

Final Order

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concrete products within respondent's present or future marketing area for portland cement or which purchased in excess of 10,000 barrels of portland cement in any of the five (5) years preceding the merger.

*It is further ordered,* That the complaint be, and the same hereby is, dismissed as to respondent Oklahoma Land and Cattle Company.

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

*It is further ordered,* That respondent OKC Corp. shall, within sixty (60) days from the date of service of this order and every sixty (60) days thereafter until divestiture is fully effected, submit to the Commission a detailed written report of its actions, plans, and progress in complying with the divestiture provisions of this order, and fulfilling its objectives. All reports shall include, among other things that will be from time to time required, a summary of all contracts and negotiations with potential purchasers of the stock, assets, properties, rights or privileges to be divested under this order, the identity of all such potential purchasers, and copy of all written communications from and to such potential purchasers.

*It is further ordered,* That respondent shall notify the Commission at least thirty (30) days prior to any proposed change which may affect compliance obligations arising out of this order, such as dissolution, assignment or sale resulting in the emergence of a corporate successor, and that this order shall be binding on any such successor.

Commissioner MacIntyre did not participate. Commissioner Denison did not participate for the reason oral argument was heard prior to his taking oath as Commissioner.

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IN THE MATTER OF

MURRAY GLICK DOING BUSINESS AS  
RAYNARD WATCH COMPANY

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

*Docket C-1811. Complaint, Oct. 21, 1970—Decision, Oct. 21, 1970*

Consent order requiring a New York City individual engaged in the watch repair business to cease misrepresenting that his repair work is fully guaranteed, that his charge includes insurance, making charges higher than the amounts specified in the guarantee, and placing in the hands of others means to deceive the consuming public.

## 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 Murray Glick, an individual doing business as Raynard Watch Company, 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 Murray Glick is an individual doing business as Raynard Watch Company. Respondent's office and principal place of business is located at 37 West 47th Street, New York, New York.

PAR. 2. Respondent is engaged in the watch repair business. In the course and conduct of his business, respondent has entered into agreements with retail sellers of watches. Under these agreements, the sellers furnish watch purchasers with a "service certificate" designating respondent as the sellers' authorized repair service. The "service certificate" is a written guarantee which provides that respondent will, for a stated handling charge and for a stated period of time, make watch repairs necessitated by defects in workmanship or materials.

PAR. 3. Respondent causes his "service certificates" to be disseminated to watch purchasers in the U.S. Virgin Islands and, through the U.S. mails, has received for repair numerous watches owned by persons located in various States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business as aforesaid, respondent has caused the dissemination of a "service certificate" containing various statements and representations of which the following are typical:

This SWISS MOVEMENT is guaranteed against defective workmanship and materials for a period of one year from date of purchase.

Any SWISS MOVEMENT watch developing defects during this period, will be repaired, provided it is returned to us, with \$1.75 to cover cost of handling.

Do not return to store where purchased, but direct to us for adjustment by skilled factory experts.

... fill in this guarantee and mail it back together with your watch, enclosing \$1.75 to cover handling, shipping, postage, insurance, etc. (Please allow 4 to 6 weeks for your repair to be returned (including travel time).)

PAR. 5. By and through the use of the statements and representations quoted in Paragraph Four, and others of similar import and

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meaning not specifically set forth herein, respondent represents, directly or by implication:

1. That respondent will make watch repairs in accordance with the terms of his guarantee;
2. That such repairs will be made by skilled factory experts;
3. That the only charge for such repairs is \$1.75;
4. That the \$1.75 charge includes the cost of insurance on the watch; and
5. That a watch will be repaired and returned within four to six weeks of its receipt by respondent.

PAR. 6. In truth and in fact:

1. Respondent has in many cases been unable or unwilling to make watch repairs in accordance with the terms of his guarantee;
2. Repairs are not made by skilled factory experts, but by respondent himself who has no factory and whose business is watch repair as opposed to watchmaking;
3. The \$1.75 charge is not the only charge for repairs; in many cases, respondent makes additional charges for parts and labor although such parts and labor are covered by the terms of the guarantee;
4. The \$1.75 charge does not include the cost of insurance on the watch; in many cases, respondent returns watches to their owners by uninsured parcel post; and
5. Respondent does not generally repair and return a watch within four to six weeks; on the contrary, respondent usually takes several times longer and in many cases has taken several months to repair and return a watch to its owner.

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 aforesaid statements, representations, and practices respondent places in the hands of retailers the means and instrumentalities by and through which such retailers may mislead the public as to the manner in which respondent meets obligations under the terms of his guarantee.

PAR. 8. In the course and conduct of his business as aforesaid, and at all times mentioned herein, respondent has been in substantial competition in commerce with corporations, firms, and individuals in the sale of services of the same general kind and type as those provided by respondent.

PAR. 9. The use by respondent of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the mistaken and erroneous belief that said statements and representations were, and are, true and into the purchase of substantial quantities of watches and of respondent's repair services, by reason of said mistaken and erroneous belief.

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

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection 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 agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in said 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 having placed said agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Murray Glick is an individual doing business as Raynard Watch Company. The office and principal place of business

of Raynard Watch Company is located at 37 West 47th Street, New York, New York.

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

ORDER

*It is ordered.* That respondent Murray Glick, an individual doing business as Raynard Watch Company, or under any other name or names, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, or sale of watch repair services or the dissemination by any means of guarantees on watches or 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:
  - a. That a product is guaranteed when any provision of the guarantee is not fully complied with;
  - b. That repair work will be performed by skilled factory experts or otherwise misrepresenting in any manner the nature and scope of respondent's business;
  - c. That a charge for repair work includes the cost of insurance or any other item of cost, when such insurance or other item of cost is not provided;
  - d. That repair work will be performed within a stated period of time, when such is not the case.
2. Making a charge for repair work which is more than the amount specified for such work under the terms of a guarantee.
3. Placing in the hands of retailers or others the means and instrumentalities by and through which they may deceive or mislead the purchasing public as to the things hereinabove prohibited.

*It is further ordered.* That respondent shall deliver a copy of this order to cease and desist to all corporations, firms, or individuals who now or in the future are parties to any agreement under which respondent performs repair work for their customers.

*It is further ordered.* That 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.

Complaint

IN THE MATTER OF

MARS, INCORPORATED

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

*Docket C-1812. Complaint, Oct. 22, 1970—Decision, Oct. 22, 1970*

Consent order requiring a Hackettstown, N.J., candy manufacturer to cease using any advertisement which misrepresents that its "Milky Way" milk chocolate bar will have a nutritional value equivalent to that of the ingredients used in its preparation or that said candy bar can or should be substituted for milk or milk 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 Mars, Incorporated, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Mars, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at High Street, Hackettstown, New Jersey.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the sale and distribution of a candy designated "Milky Way" milk chocolate bar which comes within the classification of a "food," as said term is defined in the Federal Trade Commission Act.

PAR. 3. Respondent causes the said product, when sold, to be transported from its place of business in one State of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said product in commerce as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce has been and is substantial.

PAR. 4. In the course and conduct of its said business, respondent has disseminated, and caused the dissemination of, certain advertise-

ments concerning the said product by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in magazines and other advertising media, and by means of television broadcasts transmitted by television stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said products; and has disseminated, and caused the dissemination of, advertisements concerning said product by various means, including but not limited to the aforesaid media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the representations contained in said advertisements disseminated as hereinabove set forth is a fanciful visual representation of a glass of milk "magically" changing into a "Milky Way" milk chocolate bar.

PAR. 6. Through the use of said advertisements respondent has represented directly and by implication that said candy has a nutritional value equivalent to a glass of milk; that said candy can or should be substituted for milk or milk products in the diet by reason of the use of milk or milk products as ingredients in said candy; that said candy has a nutritional value equivalent to that of the ingredients used in its preparation.

PAR. 7. In truth and in fact "Milky Way" milk chocolate bar does not have a nutritional value equivalent to a glass of milk; said candy cannot and should not be substituted for milk or milk products in the diet by reason of the use of milk or milk products as ingredients in said candy; said candy does not have a nutritional value equivalent to that of the ingredients used in its preparation.

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

PAR. 8. The dissemination by the respondent of the false advertisements, as aforesaid, constituted, and now 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 a comment having been received which has been duly considered by the Commission, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Mars, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at High Street, Hackettstown, New Jersey.

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

## ORDER

*It is ordered,* That respondent Mars, Incorporated, a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of "Milky Way" milk chocolate bar, or any other candy preparation of similar composition or possessing

substantially similar properties, do forthwith cease and desist from directly or indirectly:

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

1. Represents directly or by implication:

(a) That the said candy, at the time it is consumed, will have a nutritional value equivalent to that of the ingredients used in its preparation, or that the specific nutritional value of any ingredient remains available in the candy at the time it is consumed.

(b) That the said candy can or should be substituted for milk or milk products in the diet by reason of the use of milk or milk products as ingredients in said candy.

2. Misrepresents:

(a) The quantity or quality of whole milk or milk products used as an ingredient in said candy;

(b) The nutritional value of said candy in any manner whatsoever.

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

III. It is understood by Mars, Incorporated, that truthful and nondeceptive statements of the actual nutritive value when consumed of the "Milky Way" milk chocolate bar, or any other candy preparation of similar composition or possessing substantially similar properties, would not be prohibited by this agreement.

*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 respondent notify the Commission at least 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 respondent herein shall within sixty

(60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF

POOL CITY, INC., ET AL.

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

*Docket C-1813. Complaint, Oct. 26, 1970—Decision, Oct. 26, 1970*

Consent order requiring a Chevy Chase, Md., corporation engaged in the construction and sale of residential swimming pools to cease violating the Truth in Lending Act by failing to disclose in terminology prescribed by Regulation Z the annual percentage rate, all charges included in the deferred payment price, the number of payments required, and all applicable disclosures required; and also to cease making statements that there is no charge for credit unless it states the cash price, the amount of downpayment, the number, amount, and due date of the payments, the finance charge in annual percentage rate, and the deferred payment charge.

COMPLAINT

Pursuant to the provisions of the Truth in Lending Act and the implementing regulation promulgated thereunder, and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Pool City, Inc., a corporation, and Norman Schulman, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, 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 Pool City, 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 5454 Wisconsin Avenue, Chevy Chase, Maryland.

Respondent Norman Schulman is an officer of the corporate respondent. He formulates, directs and controls the policies, acts and practices of the corporation, including the acts and practices herein-

after set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now and for some time have been engaged in the construction, advertising, offering for sale, and sale of residential swimming pools to the public.

PAR. 3. In the ordinary course of their aforesaid business, respondents regularly extend and arrange for the extension of consumer credit, as "consumer credit" and "arrange for the extension of credit" are defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 4. Subsequent to July 1, 1969, in the ordinary course of their aforesaid business, and in connection with their credit sales, as "credit sale" is defined in Regulation Z, respondents have caused and are causing their customers to enter into contracts for the sale of respondents' goods and services. Respondents have furnished customers with disclosure statements, hereinafter referred to as "the statement," containing certain consumer credit cost disclosures. Respondents do not provide to customers on any document other than the statement the credit cost disclosures which are required to be made by Section 226.8 of Regulation Z.

By and through use of the statement, respondents:

1. Fail to disclose the "annual percentage rate" accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

2. Fail to disclose the correct amount of the "deferred payment price," which is the sum of the cash price, all charges included in the amount financed but which are not part of the finance charge, and the finance charge, as required by Section 226.8(c)(8)(ii) of Regulation Z.

3. Fail to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.

PAR. 5. Subsequent to July 1, 1969, in the ordinary course of their business, respondents have caused to be published advertisements for their goods and services, as "advertisement" is defined in Regulation Z. These advertisements aid, promote, or assist directly or indirectly extensions of consumer credit in connection with the sale of these goods and services. Through these advertisements, respondents by representing "No Cash Needed," state indirectly that no downpayment is required in connection with a consumer credit transaction, **without also stating all of the following terms, in terminology pre-**

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scribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) thereof:

1. The cash price,
2. The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
3. The amount of the finance charge expressed as an annual percentage rate; and
4. The deferred payment price.

PAR. 6. Pursuant to Section 105 of the Truth in Lending Act, respondents' aforesaid failures to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

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The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection 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 Truth in Lending Act and the implementing Regulation promulgated thereunder; and

The respondents 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 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 Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

- (1) Respondent Pool City, Inc., is a corporation organized, exist-

ing and doing business under and by virtue of the laws of the State of Maryland, with its offices and principal place of business located at 5454 Wisconsin Avenue, Chevy Chase, Maryland.

Respondent Norman Schulman is an officer of said corporation. He formulates, directs, and controls the policies, acts and practices 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 Pool City, Inc., a corporation, and its officers, and Norman Schulman, 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 any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 *et seq.*), do forthwith cease and desist from:

1. Failing, in any consumer credit transaction, to disclose the annual percentage rate accurately to the nearest quarter of one percent, computed in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.
2. Failing, in any consumer credit transaction, to disclose accurately the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, and to describe that sum as the "deferred payment price," as required by Section 226.8(c)(8)(ii) of Regulation Z.
3. Failing, in any consumer credit transaction, to disclose the number of payments scheduled to repay the indebtedness, as required by Section 226.8(b)(3) of Regulation Z.
4. Failing, in any consumer credit transaction, to make all applicable disclosures required to be made by Section 226.8 of Regulation Z, in the form and manner prescribed therein.
5. Stating, in any advertisement, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless it states

all of the following items in terminology prescribed under Section 226.8 of Regulation Z, as required by Section 226.10(d)(2) of Regulation Z:

- (a) The cash price;
- (b) The amount of the downpayment required or that no downpayment is required, as applicable;
- (c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;
- (d) The amount of the finance charge expressed as an annual percentage rate; and
- (e) The deferred payment price.

6. Failing, in any advertisement, to make all disclosures in the manner, form and amount required by Section 226.10 of Regulation Z.

*It is further ordered,* That a copy of this order to cease and desist be delivered to all present and future personnel of respondents engaged in the consummation of any consumer credit transaction or any aspect of preparation, creation, or placing of advertising, and failing to secure from each such person a signed statement acknowledging receipt of said order.

*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 resultant 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 respondents 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 the order to cease and desist contained herein.

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IN THE MATTER OF

CENTURY BRICK CORPORATION OF AMERICA, ET AL.

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

*Docket C-1814. Complaint, Oct. 27, 1970—Decision, Oct. 27, 1970*

Consent order requiring five affiliated Erie, Pa., distributors of simulated brick facing and seamless floor-covering material to cease misrepresenting that

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investors in respondents' dealerships would get exclusive territories or be paid if territory was shared, that visits or training at respondents' home office would be paid for by respondents, that a refund would be granted in case dealership discontinued, that taping machines and other equipment would be furnished free, that a dealer needs no prior skill, knowledge or training, that dealer will be furnished free sale literature or that products will be delivered to dealer's job site, and that respondents' products have been approved by an agency of the Federal Government.

## 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 Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America, corporations, and Colman J. Seman, David C. Seman, and Frederick P. Seman, individually and as officers or directors 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. Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America are corporations organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with their principal offices and places of business formerly located at 4506 West 12th Street, in the city of Erie, State of Pennsylvania.

Respondents Colman J. Seman, David C. Seman, and Frederick P. Seman are individuals and are officers and/or directors of the corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their addresses are as follows: Colman J. Seman and Frederick P. Seman, 802 Wedgewood Drive, Erie, Pennsylvania; and David C. Seman, 640 Brown Avenue, Erie, Pennsylvania.

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

PAR. 2. Respondents for some time last past have been engaged in the advertising, offering for sale, sale, and distribution of simulated brick facing to franchised dealers for resale to the public under

the trade name of "Century Brick." Also the said individual respondents for some time last past have been engaged in the advertising, offering for sale, sale, and distribution of seamless floor-covering material to franchised dealers for resale to the public under the trade name of "Magnalux Seamless Flooring."

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 Pennsylvania 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 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 have operated, and continue to operate, a sales plan to market their products by establishing franchised dealerships. Leads to prospective franchised dealers, hereinafter called dealers, are obtained by local and national advertising. Once the name of a prospective dealer is obtained, respondents send a salesman to call on him and attempt to sell him a franchised dealership, hereinafter called a dealership. If a sale is made, respondents send another representative to instruct the new dealer in organizing the business. When this is complete, respondents furnish the dealer with their product materials.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of the dealerships for their products, by and through oral statements and representations of respondents, or their salesmen and representatives, and by means of advertising and other written and printed material, respondents represent, and have represented, directly and by implication, to prospective purchasers of these dealerships, that:

1. That dealership consisted of an exclusive franchise to sell respondents' products within a designated territory and that the owner of such dealership would receive payment from the respondents if additional dealers were permitted to do business within said designated territory.

2. The respondents would pay all expenses for the dealer or an employee of his to visit and receive training at the respondents' home offices.

3. The dealer would receive a refund from the respondents of all or a portion of the dealership fee, if said dealer decided not to continue in the dealership.

4. Other persons were interested in the particular territory and, therefore, the prospective dealer must make a decision on the dealership immediately.

5. A representative of the respondents would be sent to the new dealer's territory to assist him in hiring and training employees, securing job orders, establishing contacts and credit at local banks and otherwise setting up a fully-operating business.

6. The respondents would provide, free of charge, the taping machines used in the installation of respondents' products.

7. The respondents would provide dealers with sales leads obtained through national advertising.

8. The respondents would provide the dealer with a list of names and addresses of other active dealers.

9. The dealer needed no skill, knowledge, or prior training to operate a successful dealership.

10. The respondents would furnish advice and assistance to the dealer, whenever the need arose.

11. The respondents were building warehouses at various locations, operating or maintaining a marble-crushing plant, and marketing prefabricated homes.

12. The dealers would be provided with free sales literature or literature which would not cost a dealer more than \$10 per thousand.

13. The respondents' products would be delivered to the dealer's job site at a stated cost.

14. The respondents' products were approved by the Federal Housing Administration and the General Services Administration.

15. The respondents had many successful dealers with earnings ranging from \$20,000 per year to over \$50,000 per year.

16. The dealers would be supplied with the respondents' products within a reasonable time after they were ordered.

PAR. 6. In truth and in fact:

1. The dealership did not consist of an exclusive franchise to sell respondents' products within a designated territory and a dealer would not receive any payment from respondents if additional dealers were permitted to do business within such territory.

2. Any expenses that were paid for a dealer or his employees to visit and receive training at the respondents' home office were included in the franchise fee which was paid by the dealer.

3. The dealer did not receive any refund of his dealership fee from the respondents, if he discontinued his dealership.

4. In some cases, there were no other persons interested in the

particular territory and the prospective dealer had no reason to hasten his decision on whether to purchase the dealership.

5. In certain instances the respondents' representatives did not assist the dealer in hiring and training employees, securing job orders, establishing contacts and credit at local banks, and setting up his business.

6. The respondents did not provide dealers with free taping machines.

7. The respondents provided dealers with few, if any, leads obtained through national advertising.

8. The respondents did not provide dealers with the names and addresses of other active dealers.

9. The dealers or authorized representatives of same needed skill, knowledge, and/or prior training in the application of the product to operate a successful dealership.

10. The respondents did not furnish advice and assistance to dealers, whenever the need arose.

11. The respondents were never building warehouses at various locations, operating a marble-crushing plant, or marketing pre-fabricated homes.

12. The dealers did not receive free sales literature from the respondents and what they did receive cost in excess of \$10 per thousand.

13. The respondents' products were, in many cases, delivered to the dealer's job site substantially in excess of the stated cost which was represented to him.

14. The respondents' products are not and were never approved by the Federal Housing Administration, the General Services Administration, or an agency or branch of the United States Government.

15. The respondents have few, if any successful dealers with earnings ranging from \$20,000 per year to over \$50,000 per year.

16. In many cases, the dealers had to wait long periods of time for the respondents' products to be delivered after they were ordered.

Therefore, the statements and representations as set forth in Paragraph Five hereof were, and 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 franchised dealerships and of products of the same general kind and nature as those sold by respondents.

PAR. 8. The use by respondents of the aforesaid false, misleading, and deceptive statements and representations in connection with the

recruitment of franchised dealers to sell their products had had, and now has, the capacity and tendency to mislead prospective franchised dealers into the erroneous and mistaken belief that such statements and representations were, and are, true and to induce a substantial number of them to respond to such advertisements, statements, and representations, and to enter into franchise dealership agreements with respondents and to expend substantial sums of money in reliance on 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 Consumer Protection 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, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, **now in further conformity with the procedure prescribed in Section**

\* Excluding David C. Seman who is not named in the order hereinafter set forth.

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## Decision and Order

2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondents Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America are corporations organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with their principal offices and place of business formerly located at 4506 West 12th Street, in the city of Erie, State of Pennsylvania.

Respondents Colman J. Seman, and Fredrick P. Seman are individuals and are officers and/or directors of the corporate respondents. They formulate, direct, and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is 802 Wedgewood Drive, Erie, Pennsylvania.

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 the respondents, Century Brick Corporation of America, Century Bonded Products, Inc., Lancer Advertising Agency, Inc., First National Credit Corporation of America, and Associated Leasing Corporation of America, corporations, and their officers and directors, and Colman J. Seman and Fredrick P. Seman, individually and as officers or directors of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of simulated brick facing, seamless floor-covering material, or any other product, or any franchise, license, or dealership with respect thereto, 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 persons investing in respondents' franchises, dealerships, or other products will be granted an exclusive territory in which to locate and sell products purchased from respondents unless respondents provide in all contracts or purchase agreements with dealers, franchisees, or purchasers of respondents' products, to whom such exclusive territories have been granted, a description of the size and limits

of the territories, and a statement that no other investor, dealer, franchisee, or purchaser of the same products will be granted the same territory or any part thereof and respondents in all instances abide by such provisions.

2. Representing, directly or by implication, that a dealer will receive payment from respondents if additional dealers are permitted to do business within his designated territory, unless such payments are actually made by respondents.

3. Representing, directly or by implication, that any expenses, other than those actually paid by the respondents, for the dealer or his employee to visit and receive training at the respondents' home office or any other place will be paid by the respondents.

4. Representing, directly or by implication, that a dealer will receive any refund of the dealership fee or initial investment from the respondents if the dealer decides not to continue in said dealership, unless such refunds are actually made by the respondents.

5. Falsely representing, directly or by implication, that a representative of the respondents will be sent to assist a new dealer in the hiring and training of employees, securing job orders, establishing contacts and credit at local banks, or to assist or perform any other function or service not actually performed and readily available to such dealers.

6. Representing, directly or by implication, that respondents will provide, free of charge, the taping machines used in the installation of respondents' products, unless such is actually provided on the represented terms and conditions; misrepresenting, in any manner, the machinery, equipment, or supplies furnished or made available to dealers or franchisees or the cost thereof.

7. Representing, directly or by implication, that respondents will provide dealers with sales leads obtained through national advertising or any other means, unless respondents are able to provide to each dealer a significant number of bona fide prospective buyers for respondents' products.

8. Representing, directly or by implication, that respondents will provide the dealer with the names and addresses of other active dealers or that respondents have many successful dealers, unless respondents have current information establishing the success of such dealers and provide such names and addresses as promised.

9. Representing, directly or by implication, that a dealer needs no skill, knowledge, or prior training, or experience to operate a

successful dealership, unless the prospective dealer is fully apprised of all facts and responsibilities of operating such a dealership.

10. Misrepresenting, in any manner, the assistance furnished or made available to the dealer.

11. Falsely representing that respondents are building warehouses at various locations, operating or maintaining a marble-crushing plant or manufacturing and marketing prefabricated homes; or misrepresenting, in any manner, the size or kind of respondents' business organization.

12. Representing, directly or by implication, that respondents will provide dealers with free sales literature, when in fact such sales literature is not free; or misrepresenting, in any manner, the cost of sales literature to dealers.

13. Representing, directly or by implication, that respondents' products will be delivered to the dealer's job site at any cost other than the actual one.

14. Falsely representing, directly or by implication, that respondents' products are approved by the Federal Housing Administration, the General Services Administration, or any agency of the United States Government; or misrepresenting, in any manner, the acceptance or approval of respondents' products.

15. Representing that dealers will earn any stated amount; or representing, in any manner, the past earnings of dealers, unless in fact, the past earnings represented are those of a substantial number of dealers and accurately reflect the average earnings of these dealers under circumstances similar to those of the dealer to whom the representation is made.

16. Representing, directly or by implication, that dealers will be supplied with respondents' products within a reasonable time after they are ordered, unless such is actually the fact.

17. 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' product dealerships and failing to secure from each such salesman or other persons a signed statement acknowledging receipt of said order.

*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 respondents notify the Commission at least thirty (30) days prior to any proposed change in a 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 a 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 in which they have complied with this order.

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IN THE MATTER OF

UNIQUE INDUSTRIES, INC., ET AL.

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

*Docket C-1815. Complaint, Nov. 2, 1970—Decision, Nov. 2, 1970*

Consent order requiring a Philadelphia, Pa., seller of novelty items and party favors to cease selling or distributing wood chip leis unless they are within the applicable flammability standards of the Flammable Fabrics Act.

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 Unique Industries, Inc., a corporation, and Everett Novak, individually and as an officer of said corporation, hereinafter referred to as respondents have violated the provisions of said Act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Unique Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania. Respondent Everett Novak 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 sale of novelty items such as party favors, including wearing apparel in the form of wood chip leis, with their office and principal place of business located at Torresdale Avenue and Orchard Street, Philadelphia, Pennsylvania.

PAR. 2. Respondents are now and for some time last past have been engaged in the advertising, offering for sale, sale and distribution of

wood chip leis, in commerce. Said wood chip leis are shipped and sold in commerce by the respondents. The aforesaid wood chip leis are shipped from respondents' place of business in the State of Pennsylvania to customers located in various other States of the United States. Respondents maintained, and at all times mentioned, have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. The respondents have sold products (wood chip leis) which exhibited characteristics of rapid and intense burning so as to render such products dangerous and unsafe for use by individuals.

PAR. 4. The sale and distribution of the aforesaid wood chip leis has had and now has the tendency and capacity to lead the purchasing public into the erroneous assumption that the said wood chip leis had been treated so as to make them safe for ordinary use. In truth and in fact the said leis have not been so treated.

PAR. 5. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public 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 Consumer Protection 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 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 the charges in that respect, and having thereupon accepted the ex-

cuted 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 Unique Industries, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at Torresdale Avenue and Orchard Street, Philadelphia, Pennsylvania.

Respondent Everett Novak is an official of said corporation. He formulates, directs, and controls the acts, practices and policies of said corporation. His office is the same as that of the said corporate respondent.

#### ORDER

*It is ordered,* That respondents Unique Industries, Inc., a corporation, and its officers, and Everett Novak, 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 the advertising, offering for sale, sale or distribution of wood chip leis in commerce, as "commerce" is defined in the Federal Trade Commission Act, unless and until said wood chip leis or wood chip products are flameproofed to such an extent that they will not ignite, burn or glow.

*It is further ordered,* That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of such products, and effective recall of such products from said customers.

*It is further ordered,* That the respondents herein either process the fabrics which gave rise to this complaint and any wearing apparel made from said fabrics so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said fabrics or any wearing apparel made therefrom.

*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 or related material which gave

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Decision and Order

rise to the complaint (1) the number of such products in inventory, (2) any action taken and any further actions proposed to be taken to notify customers of the flammability of such products and of the results of such actions, (3) any disposition of such products since December 15, 1969, and (4) any action taken or proposed to be taken to flameproof or destroy such products and the results of such action.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days before 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 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.

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IN THE MATTER OF

SAMUEL SHINDLER TRADING AS  
BUGLE TOY MFG. CO.

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

*Docket C-1816. Complaint, Nov. 2, 1970—Decision, Nov. 2, 1970*

Consent order requiring a Pawtucket, R.I., distributor of various party products including paper hula skirts to bring such skirts within the applicable flammability standards of the Flammable Fabrics Act or destroy said skirts.

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 Samuel Shindler, an individual trading as Bugle Toy Mfg. Co., 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 there-

of would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Samuel Shindler is an individual trading as Bugle Toy Mfg. Co.

Respondent is engaged in the manufacture, sale and distribution of various party products including, but not limited to, paper hula skirts with his office and principal place of business located at 179 Conant Street, Pawtucket, Rhode Island.

PAR. 2. Respondent is now and for some time last past has been engaged in the manufacture for sale, the sale and offering for sale, in commerce, 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; and has 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 "commerce," "products," "fabrics" and "related materials" are defined in the Flammable Fabrics Act, as amended, which products and fabrics or related materials 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 paper hula skirts.

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 Consumer Protection 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

