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Complaint

IN THE MATTER OF

HOLIDAY CARPETS, INC., ET AL.

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

Docket 8784. Complaint, June 25, 1969—Decision, November 20, 1969

Order requiring a Wheaton, Md., seller and installer of custom-fitted home carpeting to cease misbranding and falsely advertising its textile fiber products, using bait tactics, false pricing and savings claims, failing to maintain adequate records, using deceptive guarantees, misrepresenting that it usually negotiates its sales contracts to a bank, misrepresenting the terms and conditions of its sales, and failing to include the right to cancel the sale within 3 days in its sales contracts.

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 Holiday Carpets, Inc., a corporation, and Robert M. Siegel, 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 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 Holiday Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 11035 Viers Mill Road in the city of Wheaton, State of Maryland.

Respondent Robert M. Siegel is an individual and is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the trans-

portation 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 floor coverings which were falsely and deceptively advertised in The Washington Post, The Evening Star and The Washington Daily News, newspapers published in the District of Columbia, and having a wide circulation in the District of Columbia and various other States of the United States, in that the respondents in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not to the exempted backings, fillings, or paddings.

PAR. 4. By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in that in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such required content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding in violation of Rule 11 of the aforesaid Rules and Regulations.

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PAR. 5. Certain of said textile fiber products were misbranded in that they were not stamped, tagged, labeled or otherwise identified with any of the information required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act.

PAR. 6. 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 in commerce and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

PAR. 7. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, distribution and installation of carpeting and floor coverings to the public.

PAR. 8. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their places of business located in the District of Columbia and in the States of Maryland and Virginia, to purchasers thereof located in various other States of the United States and the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their carpeting and floor coverings, the respondents have made, and are now making, numerous statements and representations by advertisements inserted in newspapers and by oral statements and representations of their salesmen to prospective purchasers with respect to their products and services.

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

100% CONTINUOUS FILAMENT NYLON WALL-TO-WALL CARPET SALE	SPECIAL!
272 Sq. Ft. Includes Padding & Installation usually enough to carpet Living Room, Dining Room, Hall or Steps \$119	FHA Approved Dupont 501 35 Decorators Colors
NO MONEY DOWN As Low As \$5 MONTH NO PAYMENTS 'TIL MAY	24-HOUR ANSWERING SERVICE 949-1188

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HOLIDAY CARPET, INC.
11212 Grandview Avenue, Wheaton, Maryland

*We Service and
Guarantee
What We Sell*

VISIT OUR SHOWROOM

The Sunday Star TV Magazine, Washington, D. C., March 5, 1967

FALL SALE
WALL TO WALL
CARPET
NYLON DUPONT "501" AT SPECIAL SALE PRICE

LOOK!

FREE VACATION
for 2 at the Fabulous
AMBASSADOR HOTEL
In Atlantic City
Dancing Pool Sauna Entertainment
2 NITES 3 DAYS
Offer Good Until June, 1968
*Each Customer Purchasing Our
DuPont 501, 10 Yr. Guar. Carpet*

NO MONEY DOWN
as low as \$5 a month
BANK FINANCING
No Payment 'til Dec., 1967

Usually enough to carpet
Living Room, Dining Room,
Hall or Steps.

100% CONTINUOUS FILAMENT
272 Sq. Ft.

INCLUDES PADDING
& INSTALLATION
"SHOP AT HOME"
SERVICE

Let our trained decorator help you
select the carpet that
fits your decor. NO OBLIGATION
\$119

CALL NOW
24 HR. SERVICE
933-7700

VISIT OUR SHOWROOM

Deal with an established firm. Member Wash. Board of
Trade, etc. See our ad in Yellow Pages.

HOLIDAY CARPETS INC.
11212 GRANDVIEW AVE. WHEATON, MD.

We Service and Guarantee What We Sell

The Sunday Star TV Magazine, Washington, D. C., October 15, 1967

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FALL DISCOUNTS
WALL TO WALL
CARPET
100% CONTINUOUS
FILAMENT NYLON

*Visit Our
Showroom*

272 SQ. FT.

USUALLY ENOUGH TO CARPET LIVING ROOM, DINING ROOM, HALL OR STEPS!
INCLUDES PADDING & INSTALLATION

FREE VACATION
FOR TWO

4 DAYS & 3 NIGHTS

IN MIAMI BEACH, ATLANTIS OR SEA ISLE
HOTEL OR LAS VEGAS, LA HACIENDA HOTEL

- 1st 100 Customers Purchasing our Special DuPont Wall to Wall Carpet
- 272 Sq. Ft. or More

SHOP-AT-HOME SERVICE

Let our trained decorator help you select the carpet that
fits your decor. NO OBLIGATION!

CALL NOW 24-HR. SERVICE
933-7700

Deal with an established firm. Member Wash. Board of Trade, etc.
See our ad in Yellow Pages! Bank Financing

\$119

272 SQ. FT. INCLUDES PADDING & INSTALLATION

NO DOWN PAYMENT

AS LOW AS 2.00 A WEEK NO PAYMENT 'TIL MAY

HOLIDAY CARPETS INC.

11212 GRANDVIEW AVE., WHEATON, MARYLAND

We Service and Guarantee What We Sell!!

PAR. 10. By and through the use of the above reproduced statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication:

1. That respondents are making a bona fide offer to sell the advertised carpeting and floor coverings at the price and on the terms and conditions stated in the advertisement.

2. By and through the use of the words "SALE," "SPECIAL SALE PRICE" and other words of similar import and meaning, that respondents' carpeting and floor coverings are being offered for sale at special or reduced prices, and purchasers are thereby afforded savings from respondents' regular selling prices.

3. That purchasers of the advertised merchandise receive without any additional cost or obligation a "free" vacation for two in Atlantic City, Miami or Las Vegas.

4. That respondents' products are unconditionally guaranteed for a specified period of time.

5. By and through the use of the words "ALL BANK FINANCING," "BANK FINANCING" and words of similar import and meaning, that no finance company is involved in the financing of the customer's purchase and that the customer's account is discounted, negotiated or assigned to a bank.

6. By and through the statements "NO MONEY DOWN AS LOW AS \$5 A MONTH," "NO MONEY DOWN AS LOW AS \$2 A WEEK" and other similar statements and representations, that respondents regularly arrange financing of purchasers for no down payment and on the weekly and monthly terms stated.

7. By and through the use of the words "INCLUDES PADDING & INSTALLATION," and words of similar import and meaning, that all of the carpeting mentioned in such advertisements is installed with separate padding included at the advertised price.

8. By and through the use of the words "35 DECORATORS COLORS" and other words of similar import and meaning, that the advertised carpeting is available in thirty-five different colors from which the prospective purchasers may choose.

PAR. 11. In truth and in fact:

1. Respondents' offers were not bona fide offers to sell said carpeting and floor coverings at the price and on the terms and conditions stated in the advertisement, but were made for the purpose of obtaining leads to persons interested in the purchase of carpeting. After obtaining such leads through response to said advertisements, respondents or their salesmen called upon such persons, but made no effort to sell the advertised carpeting. Instead, they exhibited what they represented to be the advertised carpeting which, because of its poor appearance and condition was usually rejected on sight by the prospective purchaser. In some instances, respondents or their salesmen failed to have available or failed to show the advertised carpeting. Concurrently, higher priced carpeting or floor coverings of superior quality and texture were presented, which by comparison disparaged and demeaned the advertised carpeting. By these and other tactics, purchase of the advertised carpeting was discouraged, and respondents through their salesmen attempted to and frequently did sell the higher priced carpeting.

2. Respondents' products were not being offered for sale at special or reduced prices, and purchasers were not thereby afforded savings from respondents' regular selling prices. In fact, respondents do not have a regular selling price.

3. Purchasers of the advertised merchandise did not receive without any additional cost or obligation a "free" vacation for two in Atlantic City, Miami or Las Vegas. Transportation and meals were not included with the "free" vacation and during certain months of the year, the recipient of the "free" vacation had to pay a portion of the daily room rent. Among other conditions and obligations, in some instances after commencing the vacation the recipient was required to attend lectures of two to three hours duration about investment opportunities in land.

4. Respondents' carpets and floor coverings are not unconditionally guaranteed for the period of time specified. Such guarantees as they may have provided customers were subject to conditions and limitations not disclosed in respondents' advertising.

5. A finance company was involved in many instances in the financing of the customer's purchase and the customer's account was not customarily and usually discounted, negotiated or assigned to a bank.

6. Respondents did not regularly arrange financing of purchases for which no down payment was required or on the weekly and monthly terms stated.

7. Some of the carpeting mentioned in such advertisements had a rubberized backing and was not installed with separate padding included at the advertised price.

8. The advertised carpeting was not available in thirty-five different colors from which the prospective purchaser might choose.

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

PAR. 12. 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 and distribution of rugs, carpets and floor covering products and services of the same general kind and nature as those sold by respondents.

PAR. 13. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices

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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 and services by reason of said erroneous and mistaken belief.

PAR. 14. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

Mr. Donald L. Bachman and *Mr. Edward D. Steinman* for the Commission.

Mr. Benjamin R. Civiletti, Washington, D.C., for respondents.

INITIAL DECISION BY WALTER R. JOHNSON, HEARING EXAMINER

OCTOBER 17, 1969

In the complaint which was issued on June 25, 1969, the respondents were charged with violating provisions of the Federal Trade Commission Act, the Textile Fiber Products Identification Act and the Rules and Regulations promulgated under the latter Act. Thereafter, the respondents filed their answer denying the allegations of the complaint in all material respects. On September 9, 1969, complaint counsel and counsel for the respondents met with the hearing examiner in a reported prehearing conference. As a result thereof, an agreed order was issued which would aid in the disposition of the case.

On September 26, 1969, counsel for both parties, for the purpose of effecting a settlement of the action pursuant to Section 2.34(d) of the Commission's Rules of Practice and Procedure, entered into an agreement containing a stipulation of facts and an agreed order wherein it was agreed that the hearing examiner and the Federal Trade Commission shall make findings of facts and conclusions of law on the basis of the stipulation and the record on which the decision shall be based shall consist solely of the Complaint and the Agreement. In the stipulation, respondents waive (a) any further procedural steps before the hearing examiner and the Commission; and (b) all rights to seek judicial re-

view or otherwise to challenge or contest the validity of the order entered pursuant to the agreement.

Upon consideration of the record herein, the hearing examiner makes the following findings of fact and conclusions:

Respondent Holiday Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland, with its office and principal place of business located at 11035 Viers Mill Road in the city of Wheaton, State of Maryland.

Respondent Robert M. Siegel is the principal officer of said corporation. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices set forth in said complaint.

Respondents sell the majority of their carpets and floor coverings to customers who demand immediate delivery and installation. Said customers of respondents purchase carpeting and floor coverings custom fitted to their dwelling rooms which requires measurement, precutting and preseaming of all carpeting and floor coverings. Respondents require both spouses to sign all documents necessary to the credit transaction when a married person purchases respondents' carpet and floor coverings on credit terms and conditions.

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

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 floor coverings which were falsely and deceptively advertised in *The Washington Post*, *The Evening Star* and *The Washington Daily News*, newspapers published in the District of Columbia, and having a wide circulation in the District of Columbia and various other States of the United States, in that the respondents in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not to the exempted backings, fillings, or paddings.

By means of the aforesaid advertisements and others of similar import and meaning not specifically referred to herein, respondents falsely and deceptively advertised textile fiber products in violation of the Textile Fiber Products Identification Act in that said textile fiber products were not advertised in accordance with the Rules and Regulations promulgated thereunder in that in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such required content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding in violation of Rule 11 of the aforesaid Rules and Regulations.

Certain of said textile fiber products were misbranded in that they were not stamped, tagged, labeled or otherwise identified with any of the information required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act.

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 in commerce and unfair and deceptive acts and practices, in commerce, under the Federal Trade Commission Act.

Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale, distribution and installation of carpeting and floor coverings to the public.

In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their places of business located in the District of Columbia and in the

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

In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their carpeting and floor coverings, the respondents have made, and are now making, numerous statements and representations by advertisements inserted in newspapers and by oral statements and representations of their salesmen to prospective purchasers with respect to their products and services. Typical and illustrative of said statements and representations, but not all inclusive thereof, are the advertisements hereto attached and identified as "Appendix A." *

By and through the use of the aforementioned statements and representations, and others of similar import and meaning but not expressly set out herein, the respondents have represented, and are now representing, directly or by implication:

1. That respondents are making a bona fide offer to sell the advertised carpeting and floor coverings at the price and on the terms and conditions stated in the advertisement.

2. By and through the use of the words "SALE," "SPECIAL SALE PRICE" and other words of similar import and meaning, that respondents' carpeting and floor coverings are being offered for sale at special or reduced prices, and purchasers are thereby afforded savings from respondents' regular selling prices.

3. That purchasers of the advertised merchandise receive without any additional cost or obligation a "free" vacation for two in Atlantic City, Miami or Las Vegas.

4. That respondents' products are unconditionally guaranteed for a specified period of time.

5. By and through the use of the words "ALL BANK FINANCING," "BANK FINANCING" and words of similar import and meaning, that no finance company is involved in the financing of the customer's purchase and that the customer's account is discounted, negotiated or assigned to a bank.

6. By and through the statements "NO MONEY DOWN AS LOW AS \$5 A MONTH," "NO MONEY DOWN AS LOW AS \$2 A WEEK" and other similar statements and representations, that respondents regularly arrange financing of purchasers for no down payment and

* Appendix A omitted in printing.

on the weekly and monthly terms stated.

7. By and through the use of the words "INCLUDES PADDING & INSTALLATION," and words of similar import and meaning, that all of the carpeting mentioned in such advertisements is installed with separate padding included at the advertised price.

8. By and through the use of the words "35 DECORATORS COLORS" and other words of similar import and meaning, that the advertised carpeting is available in thirty-five different colors from which the prospective purchasers may choose.

In truth and in fact:

1. Respondents' offers were not bona fide offers to sell said carpeting and floor coverings at the price and on the terms and conditions stated in the advertisement, but were made for the purpose of obtaining leads to persons interested in the purchase of carpeting. After obtaining such leads through response to said advertisements, respondents or their salesmen called upon such persons, but made no effort to sell the advertised carpeting. Instead, they exhibited what they represented to be the advertised carpeting which, because of its poor appearance and condition was usually rejected on sight by the prospective purchaser. In some instances, respondents or their salesmen failed to have available or failed to show the advertised carpeting. Concurrently, higher priced carpeting or floor coverings of superior quality and texture were presented, which by comparison disparaged and demeaned the advertised carpeting. By these and other tactics, purchase of the advertised carpeting was discouraged, and respondents through their salesmen attempted to and frequently did sell the higher priced carpeting.

2. Respondents' products were not being offered for sale at special or reduced prices, and purchasers were not thereby afforded savings from respondents' regular selling prices. In fact, respondents do not have a regular selling price.

3. Purchasers of the advertised merchandise did not receive without any additional cost or obligation a "free" vacation for two in Atlantic City, Miami or Las Vegas. Transportation and meals were not included with the "free" vacation and during certain months of the year, the recipient of the "free" vacation had to pay a portion of the daily room rent. Among other conditions and obligations, in some instances after commencing the vacation the recipient was required to attend lectures of two to three hours duration about investment opportunities in land.

4. Respondents' carpets and floor coverings are not uncondi-

tionally guaranteed for the period of time specified. Such guarantees as they may have provided customers were subject to conditions and limitations not disclosed in respondents' advertising.

5. A finance company was involved in many instances in the financing of the customer's purchase and the customer's account was not customarily and usually discounted, negotiated or assigned to a bank.

6. Respondents did not regularly arrange financing of purchases for which no down payment was required or on the weekly and monthly terms stated.

7. Some of the carpeting mentioned in such advertisements had a rubberized backing and was not installed with separate padding included at the advertised price.

8. The advertised carpeting was not available in thirty-five different colors from which the prospective purchaser might choose.

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

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 and distribution of rugs, carpets and floor covering products and services of the same general kind and nature as those sold by respondents.

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 and services by reason of said erroneous and mistaken belief.

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.

ORDER

I

It is ordered, That respondents Holiday Carpets, Inc., a corpo-

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

A. Misbranding textile fiber products by:

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

2. Failing to set forth that the required disclosure as to the fiber content of floor coverings relates only to the face, pile, or outer surface of such products and not to exempted backing, filling or padding, when such is the case.

B. Falsely and deceptively advertising textile fiber products by failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backings, fillings or paddings.

II

It is further ordered, That respondents Holiday Carpets, Inc., a corporation, and its officers, and Robert M. Siegel, 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 carpeting and floor coverings, or any other articles of merchandise, in commerce, as "commerce" is de-

fined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of other merchandise or services.

2. Advertising or offering merchandise for sale for the purpose of obtaining leads or prospects for the sale of different merchandise when the advertised merchandise is inadequate to perform the functions for which it is offered and respondents do not maintain a reasonably adequate and readily available stock of said advertised merchandise.

3. Discouraging the purchase of or disparaging any merchandise or services which are advertised or offered for sale.

4. Representing, directly or by implication, that any merchandise or services are offered for sale when such offer is not a bona fide offer to sell such merchandise or services.

5. Representing, directly or by implication, that any price for respondents' products or services is a special or sale price, when such price does not constitute a significant reduction from an established selling price at which such products or services have been sold in substantial quantities by respondents in the recent, regular course of their business.

6. (a) Representing in any manner, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and respondents' former price unless such merchandise has been sold or offered for sale in good faith at the former price by respondents for a reasonably substantial period of time in the recent, regular course of their business.

(b) Representing, in any manner, that by purchasing any of said merchandise, customers are afforded savings amounting to the difference between respondents' stated price and a compared price for said merchandise in respondents' trade area unless a substantial number of the principal retail outlets in the trade area regularly sell said merchandise at the compared price or some higher price.

(c) Representing, in any manner, that by purchasing any of said merchandise, customers are afforded savings

amounting to the difference between respondents' stated price and a compared value price for comparable merchandise, 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 unless respondents have in good faith conducted a market survey or obtained a similar representative sample of prices in their trade area which establishes the validity of said compared price and it is clearly and conspicuously disclosed that the comparison is with merchandise of like grade and quality.

7. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 5, 6(a)-(c) and 7 of this order are based, and (b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 5, 6(a)-(c) and 7 of this order can be determined.

8. Representing, directly or by implication, that a purchaser of respondents' products or services will receive a "free" vacation or any other prize or award unless all conditions, obligations or other prerequisites to the receipt of such vacation, prize, or award are clearly and conspicuously disclosed.

9. Representing, directly or by implication, that any product or service 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.

10. Misrepresenting, through the use of words such as "ALL BANK FINANCING," or "BANK FINANCING," or in any other manner, that respondents usually and customarily discount, negotiate, or assign customers' conditional sale contracts, promissory notes or other instruments of indebtedness to a bank, rather than to a finance company or other third party unless respondents do in fact, usually and customarily assign such customers' instruments of indebtedness to a bank.

11. Representing, directly or by implication, that respondents sell their products for "NO MONEY DOWN," or that respondents sell their merchandise without requiring a down payment, unless such is the fact.

12. Misrepresenting, in any manner, the credit arrangements made by respondents, or the amount or number of periodic credit installment payments necessary to pay the balance due on products or services purchased from respondents.

13. Representing, in any manner, that a stated price for floor covering includes the cost of a separate padding and the installation thereof, unless in every instance where it is so represented, the stated price for floor covering does in fact include the cost of such separate padding and installation thereof.

14. Misrepresenting, in any manner, the prices, terms or conditions under which respondents supply separate padding in connection with the sale of floor covering products.

15. Misrepresenting the number of colors available of the advertised carpeting.

16. 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.

III

It is further ordered, That the respondents herein shall, in connection with the offering for sale, sale or distribution of carpeting and floor coverings, or any other articles of merchandise, when the offer for sale or sale is made in the buyer's home, forthwith cease and desist from:

1. Contracting for any sale whether in the form of trade acceptance, conditional sales contract, promissory note, or otherwise which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after date of execution.

2. Failing to disclose, orally prior to the time of sale and in writing on any trade acceptance, conditional sales con-

tract, promissory note or other instrument executed by the buyer with such conspicuousness and clarity as likely to be observed and read by such buyer, that the buyer may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale. Upon such cancellation the burden shall be on respondents to collect any goods left in buyer's home and return any payments received from the buyer. Nothing contained in this right-to-cancel provision shall relieve buyers of the responsibility for taking reasonable care of the goods prior to cancellation and during a reasonable period following cancellation.

3. Failing to provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

4. Negotiating any trade acceptance, conditional sales contract, promissory note, or other instrument of indebtedness to a finance company or other third party prior to midnight of the fifth day, excluding Sundays and legal holidays, after the date of execution by the buyer. This provision will not be applicable when there has been a waiver or modification of the customer's right to rescind the transaction and such waiver or modification was made pursuant to Paragraph 6 of Part III hereof.

5. *Provided, however,* That nothing contained in Part III of this order shall relieve respondents of any additional obligations respecting contracts made in the home required by federal law or the law of the state in which the contract is made. When such obligations are inconsistent respondents can apply to the Commission for relief from this provision with respect to contracts executed in the state in which such different obligations are required. The Commission, upon proper showing, shall make such modifications as may be warranted in the premises.

6. *Provided, however,* That nothing contained in Part III of this order to the contrary, a customer may modify or waive his right to rescind a transaction if the customer furnishes the seller with a separate dated and signed personal statement demanding immediate delivery and installation and ordering measurement, precutting and preseaming of carpeting or floor covering to the specifications of his dwelling. The use of printed forms for this purpose is prohibited.

IV

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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the 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 of their compliance with this order.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.51 of the Commission's Rules of Practice (effective July 1, 1967), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 20th day of November, 1969, become the decision of the Commission.

It is further ordered, That Holiday Carpets, Inc., a corporation, and Robert M. Siegel, individually and as an officer of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by the respondent named in this order, setting forth in detail the manner and form of their compliance with the order to cease and desist.
