas. Respondent Great Western agreed not to compete with respondent Metropolitan for the stage equipment business of the Omaha Public Schools, Omaha, Nebraska.

3. In or about June 1959, respondent Great Western, at the request of respondent Metropolitan, agreed to submit and submitted a bid containing prices agreed to by the respondents to the Omaha Public Schools, Omaha, Nebraska in response to an invitation to bid on a forthcoming stage equipment project.

PAR. 8. The acts and practices of respondents as alleged herein, have had and do now have the tendency or effect of unduly hindering, lessening, restraining or eliminating competition in the fabrication, sale and installation of stage equipment; have deprived purchasers of stage equipment of the benefits of full and free competition and have hampered their free choice in the selection of suppliers; are all to the prejudice and injury of the public; and constitute unfair methods of competition and unfair acts or practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

PAR. 9. Paragraph One and Paragraph Three through Paragraph Five of Count I are hereby incorporated by reference and made a part of this Count, as fully, and with the same effect, as if quoted herein verbatim.

PAR. 10. In the course and conduct of business, respondents Great Western and Edgar L. Gossage have prepared, or participated in the preparation of, terms and specifications for proposed

stage equipment installation projects on behalf of some prospective purchasers, notably the boards of education of several public school systems in Kansas City, Missouri, and Kansas City, Kansas. Said terms and specifications have been incorporated by such prospective purchasers in their invitations for bids which have been extended to Great Western and to other firms that compete with Great Western.

PAR. 11. In the course of preparing, or participating in the preparation of, terms and specifications of proposed stage equipment installation projects respondents are now, and have been, engaged in manipulating said terms and specifications with the purpose or effect of denying respondents' competitors fair opportunity to submit competitive bids, or of hindering, preventing or precluding respondents' competitors from bidding effectively on said proposed projects by various means and methods of which the following are examples:

(1) Specifying curtain or drapery fabrics which are not readily available to respondents' competitors because said fabrics are no longer being manufactured.

(2) Specifying curtain or drapery fabrics or other items of stage equipment which are not readily available to respondents' competitors because said fabrics or equipment are identified only by respondents' own pattern names or code numbers which are different from the manufacturers' pattern names or code numbers and which are not readily identifiable by respondents' competitors.

(3) Specifying a greater amount of curtain or drapery fabric or other items of stage equipment than is actually required for a proposed project thereby causing respondents' competitors to overbid.

PAR. 12. The acts and practices of respondents as hereinbefore alleged have had and do now have the tendency or effect of unduly hindering, lessening, restraining or eliminating competition; have deprived purchasers of stage equipment of the benefits of full and free competition; are all to the prejudice and injury of the public; and constitute unfair methods of competition and unfair acts or 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 determina-

tion 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 alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of 30 days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Great Western Stage Equipment Co., 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 1324 Grand Avenue, in the city of Kansas City, State of Missouri.

Respondent Edgar L. Gossage is an officer of Great Western Stage Equipment Co., Inc., and his address is the same as that of said corporation.

Respondent Metropolitan Stage Equipment, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska, with its office and principal place of business located at 2451 St. Marys Avenue, in the city of Omaha, State of Nebraska.

Respondents Donald W. Beck and Carl W. Winther are officers of Metropolitan Stage Equipment, Inc., 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 each of the respondents Great Western Stage Equipment Co., Inc., a corporation, and Metropolitan Stage Equipment, Inc., a corporation, their subsidiaries, successors, assigns, officers or directors, Edgar L. Gossage, individually, and as an officer of Great Western Stage Equipment Co., Inc., Donald W.

Beck and Carl W. Winther, individually, and as officers of Metropolitan Stage Equipment, Inc., and said respondents' agents, representatives, or employees, directly or through any corporate or other device, in connection with the offering for sale, sale, distribution or installation of stage curtains, draperies, curtain tracks, rigging hardware, stage lighting equipment or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from entering into, maintaining, effectuating, carrying out, cooperating in or continuing any agreement, understanding, combination, conspiracy or planned common course of action or course of dealing between the said respondents or between one or more of the said respondents and one or more of any others not parties hereto, to do or perform any of the following:

1. Allocating territories by any means or methods including, but not limited to, the following:

(a) Agreeing not to compete for the business of prospective, potential, or actual purchasers in any designated area.

(b) Agreeing not to solicit the business of prospective, potential, or actual purchasers in any designated area.

2. Allocating customers by any means or methods includcluding, but not limited to the following:

(a) Agreeing not to compete for the business of any designated prospective, potential, or actual purchasers.

(b) Agreeing not to solicit the business of any designated prospective, potential, or actual purchasers.

3. Establishing, fixing or maintaining prices by any means or methods including, but not limited to the following:

(a) Exchanging in any manner information concerning prices, pricing methods, terms or conditions of sale at which any product is to be offered for sale to, sold to, or installed for any third party: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted for violation of this provision for the respondents to establish that any challenged exchange of information solely involved bona fide negotiations for the purchase of products by one respondent from another respondent.

(b) Submitting noncompetitive, collusive or rigged

bids or quotations for selling any product to, or installing any product for, any third party, or both.

It if further ordered, That respondents Great Western Stage Equipment Co., Inc., a corporation, its subsidiaries, successors, assigns, officers or directors, and Edgar L. Gossage, individually and as an officer of Great Western Stage Equipment Co., Inc., and said respondents' agents, representatives or employees, directly or through any corporate or other device, in connection with any transaction involving any public body or any other prospective or potential purchaser upon a competitive bidding basis where such public body or any other prospective or potential purchaser is located inside the State of Missouri, do forthwith cease and desist from preparing or participating in the preparation of terms or specifications of any invitation for bids to be issued by any such public body or other prospective or potential purchaser located inside the State of Missouri with the purpose or effect of denying respondents' competitors fair opportunity to submit competitive bids, or of hindering, preventing or precluding respondents' competitors from bidding competitively on such invitation for bids if any of the products designated in such specifications are manufactured, processed or packaged outside the State of Missouri.

It is further ordered, That respondents Great Western Stage Equipment Co., Inc., a corporation, its subsidiaries, successors, assigns, officers or directors, and Edgar L. Gossage, individually and as an officer of Great Western Stage Equipment Co., Inc., and said respondents' agents, representatives or employees, directly or through any corporate or other device, in connection with any transaction involving any public body or any other prospective or potential purchaser upon a competitive bidding basis where such public body or any other prospective or potential purchaser is located outside the State of Missouri, do forthwith cease and desist from preparing or participating in the preparation of terms or specifications of any invitation for bids to be issued by any such public body or other prospective or potential purchaser located outside the State of Missouri with the purpose or effect of denying respondents' competitors fair opportunity to submit competitive bids, or of hindering, preventing or precluding respondents' competitors from bidding competitively on such invitation for bids.

It is further ordered, That for a period of three years commencing from the date of acceptance of this agreement by the

Commission, respondent Great Western Stage Equipment Co., Inc., its successors or assigns, shall file with the Commission a special report each year on the anniversay of the date of acceptance of this agreement by the Commission, or on the next business day thereafter. Said special report will identify each stage equipment installation project on which a bid was submitted by respondent Great Western Stage Equipment Co., Inc., its successors or assigns, or by any officer, agent, representative or employee thereof during the period under report, and with respect to each said project will indicate: (a) whether respondent Great Western Stage Equipment Co., Inc., its successors or assigns, or any officer, agent, representative or emlpoyee thereof participated in the preparation of specifications in any way, (b) how many companies submitted bids, if known, (c) whether the bids were made public and, if so, what the amount of each bid was, and (d) which company was awarded the contract, if known.

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

RICHARD G. STEWART TRADING AS DICK STEWART CO.

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

Docket C–1399. Complaint, Aug. 5, 1968—Decision, Aug. 5, 1968

Consent order requiring a Los Angeles, Calif., manufacturer of men's clothing to cease misbranding his textile fiber products and failing to maintain required records.

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 Richard G. Stewart, an individual trading as Dick Stewart Co. hereinafter referred to as respondent, has violated the provisions of said Acts and the

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 is an individual trading as Dick Stewart Co. with his principal office and place of business located at 636 West Pico Boulevard, Los Angeles, California.

Respondent is engaged in the manufacture and sale of textile fiber products, including men's garments.

PAR. 2. Respondent is now, and for some time last past has been engaged in the introduction, delivery for introduction, manufacture 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 has 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 has 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 term "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 respondent in that they were not stamped, tagged, labeled, or otherwise identified to show each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were numerous garments which contained no labels.

PAR. 4. Respondent has failed to maintain proper records showing the fiber content of the textile fiber products manufactured by him in violation of Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

PAR. 5. The acts and practices of respondents as set forth above were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Textile Fiber Products Identification 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Richard G. Stewart is an individual trading as Dick Stewart Co., with his principal office and place of business located at 636 West Pico Boulevard, Los Angeles, California.

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 Richard G. Stewart, an individual trading as Dick Stewart Co., 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, 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 prod-

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

A. Misbranding textile fiber products by failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Failing to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by said respondent, as required by Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

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

JAGAN N. SHARMA TRADING AS KASHMIR IMPORTS

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

Docket C-1400. Complaint, Aug. 5, 1968—Decision, Aug. 5, 1968

Consent order requiring a Venice, Calif., importer of wearing apparel to cease marketing dangerously flammable products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Jagan N. Sharma, an individual trading as Kashmir Imports, hereinafter referred to as respondent, has violated the provisions of said Acts and the

Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Jagan N. Sharma is an individual trading as Kashmir Imports. He is engaged in the importation and sale of wearing apparel, including, but not limited to, ladies' scarves. The business address of the respondent is 4141 Glencoe Avenue, Venice, California.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and offering for sale, in commerce, and in the importation into the United States, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "products" are defined in the Flammable Fabrics Act, as amended, which products failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were ladies' scarves.

PAR. 3. The aforesaid acts and practices of respondent were, and are, in violation of the Flammable Fabrics Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Jagan N. Sharma is an individual trading as Kashmir Imports under and by virtue of the laws of the State of California, with his office and principal place of business located at 4141 Glencoe Avenue, Venice, California.

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 Jagan N. Sharma, an individual trading as Kashmir Imports, 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 manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product as "commerce" and "product" are defined in the Flammable Fabrics Act as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon him of this Order, file with the Commission an interim special report in writing setting forth the respondent's intention as to compliance with this Order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flam-

mability of such product and the results thereof and (3) any disposition of such product since August 29, 1967. Such report shall further inform the Commission whether respondent has in inventory any fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

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 of his compliance with this order.

IN THE MATTER OF

EARLE J. MAIXNER ET AL. TRADING AS THE CHINCHILLA GUILD, ETC.

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

Docket 8707. Complaint, Aug. 26, 1966—Decision, Aug. 8, 1968

Order requiring two sellers of chinchilla breeding stock (Robert C. Brennan and Bill K. Hargis), to cease misrepresenting the profits to be made in chinchilla breeding, the fertility of their stock, the sale price of pelts, furnishing false guarantees, and falsely using the term "Guild" as part of their corporate name as set forth *In the Matter of Earle J. Maixner et al.* 73 F.T.C. 47.

INITIAL DECISION ON DEFAULT OF RESPONDENT BRENNAN AND RESPONDENT HARGIS BY JOSEPH W. KAUFMAN, HEARING EXAMINER

FEBRUARY 15, 1968

The complaint herein was issued by the Commission on August 26, 1966. It alleges that the respondents, as named therein, including respondent Brennan and respondent Hargis, were guilty of deception in violation of Section 5 of the Federal Trade Commission Act by making, in connection with the sale of fur raising animals known as chinchillas, various misrepresentations, including misrepresentations as to the ease and profitability of raising chinchillas by private individuals, and including the further misrepresentation of using the name The Chinchilla Guild and the

name The Chinchilla Guild of America.

Respondent Brennan and respondent Hargis, according to the complaint, obtained the chinchillas from the Maixners, sold them to the ultimate public, and, in doing so, made the various alleged misrepresentations, including the use of the Guild name. Respondent Brennan was served on September 2, 1966, as appears by registered mail return receipt No. 371760. Respondent Hargis was served on September 1, 1966, as appears by registered mail return receipt No. 371761.

No answer has been filed by either said respondent Brennan or said respondent Hargis, and the time to file any answer has long since expired. There has been no appearance in behalf of said two respondents, except that an early appearance was filed in behalf of respondent Hargis by an attorney, Allen H. Bishop, Salt Lake City, Utah, who never filed an answer in behalf of said respondent, and a recent appearance was filed by Robert W. Barker, of Wilkinson, Crogun & Barker, who in effect made a motion in his behalf essentially to open up his default, a motion which was denied by order of the examiner dated February 13, 1968.

The issuance of an initial decision upon the default of these two respondents, together with a default order and findings, was, and has been, deferred due to possible implications against the Maixners, who have consistently resisted the complaint on the merits, and to the suggestion of a settlement made by them at an early period, which pointed to the possibility of an order against all respondents at the same time.

The complaint has been withdrawn by the Commission as to all respondents except respondent Brennan and respondent Hargis, namely against the Maixner respondents and also respondent McNeil, resulting in consent agreements by them, and consent orders issued thereon [73 F.T.C. 47], the Maixner order being the less stringent. Under Commission procedure such consent agreements and consent orders do not mean that the respondents affected thereby admit the allegations of the complaint charging violation, or admit any violation of law.

Accordingly, although, due to their default in answering, the Findings of Fact herein in respect to respondent Brennan and respondent Hargis more or less follow the wording of the allegations of the complaint, there has been some change of wording with some additions here and there so as to make it evident that the Findings are in no sense binding on any others than said respondent Brennan and respondent Hargis.

The order issued herein against respondent Brennan and respondent Hargis follows exactly the wording of the order suggested in the complaint, and happens to be identical with the consent order issued against respondent McNeil. Accordingly, respondent Brenan and respondent Hargis (as well as respondent McNeil) are enjoined from the use of the general representations charged *and* also the name Chinchilla Guild or Chinchilla Guild of America.

FINDINGS OF FACT

Finding One

Respondent Robert C. Brennan, also known as Robert C. Brennan, Sr., is an individual, as alleged in the complaint and not denied by him, doing business as The Chinchilla Guild and The Chinchilla Guild of America. His principal office and place of business, as alleged in the complaint, is located at 3540 Power Inn Road, Sacramento, California 95826.

Respondent Bill K. Hargis, also known as Billy K. Hargis, is an individual, as alleged in the complaint and not denied by him in any answer, doing business as The Chinchilla Guild and The Chinchilla Guild of America. His principal office and place of business, as alleged in the complaint, is 159 E. 3900 South, Salt Lake City, Utah 84107.

Earle J. Maixner and Roberta C. Maixner, no longer respondents herein, are individuals heretofore trading and doing business as The Chinchilla Guild, The Chinchilla Guild of America, and Breath-O-Heaven. Further description and identification is unnecessary for the purpose of the present decision. Respondent Brennan and respondent Hargis, in interposing no answer to the complaint, have admitted the allegation in the complaint that they have cooperated and acted together with the other individual respondents as originally named in the complaint, namely, in carrying out the acts and practices hereinafter set forth; however, the findings here are binding only on Brennan and Hargis.

Finding Two

As alleged in the complaint and not denied by them in any answer, respondent Brennan and respondent Hargis are now, and for some time last past have been, engaged, each in his own separate business, in the advertising, offering for sale, sale and distribution of chinchilla breeding stock to the public.

Pursuant to distributorship agreements, respondent Brennan

and respondent Hargis were granted the exclusive right to sell chinchillas, equipment, supplies, and membership in The Chinchilla Guild, each, respectively, in certain States. Under the distributorship agreements they were to receive promotional literature, methods and techniques for the retail sale of chinchillas, as well as sales agreements, Membership Certificates, warranties, the chinchillas themselves, supplies and equipment, and, at times, the financing of sales agreements. Respondent Brennan and respondent Hargis agreed to purchase a minimum number of chinchillas each month and to sell the animals at a stated retail price. Following sales, records incident thereto were sent out in accordance with the respective agreements, as alleged in the complaint and not denied by them. They then received the chinchillas for delivery to the purchasers. Purchasers subsequently returned the animals, grown by them, apparently to the Maixners, for priming, pelting, and selling.

Finding Three

In the course and conduct of their aforesaid business, said respondents, and associates, now cause, and for some time last past have caused, their said chinchillas, when sold, to be shipped from their aforementioned respective places of business to purchasers thereof located in various other States of the United States, other than the State of origination, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Finding Four

In the course and conduct of their business, and respective businesses, and for the purpose of inducing the sale of said chinchillas, respondent Brennan and respondent Hargis, and others, have made numerous statements and representations in advertising and through the oral statements and display of promotional material to prospective purchasers by salesmen, with respect to the breeding of chinchillas in the home for profit and, without previous experience, the rate of reproduction of said animals, the expected income from the sale of their pelts, their warranty and the status of their organization.

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

Chinchilla ranchers are earning thousands of dollars a year IN THEIR SPARE TIME. Turn extra room into income for Education, Travel, Retire-

ment. With just a few hundred dollars invested YOU CAN PULL YOURSELF OUT OF YOUR MONTHLY PAY-CHECK RUT!!!

PROFIT IS HIGH, QUALITY pelts are valued at $20-$55 on today's market. The demand for pelts increases every year.

Hundreds of members of The Chinchilla Guild have set themselves up in business with as little as $126 cash.

. . . This small amount of space, about the size of your garage, would be all you would need for a chinchilla breeding unit that could return $3,000 to $5,000 a year.

Starting With 6 Select High Quality Females And 2 Select Males: 2 Units, Assuming your Females Produce an Average of 4 Offspring Yearly.

[1st year: 2 Units]
Your 6 Females would Produce—24 Offspring
Keep 12 Females, Market 8 Males

[2nd year: 6 Units]
Your 18 Females would Produce—72 Offspring
Keep 36 Females, Market 24 Males

[3rd year: 18 Units]
Your Females would Produce—216 Offspring
Keep 108 Females, Market 72 Males

[Yearly: 54 Units]
Your 162 Females would Produce—648 Offspring yearly. . .
That's a gross income of
$16,200.00
a year
(Based *Conservatively* on $25.00 Pelt Price Average.)
Warranted they will live for 3 years and
double their number the first year.

Finding Five

By and through the use of the above said statements and representations and others of similar import and meaning but not expressly set out herein, and through the oral statements and representations made in sales presentations to purchasers, respondent Brennan and respondent Hargis, and others, 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 experience.

3. The breeding stock of six female chinchillas and two male chinchillas purchased from them will result in live offspring as follows: 24 the first year, 72 the second year, 216 the third year and 648 the fourth year.

4. All of the offspring referred to in subparagraph 3 of the Finding Five above will have pelts selling for an average price of $25 per pelt.

5. Each female chinchilla purchased from them and each female offspring will produce at least four live young per year.

6. Pelts from the offspring of their breeding stock generally sell for $20 to $55 per pelt.

7. A purchaser starting with six females and two males of respondents' chinchilla breeding stock will have a gross income of $16,200 from the sale of the pelts in the fourth year.

8. A purchaser of their breeding stock can set himself up in business with as little as $126 cash down payment.

9. Chinchilla breeding stock purchased from them is unconditionally warranted to live three years and double their number the first year.

10. Through the use of the word "guild" separately and as part of the trade name, respondent Brennan and respondent Hargis, together with others associated with them, are a "guild" or association formed for the mutual aid and protection of purchasers of chinchilla breeding stock.

Finding Six

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. The initial chinchilla breeding stock of six females and two males purchased from the sellers* will not result in the number specified in subparagraph 3 of Finding Five above since these figures do not allow for factors which reduce chinchilla production, such as those born dead or which die after birth, the culls which are unfit for reproduction, fur chewers and sterile animals.

4. All of the offspring referred to in subparagraph 4 of Finding Five above will not produce pelts selling for an average price of $25 per pelt but substantially less than that amount.

5. Each female chinchilla purchased from respondent Brennan and respondent Hargis, and their associates, and each female offspring will not produce at least four live young per year but generally less than that number.

6. A purchaser of their chinchillas could not expect to receive from $20 to $55 for each pelt produced since some of the pelts are not marketable at all and others would not sell for $20 but for substantially less than that amount.

* Brennan and Hargis (and others).

7. A purchaser starting with six females and two males gotten from their breeding stock will not have a gross income of $16,200 from the sale of pelts in the fourth year but substantially less than that amount.

8. A purchaser of their breeding stock cannot set himeslf up in business with as little as a $126 cash down payment as advertised but will, in fact, be required to pay substantially more as a cash down payment.

9. Chinchilla breeding stock purchased from them is not unconditionally warranted to live three years and double their number the first year but said guarantee is subject to numerous terms, limitations and conditions.

10. Their business organization is not a guild or association formed for the mutual aid and protection of purchasers of their chinchilla breeding stock but is a business organization formed for the purpose of selling chinchilla breeding stock for a profit.

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

Finding Seven

The respondent Brennan and the respondent Hargis, by and through the use of the aforesaid acts and practices place, or are responsible for the placing, in the hands of jobbers, retailers, and dealers, the means and instrumentalities by and through which they may mislead and deceive the public in the manner as hereinabove alleged.

Finding Eight

In the course and conduct of their respective businesses, and at all times mentioned herein, respondent Brennan and respondent Hargis each have been in substantial competition in commerce, with corporations, firms, and individuals, in the sale of chinchilla breeding stock.

Finding Nine

The use by respondent Brennan and respondent Hargis, as well as associates, 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 chinchillas from said respondents by reason of said erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of said respondent Brennan and respondent Hargis, as well as associates, as herein alleged, were and are all to the prejudice and injury of the public and of their competitors, and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

ORDER

It is hereby ordered, That respondents* ROBERT C. BRENNAN, also known as ROBERT C. BRENNAN, SR., an individual doing business as The Chinchilla Guild, The Chinchilla Guild of America, and BILL K. HARGIS, also known as BILLY K. HARGIS, an individual doing business as The Chinchilla Guild, The Chinchilla Guild of America; or under any other name or names, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of chinchilla breeding stock, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that it is practicable to raise chinchillas in the home or that large profits can be made in this manner.

2. Representing, directly or by implication, that breeding chinchillas for profit can be achieved without previous knowledge or experience in the feeding, care and breeding of such animals.

3. Representing, directly or by implication, that the initial chinchilla breeding stock of six females and two male chinchillas purchased from respondents will produce live offspring of 24 the first year, 72 the second year, 216 the third year, or 648 the fourth year; or that chinchillas will produce live offspring in any number in excess of that usually and customarily produced by chinchillas sold by respondents, or the offspring of said chinchillas.

4. Representing, directly or by implication, that all of the offspring of chinchilla breeding stock purchased from respondents will produce pelts selling for the average price of $25 each; or representing that a purchaser of respondents'

* The word "respondents," as used in the body of this order, refers to restraining these two named respondents, *i.e.*, in imposing any mandate to cease and desist.

breeding stock will receive for chinchilla pelts any amount in excess of the amount usually received for pelts produced by chinchillas purchased from respondents, or their offspring.

5. Representing, directly or by implication, that each female chinchilla purchased from respondents and each female offspring produce at least four live young per year; or that number of live offspring per female is any number in excess of the number generally produced by females purchased from respondents, or their offspring.

6. Representing, directly or by implication, that pelts from the offspring of respondents' breeding stock generally sell for $20 to $55 each; or that chinchilla pelts produced from respondents' breeding stock will sell for any amount in excess of that usually received by purchasers of respondents' breeding stock for pelts of like grade and quality.

7. Representing, directly or by implication, that a purchaser starting with six females and two males will have, from the sale of pelts, a gross income of $16,200 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; or misrepresenting, in any manner, the earnings or profits of purchasers of respondents' chinchilla breeding stock.

8. Representing, directly or by implication, that a purchaser of respondents' breeding stock can set himself up in business with as little as a $126 cash down payment; or for any other amount which is less than the actual down payment customarily and regularly required by respondents.

9. Representing, directly or by implication, that breeding stock purchased from respondents is warranted or guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor.

10. Using the word "Guild" or any other word of similar import or meaning as part of respondents' trade or corporate name or misrepresenting in any other manner the nature or status of respondents' business.

11. Placing in the hands of jobbers, retailers or dealers any means or instrumentalities by or through which they mislead or deceive the public in the manner or as to the things hereinabove prohibited.

FINAL ORDER AS TO RESPONDENTS ROBERT C. BRENNAN AND BILL K. HARGIS

The complaint in this matter issued on August 26, 1966. On January 12, 1968, the Commission entered consent orders against respondents Earle J. Maixner, Roberta C. Maixner and Harold McNeil [73 F.T.C. 47]. On February 15, 1968, the hearing examiner entered an initial decision on default as to the remaining two respondents, Robert C. Brennan, also known as Robert C. Brennan Sr., and Bill K. Hargis, also known as Billy K. Hargis, both doing business as The Chinchilla Guild and The Chinchilla Guild of America. On March 12, 1968, the Commission entered an order staying the effective date of the initial decision until further order of the Commission, noting that proof of service of the initial decision had not been received as to respondent Robert C. Brennan, and that the Commission had not determined whether the initial decision constituted an adequate disposition of the issues in the case.

On July 19, 1968, the Commission received notice that service of the initial decision as to respondent Robert C. Brennan had been completed on May 17, 1968. No appeal has been taken by either respondent from the initial decision. The Commission has determined that the case should not be placed on its own docket for review, and that pursuant to Section 3.51 of the Commission's Rules of Practice, the initial decision should be adopted and issued as the decision of the Commission. Accordingly,

It is ordered, That the initial decision of the hearing examiner shall, on the 8th day of August, 1968, become the decision of the Commission.

It is further ordered, That respondents Robert C. Brennan, also known as Robert C. Brennan Sr., and Bill K. Hargis, also known as Billy K. Hargis, shall, within sixty (60) days after service upon them of this order, file with the Commission reports in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

HILB MANUFACTURING COMPANY ET AL.

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

Docket C-1401. Complaint, Aug. 12, 1968—Decision, Aug. 12, 1968

Consent order requiring a Denver, Colo., manufacturer of sportswear and jackets to cease misbranding and falsely advertising its textile fiber and fur products and deceptively invoicing its fur products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification 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 Hilb Manufacturing Company, a corporation, and Edward Levy and Thomas J. Hilb, 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 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 Hilb Manufacturing Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Colorado.

Respondents Edward Levy and Thomas J. Hilb are officers of said corporation. They formulate, direct and control the acts, practices and policies of the corporate respondent including the acts and practices hereinafter referred to.

Respondents are manufacturers of men's and women's sportswear and jackets, including both textile and fur products, with their office and principal place of business located at 2000 Arapahoe Street, Denver, Colorado.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, manufacture for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and have sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile

Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondents within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and 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 advertised by means of catalogs distributed by respondents in interstate commerce, in which said "textile fiber products" were represented as containing "Acrylic Broadtail Fur," whereas in truth and in fact said products contained substantially different fibers than represented.

PAR. 4. Certain of said textile fiber products were further misbranded by respondents in that they were not stamped, tagged, labeled or otherwise identified to show each element of information 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 jackets with labels on or affixed thereto which failed:

(a) to disclose the true generic name of the fibers present;

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

(c) to disclose the name, or other identification used and registered by the Commission of the manufacturer of the product or one or more persons subject to Section 3 of the said Act, with respect to such product.

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

1. Fiber trademarks were used in conjunction with required information on labels affixed to such fiber products, without the generic name of the fiber being set out in immediate conjunction therewith and in type or lettering of equal size and conspicuousness, in violation of Rule 17(a) of the aforesaid Rules and Regulations.

2. Where an election was made to show on the label the fiber

content of pile fabrics or products composed thereof in such segregated form as would show the fiber content of the face or pile and of the back or base, with percentages of the respective fibers as they exist in the face or pile and in the back or base, the respective percentages of the face and back were not given in such manner as would show the ratio between the face and back, in violation of Rule 24 of the aforesaid Rules and Regulations.

3. The required information as to fiber content was not set forth in such a manner as to separately show the fiber content of each section of textile fiber products containing two or more sections, in violation of Rule 25(b) of the aforesaid Rules and Regulations.

PAR. 6. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products by means of written advertisements in catalogs and other printed matter, distributed by respondents in interstate commerce and used to aid, promote, or to assist, directly or indirectly, in the sale, or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act, and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among the aforesaid disclosures and implications as to fiber content, but not limited thereto were the terms "Poodle Cloth" and "Estron."

PAR. 7. Certain of said textile fiber products were further falsely and deceptively advertised in that the word "Broadtail" was used in the advertisement of such products, in such a manner as to constitute a symbol of a fur-bearing animal, namely "Broadtail Lamb," when said products or parts thereof in connection with which such symbol of the fur-bearing animal was used, were not furs or fur products within the meaning of the Fur Products Labeling Act, and did not contain the hair or fiber of the Broadtail Lamb in violation of Section 4(g) of the Textile Fiber Products Identification Act.

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

Among such textile fiber products, but not limited thereto, were articles of sportswear and jackets which were falsely and

deceptively advertised by means of catalogs and other printed matter distributed by the respondents in interstate commerce, in that fiber trademarks were used in advertising textile fiber products without a full disclosure of the fiber content information required by the said Act and the Rules and Regulations thereunder in at least one instance in said advertisement, in violation of Rule 41 (a) of the aforesaid Rules and Regulations.

PAR. 9. The acts and practices of respondents as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

PAR. 10. Respondents, now and for some time last past have been, 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 shipped and received in commerce, as the terms "fur" and "fur product" are defined in the Fur Products Labeling Act.

PAR. 11. Certain of said fur products were misbranded in that they were falsely and deceptively labeled to show that fur contained therein was natural, when in fact such fur was pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Section 4(1) of the Fur Products Labeling Act.

PAR. 12. Certain of said fur products were misbranded in that they were not labeled as required under the provisions of Section 4(2) of the Fur Products Labeling Act and in the manner and form prescribed by the Rules and Regulations promulgated thereunder.

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

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

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

PAR. 13. Certain of said fur products were misbranded in violation of the Fur Products Labeling Act in that they were not

labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

1. The 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.

2. 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.

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

PAR. 14. Certain of said fur products were falsely and deceptively advertised in violation of the Fur Products Labeling Act in that certain advertisements intended to aid, promote and assist, directly or indirectly, in the sale and offering for sale of such fur products were not in accordance with the provisions of Section 5(a) of the said Act.

Among and included in the aforesaid advertisements but not limited thereto, were advertisements of respondents which appeared in catalogs distributed in interstate commerce by them. Among such false and deceptive advertisements, but not limited thereto, were advertisements which failed:

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

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

PAR. 15. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised fur products in violation of the Fur Products Labeling Act in that said fur products were not advertised in accordance with the Rules and Regulations promulgated thereunder in the following respects:

1. The term "Dyed Mouton Lamb" was not set forth in the manner required, in violation of Rule 9 of the said Rules and Regulations.

2. The term "natural" was not used to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise

artificially colored in violation of Rule 19(g) of the said Rules and Regulations.

PAR. 16. Certain of said fur products were falsely and deceptively invoiced by the respondents in that they were not invoiced as required by Section 5(b)(1) of the Fur Products Labeling Act and the Rules and Regulations promulgated under such Act.

Among such falsely and deceptively invoiced fur products, but not limited thereto, were fur products covered by invoices which failed to show the true animal name of the fur used in such fur products.

PAR. 17. Certain of said fur products were falsely and deceptively invoiced in violation of the Fur Products Labeling Act in that they were not invoiced in accordance with the Rules and Regulations promulgated thereunder, in that the term "natural" was not used on invoices to describe fur products which were not pointed, bleached, dyed, tip-dyed, or otherwise artificially colored, in violation of Rule 19(g) of said Rules and Regulations.

PAR. 18. The aforesaid acts and practices of the respondents, as set forth in paragraphs eleven through seventeen above, were and are in violation of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce under the Federal Trade Commission Act.

PAR. 19. 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 Colorado 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.

In connection therewith, respondents manufactured, advertised, offered for sale, sold and disseminated in commerce, certain jackets filled with insulating material which they had purchased from York Feather & Down Corporation in York, Pennsylvania, which material was a 60 percent down-40 percent waterfowl feather mixture.

PAR. 20. In the course and conduct of their business, and for the purpose of inducing the sale of their said jackets, respondents have made certain statements in advertisements inserted in catalogs disseminated by them in interstate commerce, relative to the insulating material within the aforesaid jackets.

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

Style No: 124L–Box Diamond Down Parka; Down Insulated; Hand Stitched Quilting.
Style No: 143L–Ladies Down Parka; Down Insulated.
Style No: 142M–Mens Box/Diamond Down Parka; Down Insulated; Hand Stitched Quilting.
Style No. 143M–Mens Tube Down Parka; Down Insulated; Hand Stitched Tube Quilting.

PAR. 21. By the use of the aforesaid statements and representations, and others of similar import and meaning, but not specifically set forth herein, respondents represent, and have represented, directly or by implication:

1. That the insulating material is composed entirely of "down."
2. That the quilting in said jackets is all hand stitched.

PAR. 22. In truth and in fact:

1. The insulating material in the advertised jackets is not composed entirely of "down."
2. The quilting in the advertised jackets is not all hand stitched.

PAR. 23. The use by respondents of the aforesaid false, misleading and deceptive representations, has had the tendency to mislead and deceive dealers and the purchasing public as to the content of the filling material of the said jackets and to induce the purchase of substantial quantities of their said jackets because of such mistaken and erroneous belief.

PAR. 24. The aforesaid acts and practices of the respondents, as alleged in paragraphs twenty through twenty-three, are all to the prejudice and injury of the public and of respondents' competition and 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, the Textile Fiber Products Identification 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Hilb Manufacturing Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2000 Arapahoe Street, Denver, Colorado.

Respondents Edward Levy and Thomas J. Hilb 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 Hilb Manufacturing Company, a corporation, and its officers, and Edward Levy and Thomas J. Hilb, 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, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, of any textile fiber product which has been advertised or offered for

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

A. Misbranding such products by:

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

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

3. Using a fiber trademark in conjunction with the required information on labels affixed to said textile fiber products without the generic name of the fiber appearing on said labels in immediate conjunction therewith and in type or lettering of equal size and conspicuousness.

4. Failing to set forth on labels the respective percentages of the face and back of pile fabrics so as to show the ratio between the face and back of such fabrics, where an election is made pursuant to Rule 24 to show the fiber content of pile fabrics or products composed thereof in segregated form.

5. Failing to separately set forth the required information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations, by disclosure or by implication, as to the fiber contents of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale

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

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

3. Using any names, words, depictions, descriptive matter or other symbols, which connote or signify a fur bearing animal, unless such products or parts thereof in connection with which the names, words, depictions, descriptive matter or other symbols are used, are furs or fur products within the meaning of the Fur Products Labeling Act: *Provided, however,* That where a textile fiber product contains the hair or fiber of a fur-bearing animal, the name of such animal, in conjunction with the word "fiber," "hair," or "blend," may be used.

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

A. Misbranding fur products by:

1. Representing directly or by implication on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

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

5. Failing to set forth separately on labels attached to such fur products 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.

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

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

2. Fails to set forth the term "Dyed Mouton Lamb" in the manner required when an election is made to use that term instead of the term "Dyed Lamb."

3. 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 such fur product which is not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

C. Falsely or deceptively invoicing fur products by:

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

It is further ordered, That respondents Hilb Manufacturing Company, a corporation, and its officers, and Edward Levy and Thomas J. Hilb, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of jackets or other products, do forthwith cease and desist from:

1. Representing in any manner, or by any means, that the filling material contained in any such products is composed entirely of down, unless said filling material in fact consists entirely of down.

2. Misrepresenting in any manner, or by any means, directly or by implication, the kind or type of filling material contained in any such products.

3. Describing said jackets or other products as containing "Hand Stitched Quilting" or "Hand Stitched Tube Quilting," or using words of similar import in describing such jackets or other products, unless same are in fact hand stitched.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

MODERN COUTURE, INC., 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-1402. Complaint, Aug. 12, 1968—Decision, Aug. 12, 1968

Consent order requiring a New York City manufacturer of ladies' dresses to cease marketing dangerously flammable products and failing to keep required records of its textile fiber products.

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 Modern Couture, Inc., a corporation, and Leonard Morse, individually and as an officer 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 Modern Couture, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Leonard Morse is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporation.

Respondents are engaged in the business of manufacture and sale of textile fiber products, including wearing apparel in the form of ladies' dresses, with their office and principal place of business located at 530 Seventh Avenue, New York, New York.

PAR. 2. Respondents, now and for some time last past, have manufactured for sale, sold, and offered for sale, in commerce, and have introduced, delivered for introduction, transported or caused to be transported, in commerce, and have sold and delivered after sale or shipment in commerce, products; and have manufactured for sale, sold and offered for sale products made of fabrics or related materials which have been shipped or received in commerce, as the terms "product," "fabric" "related material" and "commerce" are defined in the Flammable Fabrics Act, as amended, which products, fabrics and related materials have failed to conform to an applicable standard or regulation continued in effect, issued or amended under the Flammable Fabrics Act, as amended.

Among the products mentioned above were ladies' dresses.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act and of the Rules and Regulations promulgated thereunder, and as such

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

PAR. 4. Respondents, now and for some time last past, have been engaged in the introduction, delivery for introduction, manufacture 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. 5. Respondents failed to maintain proper records showing fiber content of the textile products manufactured by them, in violation of Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations promulgated thereunder.

PAR. 6. The acts and practices of respondents alleged in Paragraph Five above were and are in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices, 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, the Flammable Fabrics Act, as amended, and the Textile Fiber Products Identification Act; and

The respondents and counsel for the Commisson 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Modern Couture, 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 530 Seventh Avenue, New York, New York.

Respondent Leonard Morse 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 Modern Couture Inc., a corporation, and its officers, and Leonard Morse, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, products; or manufacturing for sale, selling or offering for sale any product made of a fabric or related material which has been shipped or received in commerce, as the terms "product," "fabric," "related material" and "commerce" are defined in the Flammable Fabrics Act, as amended, which products, fabric or related material have failed to conform to an applicable standard or regulation continued in effect, issued or amended under the Flammable Fabrics Act, as amended.

It is further ordered, That the respondents herein shall, within

ten (10) days after service upon them of this Order, file with the Commission an interim special report in writing setting forth the respondents' intentions as to compliance with this Order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such products in inventory, (2) any action taken to notify customers of the flammability of such products and the results thereof and (3) any disposition of such products since April 26, 1967. Such report shall further inform the Commission whether respondents have in inventory any fabric, product or related material having a plain surface made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

It is further ordered, That respondents Modern Couture, Inc., a corporation, and its officers, and Leonard Morse, 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 introduction, delivery for introduction, manufacture 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 failing to maintain and preserve proper records relating to textile fiber products manufactured by them, as required by Section 6 of the Textile Fiber Products Identification Act and Rule 39 of the Regulations promulgated thereunder.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

ALLIED LIQUIDATORS, INC., DOING BUSINESS AS ALLIED LIQUIDATORS, ETC.

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

Docket C-1403. Complaint, Aug. 12, 1968—Decision, Aug. 12, 1968

Consent order requiring a Westchester, Ill., merchandiser of miscellaneous products to cease misrepresenting the nature of its business, making deceptive pricing, savings and guarantee claims, and misrepresenting that the time for purchasing its goods is limited.

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 Allied Liquidators, Inc., a corporation, doing business as Allied Liquidators and as Chicago-Midwest Freight & Forwarding Distributors, and Edward D. Walston, also known as Daniel Edward Wigodsky, individually and as 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 Allied Liquidators, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 10730 Cermak Road, Westchester, Illinois, formerly at 8110 West Grand Avenue, in the city of River Grove, State of Illinois. Said corporate respondent trades and does business as Allied Liquidators and has traded as Chicago-Midwest Freight & Forwarding Distributors.

Respondent Edward D. Walston, also known as Daniel Edward Wigodsky, is an individual and officer of said corporate respondent. He formulates, directs and controls the acts and practices of the

corporate respondent, including the acts and practices hereinafter set forth. The business addresses of the individual respondent 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 power tools, radios, watches and other articles of merchandise to members of 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 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 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 said products, respondents, through their use of the aforesaid corporate and trade names, through statements set forth in circulars sent to prospective purchasers by means of the United States mails, and through other advertisements, have made numerous statements and representations respecting their trade status, the nature of their business, the sources and quantities of the merchandise offered for sale, the regular price and retail value thereof, and the nature, extent and duration of guarantees afforded in connection therewith.

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

BANKRUPTCIES ESTATES LIQUIDATIONS
ALLIED LIQUIDATORS***
PUBLIC NOTICE

Gentlemen: We have been authorized to hold a PUBLIC SALE on an inventory of electrical power tools—hand tools—machinery, plus many other items. This sale is being held to satisfy creditors and loans.

All This Merchandise Is Brand New And
Guaranteed To Be In Perfect Condition

This shipment is being sold on a no limit—no reserve—piece by piece. All orders will be processed on the priority system regardless of quantities until supply is exhausted***.

UNIVERSAL ⅜" ELECTRIC DRILL***
REGULAR LIST PRICE $49.95
NOW ON SALE $12.65***
UNIVERSAL ¼ H.P. HEAVY-DUTY BENCH GRINDER***
RETAIL VALUE $79.95
NOW ON SALE $32.65***

CHICAGO-MIDWEST FREIGHT & FORWARDING DISTRIBUTORS

* * * * * *

SUPPLEMENTARY LIST

Gentlemen: We are making a special offering on a distress lot of AM and FM radios and Schick electric razors and many other items and tools. This offer is being made as a one time limited offer. Quantity is limited***

* * * * * * *

BRAND NEW INDIVIDUALLY BOXED AM–FM
AFC TRANSISTOR RADIO***
ORIGINAL LIST PRICE $59.95
NOW ON SALE $18.75

* * * * * * *

LADY SCHICK ELECTRIC RAZOR***
LIST PRICE $19.95
OUR PRICE $7.70

* * * * * * *

HOIST-WINCH***
REGULAR LIST PRICE $59.95
NOW ON SALE $22.65***

ALLIED LIQUIDATORS

* * * * * * *

SUPPLEMENTARY LIST

* * * * * * *

Gentlemen: We are making a special offering on a distress lot of AM and FM radios and ladies or mens wrist watches, such as Elgin, Helbros, Gruen and Walthams***

* * * * * * *

LIFETIME GUARANTEE
Original List Price $71.50 to $100 Values
Now Special Price for Limited Time Only $17.75***

ALLIED LIQUIDATORS***
PUBLIC NOTICE
BULLETIN NO. 10730–22

Gentlemen: We have just acquired $335,000 worth of electric power tools made by one of the finest electric power tool manufacturers in the world***.

We will sell these tools to you at approximately 30% off list price on the priority system because our quantities are limited***.

Every tool carries a 100% factory guarantee***.

ATTENTION WHOLESALERS

Please do not ask for additional discounts regardless of quantities***.

HEAVY DUTY—INDUSTRIAL RATED
3.4 AMP. ⅜" ELECTRIC DRILL***
LIST PRICE $59.95
NOW ON SALE $16.50

* * * * * * *

1/3 H.P. HEAVY-DUTY BENCH GRINDER***
RETAIL VALUE $89.95
NOW ON SALE $34.62***

PAR. 5. By and through the use of their said corporate name, Allied Liquidators, Inc., and their trade names, Allied Liquidators and Chicago-Midwest Freight & Forwarding Distributors, separately or in conjunction with the foregoing statements and representations and others of similar import and meaning, but not specifically set forth herein, or by said statements and representations alone, respondents represent, and have represented, directly or by implication:

(a) That they are liquidators, authorized adjustors or agents engaged in the sale or disposition of bankrupt, estate, salvage, distrained, or other distress or transportation company surplus merchandise for the purpose of liquidating, adjusting, paying off or otherwise settling indebtedness or claims.

(b) That the merchandise is unconditionally guaranteed or guaranteed for a lifetime.

(c) That the higher price amounts set forth in conjunction with the terms "List Price," "Regular List Price," and "Original List Price," among others, are the prices regularly charged by the principal outlets in respondents' trade area.

(d) That the higher price amounts set forth in conjunction with the term "Retail Value" are not appreciably in excess of the highest price at which substantial sales of such merchandise have been made, in the respondents' trade area.

(e) That purchasers of said merchandise save an amount equal to the difference between the said higher prices and the corresponding lower prices.

(f) That the quantities of merchandise and the time during which such are available for sale are limited.

PAR. 6. In truth and in fact:

(a) Respondents are not liquidators, authorized adjustors or agents engaged in the sale or disposition of bankrupt, estate, salvage, distrained or other distress or transportation company surplus merchandise for the purpose of liquidating, adjusting, paying off or otherwise settling indebtedness or claims. Instead, respondents are in the business of purchasing the advertised merchandise from manufacturers or suppliers and selling it at retail for their own account to the purchasing public.

(b) Respondents' products are not unconditionally guaranteed or guaranteed for a lifetime. Such guarantees as may have been provided to purchasers of their products are subject to numerous

terms, conditions and limitations. Furthermore, respondents' advertisements do not disclose the identity of the guarantor, nor do they specify the lifetime for which the guarantees extend.

(c) Certain of the price amounts set forth in conjunction with the terms "List Price," "Regular List Price" and "Original List Price," among others, are in excess of the prices regularly charged by the principal outlets in respondents' trade area.

(d) Certain of the price amounts set forth in conjunction with the term "Retail Value" are appreciably in excess of the highest prices at which substantial sales of said merchandise have been made in the respondents' trade area.

(e) The purchasers of said merchandise do not save an amount equal to the difference between said higher prices and the corresponding lower prices.

(f) The quantities of merchandise and the time during which such are available for sale are not limited. To the contrary, respondents could and do order and get delivery of sufficient quantities from their sources of supply as to enable them to fill orders therefor in the usual course of their business.

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 engaged in the sale of power tools, radios, watches and other articles of merchandise of the same general kind and nature as that sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices, has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it has reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Allied Liquidators, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 10730 Cermak Road, Westchester, Illinois, formerly at 8110 West Grand Avenue, River Grove, Illinois.

Respondent Edward D. Walston, also known as Daniel Edward Wigodsky, is an individual and 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 Allied Liquidators, Inc., a corporation, trading as Allied Liquidators, Chicago-Midwest Freight & Forwarding Distributors, or under any other trade

name or names, and its officer Edward D. Walston, also known as Daniel Edward Wigodsky, 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 advertising, offering for sale, sale or distribution of power tools, radios, watches, or any other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Liquidators," "Freight," "Forwarding," or any other word or words of similar import or meaning in or as part of respondents' corporate or trade name or names; or representing, directly or by implication, that they are liquidators, authorized adjustors or agents engaged in the sale or disposition of bankrupt, estate, salvage, distrained, distress, or transportation company surplus merchandise; or are engaged in liquidating, adjusting, paying off or otherwise settling indebtedness or claims; or misrepresenting, in any manner, their trade or business status or the source, character or nature of the merchandise being offered for sale: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereinunder, in respect to use of the trade name "Allied Liquidators," for respondents to show that the transaction involved: a) a purchaser for resale or other than an ultimate consumer, or b) reconditioned salvage items for which the respondents are providing a market on an occasional basis and in limited quantities.

2. Representing, directly or by implication, that merchandise is guaranteed, unless the nature and extent of the guarantee, the identity of the guarantor, and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

3. Using the terms "List Price," "Regular List Price," "Original List Price," or any other words or terms of similar import or meaning, to refer to any price amount which is appreciably in excess of the prices regularly charged by principal outlets in respondents' trade area.

4. Using the term "Retail Value" or any other words or terms of similar import or meaning, to refer to any price amount which appreciably exceeds the highest price at which substantial sales of such merchandise have been made in the respondents' trade area; or otherwise misrepresenting the price at which such merchandise has been sold in said trade area.

5. Representing, directly or by implication, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated selling price and any other price used for comparison with that price:

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

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

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

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

6. Representing, directly or by implication, that the supply of merchandise or the time during which it is available for sale is limited: *Provided however*, That it shall be a defense in any enforcement proceeding instituted hereinunder, in respect to any article of merchandise so advertised, for respondents to establish that their supply of said item was not sufficient to meet reasonably anticipated demands therefor, and that their supply could not be replenished through their customary sources.

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.

603 Modified Order

IN THE MATTER OF

WORLD SEWING CENTER, INC., D/B/A ALL STATES SEWING CENTER ET AL.

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

Docket 8746. Complaint, Sept. 29, 1967—Decision, Aug. 13, 1968

Order reopening and modifying a cease and desist order dated June 7, 1968, 73 F.T.C. 1007, charging a sewing machine distributor with certain deceptive sales practices by eliminating penalty provisions against present and future salesmen of the respondent.

ORDER REOPENING CASE AND MODIFYING THE COMMISSION'S ORDER

Whereas, the Federal Trade Commission on June 7, 1968 [73 F.T.C. 1007], issues its final order adopting as its own the initial decision of the hearing examiner in this proceeding, including an order to cease and desist against World Sewing Center, Inc., and Ernest Rose in Docket No. 8746, and

Whereas, paragraph 14 of said order requires respondents in connection with the advertising, offering for sale, sale or distribution of sewing machines, or any other products, in commerce to cease and desist from:

> "Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' products to purchasers; and failing to secure from each such person a signed statement acknowledging receipt of said order and agreeing to abide by the requirements of said order and to refrain from engaging in any of the acts or practices prohibited by said order; and for failure so to do, agreeing to dismissal or to the withholding of commissions, salaries and other remunerations, or both to dismissal and to withholding of commissions, salaries and other remunerations."

and

Whereas, it is now the policy of the Commission in orders involving the use of salesmen to require the respondent to deliver to each present and future salesman a copy of the order and to secure from each such salesman a signed statement acknowledging receipt thereof but not to require that such salesman agree to abide thereby or to dismissal or the withholding of commissions, salaries or other remuneration or both for failure to abide by the requirements of the order; and the Commission being of the view

that the public interest requires that this proceeding be reopened to conform the above provision of the order to such current Commission policy:

It is therefore ordered, That this proceeding be, and it hereby is, reopened.

It is further ordered, That paragraph 14 of said order be, and it hereby is, altered to read as follows:

> "Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' products or services and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order."

IN THE MATTER OF

PUALANI'S HAWAIIAN HUT ET AL.

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

Docket C-1404. Complaint, Aug. 13, 1968—Decision, Aug. 13, 1968

Consent order requiring a Fort Lauderdale, Fla., gift shop to cease marketing dangerously flammable products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Pualani's Hawaiian Hut, a partnership, and Randolph Avon and Pualani Avon, individually and as copartners trading as Pualani's Hawaiian Hut, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Flammable Fabrics Act, as amended, 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 Pualani's Hawaiian Hut is a partnership organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 3599 North Federal Highway,

Fort Lauderdale, Florida.

Individual respondents Randolph Avon and Pualani Avon are copartners in said partnership. They formulate, direct and control the acts, practices and policies of said partnership. Their address is the same as that of the partnership.

PAR. 2. Respondents are now and for some time last past have been engaged in the manufacture for sale, the sale and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were leis.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the 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 Flammable Fabrics 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should

issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Pualani's Hawaiian Hut is a partnership. The said partnership is organized, exists and does business in the State of Florida, with its office and principal place of business located at 3599 North Federal Highway, Fort Lauderdale, Florida.

Respondents Randolph Avon and Pualani Avon are copartners in said partnership and their address is the same as that of the partnership.

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 Pualani's Hawaiian Hut, a partnership, and Randolph Avon and Pualani Avon, individually and as copartners trading as Pualani's Hawaiian Hut, or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product as "commerce" and "product" are defined in the Flammable Fabrics Act as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this Order, file with the Commission an interim special report in writing setting forth the respondents' intention as to compliance with this Order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition

of such product since February 21, 1968. Such report shall further inform the Commission whether respondents have in inventory any wood fiber chips from which the aforementioned products are made or any other fabric, product or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondents will submit samples of any fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than one square yard of material.

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 of their compliance with this order.

IN THE MATTER OF

EMILY WETHERBY

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

Docket C-1405. Complaint, Aug. 13, 1968—Decision, Aug. 13, 1968

Consent order requiring a New York City importer of wearing apparel to cease marketing dangerously flammable products.

COMPLAINT

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

PARAGRAPH 1. Respondent Emily Wetherby is an individual trading as Emily Wetherby. She is engaged in the importation and sale of wearing apparel, including, but not limited to, ladies'

scarves. The business address of the respondent is 4 West 37th Street, New York, New York.

PAR. 2. Respondent is now and for some time last past has been engaged in the sale and offering for sale, in commerce, and in the importation into the United States, and has introduced, delivered for introduction, transported and caused to be transported in commerce, and has sold or delivered after sale or shipment in commerce, products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act, which products failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such products mentioned hereinabove were ladies' scarves.

PAR. 3. The aforesaid acts and practices of respondent were, and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Flammable Fabrics Act, 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 respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agree-

ment on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Emily Wetherby is an individual trading as Emily Wetherby, with her office and principal place of business located at 4 West 37th Street, New York, New York.

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

ORDER

It is ordered, That the respondent Emily Wetherby, an individual trading as Emily Wetherby, 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 manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product as "commerce" and "product" are defined in the Flammable Fabrics Act, as amended, which fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon her of this Order, file with the Commission an interim special report in writing setting forth the respondent's intention as to compliance with this Order. This interim special report shall also advise the Commission fully and specifically concerning the identity of the product which gave rise to the complaint, (1) the amount of such product in inventory, (2) any action taken to notify customers of the flammability of such product and the results thereof and (3) any disposition of such product since November 22, 1967. Such report shall further inform the Commission whether respondent has in inventory any farbic, product, or related material having a plain surface and made of silk, rayon or cotton or combinations thereof in a weight of two ounces or less per square yard or fabric with a raised fiber surface made of cotton or rayon or combinations thereof. Respondent will submit samples of any such fabric, product or related material with this report. Samples of the fabric, product or related material shall be of no less than

one square yard of material.

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

IN THE MATTER OF

EUGENE USOW MFG. CO. ET AL.

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

Docket C-1406. Complaint, Aug. 14, 1968—Decision, Aug. 14, 1968

Consent order requiring a Chicago, Ill., manufacturer of hunting and insulated apparel to cease misbranding, falsely advertising, and failing to maintain required records on its textile fiber products and misbranding its wool products.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Eugene Usow Mfg. Co., a corporation, and Allen Usow, Jeanette Usow and David Goldberg, 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 Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Eugene Usow Mfg. Co. 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 227 South Seeley Avenue, Chicago, Illinois.

Individual respondents Allen Usow, Jeanette Usow and David Goldberg are officers of the corporate respondent. They formulate, direct and control the acts, practices and policies of the corporate respondent, including the acts and practices complained

of herein. Their business address is the same as said corporate respondent. Respondents are manufacturers of ladies' and men's hunting and insulated apparel.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, manufacture 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, 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 under said Act.

Among such misbranded textile fiber products, but not limited thereto, were textile fiber products, namely men's hunting and/or insulated apparel with labels which failed:

1. To disclose the true percentage of the fibers present by weight; and
2. To disclose the true generic names of the fibers present.

PAR. 4. Certain of said textile fiber products were misbranded in violation of the Textile Fiber Products Identification Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

1. All parts of the required information were not conspicuously and separately set out on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser, in violation of Rule 16(b) of the aforesaid Rules and Regulations.
2. Nonrequired information and representations were placed on the label or elsewhere on the product and were set forth in such a manner as to interfere with, minimize, detract from,

and conflict with required information, in violation of Rule 16(c) of the aforesaid Rules and Regulations.

3. Required information as to the fiber contents of textile fiber products containing more than one section of different fiber composition was not separated on the required label in such a manner as to show the fiber composition of each section where such form of marking was necessary to avoid deception, in violation of Rule 25 of the aforesaid Rules and Regulations.

PAR. 5. Certain of said textile fiber products were falsely and deceptively advertised in that respondents in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, was hunting and/or insulated apparel which was falsely and deceptively advertised by means of catalogues distributed throughout the United States in that the true generic names of the fibers in such apparel were not set forth.

PAR 6. Respondents have failed to maintain and preserve proper records showing the fiber content of the textile fiber products manufactured by them, in violation of Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations promulgated thereunder.

PAR. 7. The acts and practices of the respondents as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

PAR. 8. Respondents now, and for some time last past, have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, shipped and offered for sale in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products as "wool product" is defined therein.

PAR. 9. Certain of said wool products were misbranded by the respondents 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, was a wool product with a label on or affixed thereto which failed to disclose the percentage of the total fiber weight of the said wool products exclusive of ornamentation not exceeding 5 per centum of the total fiber weight, of (1) wool; (2) reprocessed wool; (3) reused wool; (4) each fiber other than wool, when said percentage by weight of such fiber was 5 per centum or more; and (5) the aggregate of all other fibers.

PAR. 10. Certain of said wool products were misbranded by the respondents 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 all items or parts of the information required to be shown and displayed in the stamp, tag, label, or other mark of identification of the product, were not set forth consecutively and separately on the outer surface of the label, in immediate conjunction with each other, in violation of Rule 10(a) of the said Rules and Regulations.

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

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Textiles and Furs proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Wool Products Labeling Act of 1939; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has

been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Eugene Usow Mfg. Co. 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 227 South Seeley Avenue, Chicago, Illinois.

Respondent Allen Usow, Jeanette Usow and David Goldberg 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 Eugene Usow Mfg. Co., a corporation, and its officers, and Allen Usow, Jeanette Usow and David Goldberg, 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, manufacture 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 fibering product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

2. Failing to set forth all parts of the required information conspicuously and separately on the same side of the label in such a manner as to be clearly legible and readily accessible to the prospective purchaser.

3. Setting forth nonrequired information or representations on the label or elsewhere on the product in such a manner as to minimize, detract from, or conflict with information required by said Act and the Rules and Regulations promulgated thereunder.

4. Failing to set forth on labels the fiber contents of textile fiber products containing more than one section of different fiber composition, in a separated manner, so as to show the fiber composition of each section where such form of marking was necessary to avoid deception.

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

C. Failing to maintain and preserve records of fiber content of textile fiber products manufactured by them, as required by Section 6(a) of the Textile Fiber Products Identification Act and Rule 39 of the Rules and Regulations thereunder.

It is further ordered, That respondents Eugene Usow Mfg. Co., a corporation, and its officers, and Allen Usow, Jeanette Usow and David Goldberg, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment

in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to set forth consecutively and separately on the outer surface of the label, in immediate conjunction with each other, all items or parts of the required information to be shown and displayed in the stamp, tag, label, or other mark of identification.

It is further ordered, That the respondent corporation forthwith distribute a copy of this Order to each of its operating divisions.

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

NATIONAL ADVERTISERS AGENCY, INC., ET AL.

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

Docket C-1407. Complaint, Aug. 19, 1968—Decision, Aug. 19, 1968

Consent order requiring a Hutchinson, Kans., seller of photograph albums and photograph enlargements to cease making deceptive pricing, savings and guarantee claims, misrepresenting any article is free, any customer is especially selected, that it is in the advertising business and approved by the Better Business Bureau.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that National Advertisers Agency, Inc., a corporation, and Raymond E. Gray and Virginia Gray, 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 National Advertisers Agency, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at 507 North Whiteside Street, in the city of Hutchinson, State of Kansas.

Respondents Raymond E. Gray and Virginia Gray are individuals and are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of a "photograph album plan" to the public. Respondents' album plan consists of a photograph album and coupons entitling the purchaser to have a specified number of photograph enlargements made by respondents.

PAR. 3. In the course and conduct of their business as aforesaid, 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 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 in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, respondents employ sales agents or representatives who call upon prospective purchasers and solicit their purchase of respondents' album plan. Purchasers of respondents' album plan are frequently young parents with one or more children.

In the course of such solicitation and for the purpose of inducing, and which have induced, the purchase of respondents' photograph album plan, said sales agents or representatives have made many statements and representations, directly and by implication, to prospective purchasers of respondents' photograph album plan. Some of these statements and representations are made orally by the aforesaid sales agents or representatives to prospective purchasers and others are contained in advertising and promotional literature displayed and distributed to prospective purchasers by said sales agents or representatives. The aforesaid

advertising and promotional literature is furnished to said sales agents or representatives by respondents.

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

1. That the photograph album included in respondents' plan is free or a free gift, provided the purchaser of respondents' album plan will pay a $5.95 delivery charge;

2. That the person solicited has been especially selected;

3. That prospective purchasers are offered a $328.75 combination photograph album and enlargement plan for $84 and other comparatively low price amounts not set forth herein, and the difference between the higher price and the lower price represents a saving to the purchaser;

Said $328.75 is represented to consist of a photograph album at $47.50 which is the price at which substantial sales are made in the trade area where the representations are made, and 75, 8x10 or 5x7, black and white enlargements at respondents' regular selling price of $3.75 for a total of $281.25;

4. That respondents do all of their own photographic work, such as copying, vignetting, producing, copying negatives, oil coloring, portrait restoration, toning enlargements, etc.;

5. That respondents are recommended by Dun and Bradstreet, the Wichita, Kansas, Better Business Bureau and the Hutchinson, Kansas, Chamber of Commerce;

6. That purchasers of respondents' photograph album plan are receiving a reduction from respondents' regular selling price in exchange for assisting respondents in their advertising program;

7. That sample photographic enlargements shown to the prospective purchaser are enlargements made for purchasers of respondents' plan;

8. That respondents' prices are substantially lower for camera club members than for noncamera club members and are substantially lower than the prices of its competitors;

9. That respondents have contracted with another company or companies whereby the other company or companies have assumed full responsibility to discharge all of respondents' performance requirements on their contracts in the event that respondents cease to do business;

10. That respondents' guarantee to refund the full price of the photograph album plan to any purchaser who is not completely satisfied is without condition or limitation;

11. That respondents' dealers are bonded in the amount of $1,000 for the protection of the purchaser of respondents' plan;

12. Through the use of the words "Advertisers Agency" separately and as a part of the respondents' corporate name, that respondents' organization is engaged in the advertising business.

PAR. 5. In truth and in fact:

1. Respondents' album is not free or a free gift. The amount which the purchaser pays is for the album plus certain postage and handling charges;

2. Persons solicited by respondents' sales agents or representatives are not especially selected. The only selection process engaged in by respondents is an effort to confine their solicitation to persons likely to purchase respondents' photograph album plan;

3. Prospective purchasers are not offered a $328.75 combination photograph album and enlargement plan for $84 and other comparatively low price amounts not set forth herein, and the difference between the higher price and the lower price does not represent a saving to the purchaser;

Said $328.75 price is wholly fictitious. The photograph album at $47.50 appreciably exceeds the price at which substantial sales are made in the area where the representations are made; and respondents have not sold or offered for sale 75, 8x10 or 5x7, black and white enlargements at $3.75 for a total of $281.25 in good faith for a reasonably substantial period of time in the recent regular course of their business;

4. Respondents do not do all of their own photographic work because some color enlargement or slide work is done by other firms;

5. Respondents are not recommended by Dun and Bradstreet, the Wichita, Kansas, Better Business Bureau or the Hutchinson, Kansas, Chamber of Commerce or any other Better Business Bureau or Chamber of Commerce organization;

6. Purchasers of respondents' photograph album plan are not receiving a reduction from respondents' regular selling price in exchange for assisting respondents in their advertising program;

7. Sample photographic enlargements shown to prospective purchasers of respondents' plan are not, in every instance, enlargements made for purchasers of respondents' plan;

8. Respondents' prices are not substantially lower for camera club members than noncamera club members; or lower than the prices of its competitors;

9. Respondents have not contracted with another company or other companies whereby the other company or companies have assumed full responsibility to discharge all of respondents' pre-

formance requirements on their contracts in the event that respondents cease to do business;

10. Respondents' guarantee to refund the price of the photograph album plan to any purchaser who is not completely satisfied is not unconditional but is subject to limitations and conditions which are not revealed;

11. Respondents' dealers are not bonded in the amount of $1,000 to protect the purchaser; but rather are bonded to protect respondents only;

12. Respondents' organization is not engaged in the advertising business but engaged solely in selling photograph albums and enlargements.

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

PAR. 6. In the course and conduct of their business, respondents send through the mails letters, forms and other printed matter from their place of business in the State of Kansas to purchasers of respondents' album plan located in various other States of the United States whose accounts have become delinquent. Said letter, forms and other printed matter indicate that they originate from "Elmer Goering, Attorney at Law, 217 East 1st, Hutchinson, Kansas."

Respondents thereby represent that "Elmer Goering" is an outside Attorney at Law, to whom the delinquent customer account has been transferred for institution of suit or other legal steps.

In truth and in fact, the delinquent customers account has not been transferred to "Elmer Goering, Attorney at Law" for institution of suit or other legal steps. Said letters and notices have been prepared and mailed or caused to be mailed by respondents.

Therefore, the aforesaid representations are false, misleading and deceptive.

PAR. 7. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of photograph albums and enlargements of the same general kind and nature as those sold by respondents.

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken

belief that 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent National Advertisers Agency, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its office and principal place of business located at 507 North Whiteside Street, in the city of Hutchinson, State of Kansas.

Respondents Raymond E. Gray and Virginia Gray 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 National Advertisers Agency, Inc., a corporation, and its officers, and Raymond E. Gray and Virginia Gray, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of photograph album plans, albums, enlargements or other products, 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. 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;

2. Persons solicited have been especially selected;

3. The respondents regular or usual price for 8 x 10 or 5 x 7 black and white photographic enlargements is $3.75 or that respondents regular or usual price for any article of merchandise is any amount which is in excess of the price at which such merchandise has been sold or offered for sale in good faith by the respondents for a reasonably substantial period of time in the recent, regular course of their business; or misrepresenting, in any manner, the price at which such merchandise has been sold or offered for sale by the respondents;

4. The trade area selling price of respondents' photograph album is $47.50 or the trade area selling price of said album or any article of merchandise is any amount in excess of the price at which substantial sales of said album or other article are being made in the area; or misrepresenting, in any manner, the trade area selling price of any article of merchandise;

5. All photographic work is performed by respondents; or misrepresenting, in any manner, the extent of

the processing or other services done by respondents in the processing of photographs;

6. Respondents are recommended or approved by Dun and Bradstreet, the Wichita, Kansas, Better Business Bureau or the Hutchinson, Kansas, Chamber of Commerce, or any Better Business Bureau or Chamber of Commerce; or misrepresenting, in any manner, the recommendation or approval given respondents or their products;

7. Purchasers of respondents' photograph album plan are receiving a reduction from respondents' regular selling price in exchange for assisting respondents in their advertising program; or misrepresenting, in any manner, the nature, purpose or reason for any offer of sale or sale of merchandise;

8. Sample photograph enlargements shown to prospective purchasers were made for purchasers of respondents' plan or that any samples were made for any persons or derived from any source: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that said samples were in fact made for the persons stated or derived from the represented sources;

9. Prices charged camera club members are lower than those charged non-camera club members, or are lower than the prices of respondents' competitors: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the said prices are in fact lower for club members or lower than competitors' prices as represented;

10. Respondents have contracted with or secured the assurance of any other persons, company or companies which have assumed full responsibility to discharge respondents' obligations to their customers on coupons issued by respondents to the customers at time of purchase or under any contract or agreement between respondents and its customers;

11. Respondents' products or services 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;

12. Respondents' agents, representatives or employees are bonded for the protection of the purchaser.

B. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' products or services; or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' products or services.

C. Using the words "Advertisers Agency" or any other word or words of similar import or meaning as part of respondents' trade name or corporate name; or representing, directly or by implication, that respondents are engaged in the advertising business; or misrepresenting, in any manner, the nature or status of respondents' business.

D. Representing, directly or by implication, that letters, forms or other communications originated by respondents are sent by an Attorney at Law; or misrepresenting, in any manner, the source or the originator of any letters, forms or other communications.

E. Representing, directly or by implication, that legal action is about to be taken or has been taken to enforce payment of delinquent accounts: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that steps had been in fact taken to institute such action at the time of the notice to the delinquent debtor.

F. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said 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

STEINER & STEIN FUR CO. ET AL.

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